

Sec. 6. **EFFECTIVE DATE.** Sections 1 to 5 are effective the day following final enactment, and apply to all offenses committed on or after that date.

Approved April 5, 1978.

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CHAPTER 724-S.F.No.318

[Coded]

*An act relating to criminal procedure; permitting peace officers to make arrests upon probable cause in cases of domestic assault; requiring detention and review of bail for persons charged with domestic assault; permitting the judge to stay execution and imposition of sentence conditioned upon the defendant seeking appropriate counseling; amending Minnesota Statutes 1976, Section 609.135, by adding a subdivision; and Chapter 629, by adding sections.*

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

Section 1. Minnesota Statutes 1976, Section 609.135, is amended by adding a subdivision to read:

**Subd. 5. DOMESTIC VIOLENCE; PROBATION AND COUNSELING.** If a person is convicted of assaulting his spouse or other person with whom he resides, and the court stays imposition or execution of sentence and places the defendant on probation, the court may condition the stay upon the defendant's participation in counseling or other appropriate programs selected by the court.

Sec. 2. Minnesota Statutes 1976, Chapter 629, is amended by adding a section to read:

**[629.34] PROBABLE CAUSE ARRESTS; DOMESTIC VIOLENCE.** Notwithstanding the provisions of section 629.34 or any other law or rule to the contrary, a peace officer may arrest without a warrant a person at his place of residence if the peace officer has probable cause to believe the person within the preceding four hours has assaulted his spouse or other person with whom he resides, although the assault did not take place in the presence of the peace officer. A peace officer may not arrest a person pursuant to this section without first observing recent physical injury to, or impairment of physical condition of the alleged victim.

Sec. 3. Minnesota Statutes 1976, Chapter 629, is amended by adding a section to read:

**[629.72] BAIL IN CASES OF DOMESTIC ASSAULT. Subdivision 1. DETENTION IN LIEU OF CITATION; RELEASE.** Notwithstanding any other law or rule to the contrary, an arresting officer may not issue a citation in lieu of arrest and detention to an individual charged with assaulting his spouse or other individual with whom he resides.

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Notwithstanding any other law or rule to the contrary, an individual who is arrested on a charge of assaulting his spouse or other person with whom he resides shall be brought to the police station or county jail. The officer in charge of the police station or the county sheriff in charge of the jail shall issue a citation in lieu of continued detention unless it reasonably appears to the officer or sheriff that detention is necessary to prevent bodily harm to the arrested person or another, or there is a substantial likelihood the arrested person will fail to respond to a citation.

If the arrested person is not issued a citation by the officer in charge of the police station or the county sheriff, he shall be brought before the nearest available judge of the county court or county municipal court in the county in which the alleged assault took place without unnecessary delay, but no more than 24 hours after his arrest, exclusive of Sundays and legal holidays.

Subd. 2. JUDICIAL REVIEW; RELEASE; BAIL. The judge before whom the arrested person is brought shall review the facts surrounding the arrest and detention. The arrested person shall be ordered released pending trial or hearing on his personal recognizance or on an order to appear or upon the execution of an unsecured bond in a specified amount unless the judge determines that release will be inimical to public safety, will create a threat of bodily harm to the arrested person or another, or will not reasonably assure the appearance of the arrested person at subsequent proceedings. If the judge so determines, he may impose any conditions of release which will reasonably assure the appearance of the person for subsequent proceedings, or may fix the amount of money bail without other conditions upon which the arrested person may obtain his release.

Subd. 3. RELEASE AFTER 24 HOURS. If the arrested person is not issued a citation by the officer in charge of the police station or the county sheriff pursuant to subdivision 1, and is not brought before a judge within the time limits prescribed in subdivision 1, he shall be released by the arresting authorities, and a citation shall be issued in lieu of continued detention.

Sec. 4. This act is effective the day following final enactment.

Approved April 5, 1978.

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CHAPTER 725-S.F.No.744

[Coded in Part]

*An act relating to elections; defining member of a political party; regulating candidate designations on the ballot; altering various provisions relating to publication of constitutional amendment explanation, ballots, judges, summary statements, canvasses and returns; amending Minnesota Statutes 1976, Chapter 204A, by adding a section; and Sections 3.21; 200.02, by adding a subdivision; 202A.22, Subdivision 1; 204A.18, Subdivision 1; 204A.32, Subdivision 4; 204A.42, Subdivision 1; 204A.45, Subdivision 1; 204A.46, Subdivisions 1, 2, 3 and 4; 204A.47; and 204A.51, Subdivisions 2 and 3; and Minnesota Statutes, 1977*

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