

SENATE BILL NO. 874

(As Passed the Senate March 18, 1998)

(As amended by the House May 7, 1998)

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2950 (MCL 600.2950), as amended by 1997 PA
115.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2950. (1) ~~By~~ EXCEPT AS PROVIDED IN [SUBSECTIONS (27)
AND (28)]
2 BY commencing an independent action to obtain relief under this
3 section, by joining a claim to an action, or by filing a motion
4 in an action in which the petitioner and the individual to be
5 restrained or enjoined are parties, an individual may petition
6 the FAMILY DIVISION OF circuit court to enter a personal protec-
tion order to
7 restrain or enjoin a spouse, a former spouse, an individual with
8 whom he or she has had a child in common, an individual with whom
9 he or she has or has had a dating relationship, or an individual

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1 residing or having resided in the same household as the ~~victim~~
2 PETITIONER from doing 1 or more of the following:

3 (a) Entering onto premises.

4 (b) Assaulting, attacking, beating, molesting, or wounding a
5 named individual.

6 (c) Threatening to kill or physically injure a named
7 individual.

8 (d) Removing minor children from the individual having legal
9 custody of the children, except as otherwise authorized by a cus-
10 tody or parenting time order issued by a court of competent
11 jurisdiction.

12 (e) ~~Beginning April 1, 1996, purchasing~~ PURCHASING or pos-
13 sessed a firearm.

14 (f) Interfering with petitioner's efforts to remove
15 petitioner's children or personal property from premises that are
16 solely owned or leased by the individual to be restrained or
17 enjoined.

18 (g) Interfering with petitioner at petitioner's place of
19 employment or engaging in conduct that impairs petitioner's
20 employment relationship or environment.

21 (h) Any other specific act or conduct that imposes upon or
22 interferes with personal liberty or that causes a reasonable
23 apprehension of violence.

24 (2) If the respondent is a person who is issued a license to
25 carry a concealed weapon and is required to carry a weapon as a
26 condition of his or her employment, a police officer certified by
27 the Michigan law enforcement training council act of 1965, 1965

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1 PA 203, MCL 28.601 to 28.616, a sheriff, a deputy sheriff or a
2 member of the Michigan department of state police, a local cor-
3 rections officer, department of corrections employee, or a fed-
4 eral law enforcement officer who carries a firearm during the
5 normal course of his or her employment, the petitioner shall
6 notify the court of the respondent's occupation prior to the
7 issuance of the personal protection order. This subsection does
8 not apply to a petitioner who does not know the respondent's
9 occupation.

10 (3) A petitioner may omit his or her address of residence
11 from documents filed with the court under this section. If a
12 petitioner omits his or her address of residence, the petitioner
13 shall provide the court with a mailing address.

14 (4) The court shall issue a personal protection order under
15 this section if the court determines that there is reasonable
16 cause to believe that the individual to be restrained or enjoined
17 may commit 1 or more of the acts listed in subsection (1). In
18 determining whether reasonable cause exists, the court shall con-
19 sider all of the following:

20 (a) Testimony, documents, or other evidence offered in sup-
21 port of the request for a personal protection order.

22 (b) Whether the individual to be restrained or enjoined has
23 previously committed or threatened to commit 1 or more of the
24 acts listed in subsection (1).

25 (5) A court shall not issue a personal protection order that
26 restrains or enjoins conduct described in subsection (1)(a) if
27 all of the following apply:

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1 (a) The individual to be restrained or enjoined is not the
2 spouse of the moving party.

3 (b) The individual to be restrained or enjoined OR THE
4 PARENT, GUARDIAN, OR CUSTODIAN OF THE MINOR TO BE RESTRAINED OR
5 ENJOINED has a property interest in the premises.

6 (c) The moving party OR THE PARENT, GUARDIAN, OR CUSTODIAN
7 OF A MINOR PETITIONER has no property interest in the premises.

8 (6) A court shall not refuse to issue a personal protection
9 order solely due to the absence of any of the following:

10 (a) A police report.

11 (b) A medical report.

12 (c) A report or finding of an administrative agency.

