

No. 1986-10

AN ACT

HB 350

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, authorizing probable cause arrests in certain cases of domestic violence; and providing for seizure of weapons, bail and notification of victims' rights.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 2711. Probable cause arrests in domestic violence cases.

(a) General rule.—A police officer shall have the same right of arrest without a warrant as in a felony whenever he has probable cause to believe the defendant has violated section 2504 (relating to involuntary manslaughter), 2701 (relating to simple assault), 2702(a)(3), (4) and (5) (relating to aggravated assault) or 2705 (relating to recklessly endangering another person) against his spouse or other person with whom he resides or has formerly resided although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence.

(b) Seizure of weapons.—The arresting police officer shall seize all weapons used by the defendant in the commission of the alleged offense.

(c) Bail.—

(1) A defendant arrested pursuant to this section shall be afforded a preliminary arraignment by the proper issuing authority without unnecessary delay. In no case shall the arresting officer release the defendant from custody rather than taking the defendant before the issuing authority.

(2) In determining whether to admit the defendant to bail, the issuing authority shall consider whether the defendant poses a threat of danger to the victim. If the issuing authority makes such a determination, it shall require as a condition of bail that the defendant shall refrain from entering the residence or household of the victim and the victim's place of employment and shall refrain from committing any further criminal conduct against the victim and shall so notify the defendant thereof at the time the defendant is admitted to bail. Such condition shall expire at the time of the preliminary hearing or upon the entry or the denial of the protection of abuse order by the court, whichever occurs first. A violation of this condition may be punishable by the revocation of any form of pretrial release or the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding him to custody or a modification of the terms of the bail. The defendant shall be provided a hearing on this matter.

(d) Notice of rights.—

Upon responding to a domestic violence case, the police officer shall, orally or in writing, notify the victim of the availability of a shelter, including its telephone number, or other services in the community. Said notice shall include the following statement: "If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to the act of October 7, 1976 (P.L.1090, No.218), known as the Protection From Abuse Act, which could include the following:

- (1) An order restraining the abuser from further acts of abuse.*
- (2) An order directing the abuser to leave your household.*
- (3) An order preventing the abuser from entering your residence, school, business or place of employment.*
- (4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.*
- (5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."*

Section 2. This act shall take effect in 60 days.

APPROVED—The 15th day of February, A. D. 1986.

DICK THORNBURGH