

HOUSE BILL NO. 793

2/12 Introduced  
2/12 Referred to Judiciary  
2/22 Hearing  
2/23 Committee Report-Bill Pass As Amended  
2/26 2nd Reading Pass  
2/27 3rd Reading Pass

Transmitted to Senate

3/05 Referred to Judiciary  
3/25 Hearing  
3/28 Comm Report-Bill Concurred As Amended  
3/29 On Motion Rules Suspended  
Placed on 3rd Reading 70th Day  
4/01 2nd Reading Concurred  
4/01 3rd Reading Concurred

Returned to House with Amendments

4/09 2nd Reading Amendments Not Concurred  
4/12 Free Conference Committee Appointed  
Died in Process

1 House BILL NO. 793  
 2 INTRODUCED BY Kerran Miles & Julie Menahan  
 3 Bergene Barkeo Hank Roney Janet Moore  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "DOMESTIC <sup>Sehe</sup>  
 5 VIOLENCE"; PROVIDING THAT A WARRANTLESS ARREST MAY BE MADE <sup>Crutley</sup>  
 6 OF A PERSON WHO HAS COMMITTED DOMESTIC VIOLENCE WHEN  
 7 EXISTING CIRCUMSTANCES REQUIRE HIS IMMEDIATE ARREST;  
 8 REQUIRING A PEACE OFFICER WHO DOES NOT MAKE AN ARREST FOR  
 9 DOMESTIC VIOLENCE TO FILE A REPORT SETTING FORTH THE REASON  
 10 FOR HIS DECISION; AND AMENDING SECTION 46-6-401, MCA."  
 11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 13 Section 1. Section 46-6-401, MCA, is amended to read:  
 14 "46-6-401. Circumstances in which a peace officer may  
 15 make an arrest -- definitions. (1) A peace officer may  
 16 arrest a person when:  
 17 +1+(a) he has a warrant commanding that such person be  
 18 arrested;  
 19 +2+(b) he believes on reasonable grounds that a  
 20 warrant for the person's arrest has been issued in this  
 21 state;  
 22 +3+(c) he believes on reasonable grounds that a felony  
 23 warrant for the person's arrest has been issued in another  
 24 jurisdiction; or  
 25 +4+(d) except as provided in 46-6-105, he believes on

1 reasonable grounds that the person is committing an any  
 2 offense, including domestic violence, or that the person has  
 3 committed an any offense, including domestic violence, and  
 4 the existing circumstances require his immediate arrest.  
 5 (2) For purposes of this section and [section 2],  
 6 "domestic violence" means the commission of one or more of  
 7 the offenses set forth in 45-5-201 through 45-5-203 against  
 8 a person by:  
 9 (a) a spouse or former spouse;  
 10 (b) a child or any other person related by blood or  
 11 marriage;  
 12 (c) a present or former household member;  
 13 (d) another person with whom the victim has a child in  
 14 common; or  
 15 (e) another person with whom the victim has or has had  
 16 an intimate relationship."  
 17 NEW SECTION. Section 2. Written report when no arrest  
 18 made in domestic violence situation. When a peace officer  
 19 believes that he has legal grounds under 46-6-401(1)(d) to  
 20 make an arrest for commission of domestic violence but does  
 21 not do so, he shall file a written report with the officer  
 22 commanding the law enforcement agency employing him, setting  
 23 forth the reason or reasons for his decision.

-End-



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INTRODUCED BILL  
HB 793

APPROVED BY COMMITTEE  
ON JUDICIARY

HOUSE BILL NO. 793

INTRODUCED BY KEENAN, MILES, QUILICI, MENAHAN, BERGENE,  
DARKO, HARBIN, RANEY, JANET MOORE, SCHYE, BRADLEY, IVERSON

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "DOMESTIC  
VIOLENCE"; PROVIDING THAT A WARRANTLESS ARREST MAY BE MADE  
OF A PERSON WHO HAS COMMITTED DOMESTIC VIOLENCE WHEN  
EXISTING CIRCUMSTANCES REQUIRE HIS IMMEDIATE ARREST;  
REQUIRING A PEACE OFFICER WHO DOES NOT MAKE AN ARREST FOR  
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FOR HIS DECISION; AND AMENDING SECTION 46-6-401, MCA."

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Section 1. Section 46-6-401, MCA, is amended to read:

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make an arrest -- definitions. (1) A peace officer may  
arrest a person when:

(1)(a) he has a warrant commanding that such person be  
arrested;

(2)(b) he believes on reasonable grounds that a  
warrant for the person's arrest has been issued in this  
state;

(3)(c) he believes on reasonable grounds that a felony  
warrant for the person's arrest has been issued in another  
jurisdiction; or

(d) ~~except as provided in 46-6-105,~~ he believes on  
reasonable grounds that the person is committing ~~an~~ any  
offense, including domestic violence, or that the person has  
committed ~~an~~ any offense, including domestic violence, and  
the existing circumstances require his immediate arrest.

(2) For purposes of this section and [section 2],  
"domestic violence" means the commission of one or more of  
the offenses set forth in 45-5-201 through 45-5-203 against  
a person by:

(a) a spouse or former spouse;

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NEW SECTION. Section 2. Written report when no arrest  
made in domestic violence situation. When a peace officer  
~~believes that he has legal grounds under 46-6-401(d) to~~  
~~make an arrest for commission~~ IS CALLED TO THE SCENE OF A  
REPORTED INCIDENT of domestic violence but HE does not ~~do so~~  
MAKE AN ARREST, he shall file a written report with the  
officer commanding the law enforcement agency employing him,  
setting forth the reason or reasons for his decision.

