

**STATE OF MICHIGAN
COUNTY OF OAKLAND
CHARTER TOWNSHIP OF BLOOMFIELD**

SUMMARY OF PROPOSED ORDINANCE NO. 640

DOMESTIC VIOLENCE ORDINANCE AMENDMENT

An ordinance to amend Chapter 22, Offenses Against the Person, of the Code of Ordinances by adding a provision that prohibits Domestic Assault and Domestic Assault and Battery and provide a penalty for a violation thereof.

THE CHARTER TOWNSHIP OF BLOOMFIELD ORDAINS:

Section 1 of the Ordinance

Chapter 22, Offenses Against the Person, Section 22-56, Assault and Battery, is hereby amended to read as follows:

Sec. 22-56. Assault and battery; Domestic assault and battery.

- (b) Any person who assaults or assaults and batters his or her own spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or both.
- (c) A police officer may arrest a person for violating subsection (b) regardless of whether the police officer has a warrant or whether the violation was committed in his or her presence, if the police officer has reasonable cause to believe both of the following:
 - (1) The violation has occurred or is occurring.
 - (2) The person has had a child in common with the victim, resides or has resided in the same household as the victim, or is the spouse or former spouse of the victim.
- (d) When an individual who has not been convicted previously of an assaultive crime pleads guilty to a violation of subsection (b) and the victim of the assault is the offender's spouse or former spouse, an individual who has had a child in common with the offender, or an individual residing or having resided in the same household as the offender, the court, without entering a judgment of guilt and with the consent of the accused and of the prosecuting attorney in consultation with the victim, may defer further proceedings and place the accused on probation as provided in this section. However, before deferring proceedings under this subsection, the court shall contact the department of state police and determine whether, according to the records of the department of state police, the accused has previously been convicted of an assaultive crime or has previously availed himself or herself of this subsection, MCL 769.4a, or similar local ordinance. If the search of the records reveals an arrest for an assaultive crime but no disposition, the court shall contact the arresting agency and the court that had jurisdiction over the violation to determine the disposition of that arrest for purposes of this subsection.

Janet Roncelli, MMC
Township Clerk

- (1) Upon a violation of a term or condition or probation, the court may enter an adjudication of guilt and proceed as otherwise determined by the court.
- (2) An order of probation entered under this subsection may include any condition of probation authorized under section 3 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3, including, but not limited to, requiring the accused to participate in a mandatory counseling program. The court may order the accused to pay the reasonable costs of the mandatory counseling program. The court also may order the accused to participate in a drug treatment program, or may order the defendant to be imprisoned for not more than 93 days at the time or intervals, which may be consecutive or nonconsecutive and within the period of probation, as the court determines.
- (3) The court shall enter an adjudication of guilt and proceed as otherwise provided in this subsection if any of the following circumstances exist:
 - a. The accused commits a crime during the period of probation.
 - b. The accused violates an order of the court.
 - c. The accused violates an order of the court that he or she have no contact with a named individual.
- (4) Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this subsection shall be without adjudication of guilt and is not a conviction for purposes of the subsection or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.
- (5) There may be only one discharge and dismissal under this subsection with respect to any individual. The department of state police shall retain a nonpublic record of an arrest and discharge and dismissal under this subsection. This record shall be furnished to a court or police agency upon request pursuant to this subsection or to an office of prosecuting attorney for the purpose of showing that a defendant in a criminal action under this subsection has already once availed himself or herself of these provisions or for the purpose of determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings.

Section 2 of Ordinance. Repealer.

Section 3 of Ordinance. Severability.

Section 4 of Ordinance. Savings.

Section 5 of Ordinance. Effective Date.

The provisions of this Ordinance shall take effect 30 days after publication.

Section 6 of Ordinance. Adoption.

A complete copy of Ordinance 640 is on file in the Bloomfield Township Clerk's Office, 4200 Telegraph Road, Bloomfield Township, MI.

Janet Roncelli, MMC
Township Clerk