13 (d) Physical signs of abuse or violence.

14 (7) If the court refuses to grant a personal protection
15 order, it shall state immediately in writing the specific reasons
16 it refused to issue a personal protection order. If a hearing is
17 held, the court shall also immediately state on the record the
18 specific reasons it refuses to issue a personal protection
19 order.

20 (8) A personal protection order shall not be made mutual.
21 Correlative separate personal protection orders are prohibited
22 unless both parties have properly petitioned the court pursuant
23 to subsection (1).

24 (9) A personal protection order is effective AND IMMEDIATELY
25 ENFORCEABLE when signed by a judge.

26 (10) The court shall designate the law enforcement agency
27 that is responsible for entering the personal protection order

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1 into the law enforcement information network as provided by the
2 L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to
3 28.216.

4 (11) A personal protection order shall include all of the
5 following [, AND TO THE EXTENT PRACTICABLE THE FOLLOWING SHALL BE
CONTAINED IN A SINGLE FORM]:

6 (a) A statement that the personal protection order has been
7 entered to restrain or enjoin conduct listed in the order and
8 that violation of the personal protection order will subject the
9 individual restrained or enjoined to EITHER OF THE FOLLOWING:

10 (i) IF THE RESPONDENT IS 17 YEARS OF AGE OR MORE, immediate
11 arrest and the civil and criminal contempt powers of the court,
12 and that if he or she is found guilty of criminal contempt, he or
13 she shall be imprisoned for not more than 93 days and may be
14 fined not more than \$500.00.

15 (ii) IF THE RESPONDENT IS LESS THAN 17 YEARS OF AGE, IMMEDI-
16 ATE APPREHENSION OR BEING TAKEN INTO CUSTODY, AND SUBJECT TO THE
17 DISPOSITIONAL ALTERNATIVES LISTED IN SECTION 18 OF CHAPTER XIIIA
18 OF THE PROBATE CODE, 1939 PA 288, MCL 712A.18.

19 (b) A statement that the personal protection order is effec-
20 tive ~~when signed by a judge~~ and ~~is~~ immediately enforceable
21 WHEN SIGNED BY A JUDGE.

22 (c) A statement listing the type or types of conduct
23 enjoined.

24 (d) An expiration date stated clearly on the face of the
25 order.

26 (e) A statement that the personal protection order is
27 enforceable anywhere in Michigan by any law enforcement agency.

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1 (f) The law enforcement agency designated by the court to
2 enter the personal protection order into the law enforcement
3 information network.

4 (g) For ex parte orders, a statement that the individual
5 restrained or enjoined may file a motion to modify or rescind the
6 personal protection order and request a hearing within 14 days
7 after the individual restrained or enjoined has been served or
8 has received actual notice of the order and that motion forms and
9 filing instructions are available from the clerk of the court.

10 (12) An ex parte personal protection order shall be issued
11 and effective without written or oral notice to the individual
12 restrained or enjoined or his or her attorney if it clearly
13 appears from specific facts shown by verified complaint, written
14 motion, or affidavit that immediate and irreparable injury, loss,
15 or damage will result from the delay required to effectuate
16 notice or that the notice will itself precipitate adverse action
17 before a personal protection order can be issued.

18 (13) A personal protection order issued under subsection
19 (12) is valid for not less than 182 days. The individual
20 restrained or enjoined may file a motion to modify or rescind the
21 personal protection order and request a hearing under the
22 Michigan court rules. The motion to modify or rescind the per-
23 sonal protection order shall be filed within 14 days after the
24 order is served or after the individual restrained or enjoined
25 has received actual notice of the personal protection order
26 unless good cause is shown for filing the motion after the 14
27 days have elapsed.

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1 (14) Except as otherwise provided in this subsection, the
2 court shall schedule a hearing on the motion to modify or rescind
3 the ex parte personal protection order within 14 days after the
4 filing of the motion to modify or rescind. If the respondent is
5 a person described in subsection (2) and the personal protection
6 order prohibits him or her from purchasing or possessing a fire-
7 arm, the court shall schedule a hearing on the motion to modify
8 or rescind the ex parte personal protection order within 5 days
9 after the filing of the motion to modify or rescind.