-End-

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## HOUSE BILL NO. 793

INTRODUCED BY KEENAN, MILES, QUILICI, MENAHAN, BERGENE,  
DARKO, HARBIN, RANEY, JANET MOORE, SCHYE, BRADLEY, IVERSON

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "DOMESTIC VIOLENCE"; PROVIDING THAT A WARRANTLESS ARREST MAY BE MADE OF A PERSON WHO HAS COMMITTED DOMESTIC VIOLENCE WHEN EXISTING CIRCUMSTANCES REQUIRE HIS IMMEDIATE ARREST; REQUIRING A PEACE OFFICER WHO DOES NOT MAKE AN ARREST FOR DOMESTIC VIOLENCE TO FILE A REPORT SETTING FORTH THE REASON FOR HIS DECISION; AND AMENDING SECTION 46-6-401, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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(a) he has a warrant commanding that such person be arrested;

(b) he believes on reasonable grounds that a warrant for the person's arrest has been issued in this state;

(c) he believes on reasonable grounds that a felony warrant for the person's arrest has been issued in another jurisdiction; or

(d) except as provided in 46-6-105, he believes on reasonable grounds that the person is committing an any offense, including domestic violence, or that the person has committed an any offense, including domestic violence, and the existing circumstances require his immediate arrest.

(2) For purposes of this section and [section 2], "domestic violence" means the commission of one or more of the offenses set forth in 45-5-201 through 45-5-203 against a person by:

(a) a spouse or former spouse;

(b) a child or any other person related by blood or marriage;

(c) a present or former household member;

(d) another person with whom the victim has a child in common; or

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NEW SECTION. Section 2. Written report when no arrest made in domestic violence situation. When a peace officer ~~believes that he has legal grounds under 46-6-401(d) to make an arrest for commission~~ IS CALLED TO THE SCENE OF A REPORTED INCIDENT of domestic violence but HE does not ~~do so~~ MAKE AN ARREST, he shall file a written report with the officer commanding the law enforcement agency employing him, setting forth the reason or reasons for his decision.

-End-

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THIRD READING

# STANDING COMMITTEE REPORT

## SENATE

March 28 19 85

MR. PRESIDENT

We, your committee on..... JUDICIARY.....

having had under consideration..... HOUSE BILL..... No. 793.....

third reading copy ( blue )  
color

(Senator Towe)

### DEFINING DOMESTIC VIOLENCE AND PERMITTING WARRANTLESS ARRESTS IN SOME CASES

Respectfully report as follows: That..... HOUSE BILL..... No. 793.....

be amended as follows:

1. Page 2, line 5.

Following: "arrest."

Insert: "A summons of a peace officer to a place of residence by a family or household member constitutes an exigent circumstance for making an arrest."

2. Page 2, line 13.

Following: "member"

Insert: "including an adult person of the opposite sex residing with the defendant or who formerly resided with the defendant"

Following: "j"

Insert: "or"

3. Page 2, lines 15 through 17.

Following: "common" on line 15

Strike: remainder of line 15 through "relationship" on line 17

AND AS AMENDED

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

.....  
Senator Joe Mazurek

Chairman.

## 1 HOUSE BILL NO. 793

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3 DARKO, HARBIN, RANEY, JANET MOORE, SCHYE, BRADLEY, IVERSON

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20 ~~(2)~~(b) he believes on reasonable grounds that a  
21 warrant for the person's arrest has been issued in this  
22 state;

23 ~~(3)~~(c) he believes on reasonable grounds that a felony  
24 warrant for the person's arrest has been issued in another  
25 jurisdiction; or

1 ~~(4)~~(d) except as provided in 46-6-105, he believes on  
2 reasonable grounds that the person is committing an any  
3 offense, including domestic violence, or that the person has  
4 committed an any offense, including domestic violence, and  
5 the existing circumstances require his immediate arrest. A  
6 SUMMONS OF A PEACE OFFICER TO A PLACE OF RESIDENCE BY A  
7 FAMILY OR HOUSEHOLD MEMBER CONSTITUTES AN EXIGENT  
8 CIRCUMSTANCE FOR MAKING AN ARREST.

9 (2) For purposes of this section and [section 2],  
10 "domestic violence" means the commission of one or more of  
11 the offenses set forth in 45-5-201 through 45-5-203 against  
12 a person by:

13 (a) a spouse or former spouse;

14 (b) a child or any other person related by blood or  
15 marriage;

16 (c) a present or former household member, INCLUDING AN  
17 ADULT PERSON OF THE OPPOSITE SEX RESIDING WITH THE DEFENDANT  
18 OR WHO FORMERLY RESIDED WITH THE DEFENDANT; OR

19 (d) another person with whom the victim has a child in  
20 common; or

21 ~~(e) -- another person with whom the victim has or has had~~  
22 ~~an intimate relationship."~~

23 NEW SECTION. Section 2. Written report when no arrest  
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REFERENCE BILL

HB 793

1 ~~make-an-arrest-for-commission~~ IS CALLED TO THE SCENE OF A  
2 REPORTED INCIDENT of domestic violence but HE does not ~~do-so~~  
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4 officer commanding the law enforcement agency employing him,  
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-End-