



MICHIGAN STATE POLICE LEGAL UPDATE

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CRIMINAL LAW AND PROCEDURE MANUAL

The *Michigan Criminal Law and Procedure: A Manual for Michigan Police Officers* is available for purchase.

The manual is published by [Kendall Hunt Publishing Co.](#) Copies may be ordered by calling Kendall Hunt Customer Service at (800) 228-0810, or through their [online catalog](#) (search by title or ISBN: 978-0-7575-8710-8).

CRIMINAL LAW

Michigan law prohibiting begging in a public place is unconstitutional.

On August 24, 2012, the United States District Court for the Western District of Michigan ruled [MCL 750.167\(1\)\(h\)](#), the portion of Michigan's disorderly conduct statute that prohibits begging in a public place, is unconstitutional.

In this case, two Grand Rapids men were arrested on different occasions for begging in public. One was arrested after holding up a sign asking for work or help and the other was arrested after asking a person on the street for spare change.

The Court determined that begging is entitled to protection under the [First Amendment](#) and [MCL 750.167\(1\)\(h\)](#) impermissibly restricts protected speech and expressive conduct in public forums. As a result, the Court held [MCL 750.167\(1\)\(h\)](#) violates the First Amendment and the [Fourteenth Amendment](#) Equal Protection Clause of the [United States Constitution](#).

Based on the Court's decision, officers should not take enforcement action for violations of [MCL 750.167\(1\)\(h\)](#).

BACK-TO-BASICS

Note: The following material does not represent new law. Instead, it is intended to reinforce basic rules of law that police officers frequently apply.

Hot pursuit exception to the search warrant requirement.

In order to enter a person's home or building without an arrest or search warrant under the hot pursuit exception, officers must be able to articulate two elements:

1. Pursuit of a fleeing *felon*; and
2. Exigent circumstances requiring immediate arrest.

Officers must have probable cause to arrest the pursued person for a *felony*. Officers may not make a nonconsensual entry into a person's home or other building for purposes of making a warrantless misdemeanor arrest.

The United States Supreme Court has listed the following as exigent circumstances requiring immediate arrest for purposes of the exception:

- Imminent destruction of evidence.
- The need to prevent a suspect's escape. However, this exigency is diminished if escape can be prevented by setting up a perimeter while an officer obtains a warrant.
- Danger to the police or others.

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