10 (15) The clerk of the court that issues a personal protec-
11 tion order shall do both of the following immediately upon issu-
12 ance and without requiring a proof of service on the individual
13 restrained or enjoined:

14 (a) File a true copy of the personal protection order with
15 the law enforcement agency designated by the court in the per-
16 sonal protection order.

17 (b) Provide the petitioner with not less than 2 true copies
18 of the personal protection order.

19 (16) The clerk of the court shall inform the petitioner that
20 he or she may take a true copy of the personal protection order
21 to the law enforcement agency designated by the court in subsec-
22 tion (10) to be immediately entered into the law enforcement
23 information network.

24 (17) The law enforcement agency that receives a true copy of
25 the personal protection order under subsection (15) or (16) shall
26 immediately and without requiring proof of service enter the
27 personal protection order into the law enforcement information

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1 network as provided by the L.E.I.N. policy council act of 1974,
2 1974 PA 163, MCL 28.211 to 28.216.

3 (18) A personal protection order issued under this section
4 shall be served personally or by registered or certified mail,
5 return receipt requested, delivery restricted to the addressee at
6 the last known address or addresses of the individual restrained
7 or enjoined or by any other manner provided in the Michigan court
8 rules. IF THE RESPONDENT IS LESS THAN [18] YEARS OF AGE, THE
9 PARENT, GUARDIAN, OR CUSTODIAN OF THAT INDIVIDUAL SHALL ALSO BE
10 SERVED PERSONALLY OR BY REGISTERED OR CERTIFIED MAIL, RETURN
11 RECEIPT REQUESTED, DELIVERY RESTRICTED TO THE ADDRESSEE AT THE
12 LAST KNOWN ADDRESS OR ADDRESSES OF THE PARENT, GUARDIAN, OR CUS-
13 TODIAN OF THE INDIVIDUAL RESTRAINED OR ENJOINED. A proof of serv-
14 ice shall be filed with the clerk of the court issuing the per-
15 sonal protection order. This subsection does not prohibit the
16 immediate effectiveness of a personal protection order or its
17 immediate enforcement under subsections (21) and (22).

18 (19) The clerk of the court shall immediately notify the law
19 enforcement agency that received the personal protection order
20 under subsection (15) or (16) if either of the following occurs:

21 (a) The clerk of the court has received proof that the indi-
22 vidual restrained or enjoined has been served.

23 (b) The personal protection order is rescinded, modified, or
24 extended by court order.

25 (20) The law enforcement agency that receives information
26 under subsection (19) shall enter the information or cause the
27 information to be entered into the law enforcement information

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1 network as provided by the L.E.I.N. policy council act of 1974,
2 1974 PA 163, MCL 28.211 to 28.216.

3 (21) Subject to subsection (22), a personal protection order
4 is immediately enforceable anywhere in this state by any law
5 enforcement agency that has received a true copy of the order, is
6 shown a copy of it, or has verified its existence on the law
7 enforcement information network as provided by the
8 L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to
9 28.216.

10 (22) If the individual restrained or enjoined has not been
11 served, the law enforcement agency or officer responding to a
12 ~~domestic violence~~ call alleging a violation of a personal pro-
13 tection order shall serve the individual restrained or enjoined
14 with a true copy of the order or advise the individual restrained
15 or enjoined of the existence of the personal protection order,
16 the specific conduct enjoined, the penalties for violating the
17 order, and where the individual restrained or enjoined may obtain
18 a copy of the order. The law enforcement officer shall enforce
19 the personal protection order and immediately enter or cause to
20 be entered into the law enforcement information network that the
21 individual restrained or enjoined has actual notice of the per-
22 sonal protection order. If the individual restrained or enjoined
23 has not received notice of the personal protection order, the
24 individual restrained or enjoined shall be given an opportunity
25 to comply with the personal protection order before the law
26 enforcement officer makes a custodial arrest for violation of the
27 personal protection order. The failure to immediately comply

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1 with the personal protection order shall be grounds for an
2 immediate custodial arrest. This subsection does not preclude an
3 arrest under section 15 or 15a of chapter IV of the code of crim-
4 inal procedure, 1927 PA 175, MCL 764.15 and 764.15a, OR A PRO-
5 CEEDING UNDER SECTION 14 OF CHAPTER XIIIA OF 1939 PA 288, MCL
6 712A.14.

7 (23) An individual WHO IS 17 YEARS OF AGE OR MORE AND who
8 refuses or fails to comply with a personal protection order UNDER
9 THIS SECTION is subject to the criminal contempt powers of the
10 court and, if found guilty, shall be imprisoned for not more than
11 93 days and may be fined not more than \$500.00. AN INDIVIDUAL
12 WHO IS LESS THAN 17 YEARS OF AGE AND WHO REFUSES OR FAILS TO
13 COMPLY WITH A PERSONAL PROTECTION ORDER ISSUED UNDER THIS SECTION
14 IS SUBJECT TO THE DISPOSITIONAL ALTERNATIVES LISTED IN SECTION 18
15 OF CHAPTER XIIIA OF 1939 PA 288, MCL 712A.18. The criminal penalty
16 provided for under this section may be imposed in addition to a
17 penalty that may be imposed for another criminal offense arising
18 from the same conduct.

19 (24) An individual who knowingly and intentionally makes a
20 false statement to the court in support of his or her petition
21 for a personal protection order is subject to the contempt powers
22 of the court.

23 (25) A personal protection order issued under this section
24 is also enforceable under CHAPTER XIIIA OF 1939 PA 288, MCL 712A.1
25 TO 712A.31, AND section 15b of chapter IV of the code of criminal
26 procedure, 1927 PA 175, MCL 764.15b.

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1 (26) A personal protection order issued under this section
2 is also enforceable under chapter 17.

3 (27) A COURT SHALL NOT ISSUE A PERSONAL PROTECTION ORDER
4 THAT RESTRAINS OR ENJOINS CONDUCT DESCRIBED IN SUBSECTION (1) IF
5 EITHER OF THE FOLLOWING APPLIES:

6 (A) THE [UNEMANCIPATED] RESPONDENT IS THE MINOR CHILD OF THE
7 PETITIONER.

8 (B) THE [UNEMANCIPATED] PETITIONER IS THE MINOR CHILD OF THE
9 RESPONDENT.

10 [(28) IF THE RESPONDENT IS LESS THAN 18 YEARS OF AGE, A COURT
11 SHALL NOT ISSUE A PERSONAL PROTECTION ORDER UNDER THIS SECTION; THE
12 COURT SHALL PROCEED UNDER SECTION 2 OF CHAPTER XIIIA OF 1939 PA 288,
13 MCL 712A.2.]

14 [(29)] A PERSONAL PROTECTION ORDER THAT IS ISSUED PRIOR TO THE
15 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION
16 IS NOT INVALID ON THE GROUND THAT IT DOES NOT COMPLY WITH 1 OR
17 MORE OF THE REQUIREMENTS ADDED BY THIS AMENDATORY ACT.

18 [(30)] ~~(27)~~ As used in this section:

19 (a) "Dating relationship" means frequent, intimate associa-
20 tions primarily characterized by the expectation of affectional
21 involvement. This term does not include a casual relationship or
22 an ordinary fraternization between 2 individuals in a business or
23 social context.

24 (b) "Federal law enforcement officer" means an officer or
25 agent employed by a law enforcement agency of the United States
26 government whose primary responsibility is the enforcement of
laws of the United States.

(c) "Personal protection order" means an injunctive order
issued by the [] circuit court [OR THE FAMILY
DIVISION OF CIRCUIT COURT] restraining or enjoining activity and
individuals listed in subsection (1).

[Enacting section 1. This amendatory act takes effect January
1, 1999.]

21 Enacting section [2]. This amendatory act does not take
22 effect unless all of the following bills of the 89th Legislature
23 are enacted into law:

24 (a) Senate Bill No. 866.

25 (b) House Bill No. 5564.

26 (c) House Bill No. 5567.