



**House  
Legislative  
Analysis  
Section**

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**REVISE PPO ENFORCEMENT**

**Senate Bill 729 (Substitute H-1)  
Sponsor: Sen. Bev Hammerstrom**

**Senate Bill 753 with House committee  
amendment  
Sponsor: Sen. Shirley Johnson**

**Senate Bill 754 (Substitute H-1)  
Sponsor: Sen. Bev Hammerstrom**

**Senate Bill 757 with House committee  
amendment  
Sponsor: Sen. Bev Hammerstrom**

**Senate Bill 758 with House committee  
amendment  
Sponsor: Sen. Shirley Johnson**

**House Committee: Criminal Justice  
Senate Committee: Judiciary**

**First Analysis (12-5-01)**

***THE APPARENT PROBLEM:***

The full faith and credit provisions of the federal Violence Against Women Act (18 U.S.C. Sec. 2265) require all states, Indian tribes, and U.S. territories to enforce the protection orders of other states, tribes, and territories as if those orders had been issued in their own jurisdictions. This is especially important when the protection orders were issued to protect a victim of domestic violence. Often, a victim must flee to another state to avoid his or her abuser. If the abuser follows, it is imperative that law enforcement officers and courts uphold the protection order just as if it had originated in that state. Earlier this year, the Domestic Violence Homicide Prevention Task Force (a statewide, multi-disciplinary assembly of stakeholders chaired by the lieutenant governor and charged with reducing domestic violence related homicides), issued a comprehensive list of recommendations to revise state laws in order to realize the goals of the task force. One of the recommendations was to amend state laws relating to the issuance and enforcement of personal protection orders to incorporate the federal mandate of honoring foreign protection orders. A package of bills has been offered to make the necessary changes.

***THE CONTENT OF THE BILLS:***

The bills would amend various acts to implement the Full Faith and Credit provisions of the federal Violence Against Women Act (18 U.S.C. Sec. 2265), which requires all states and Indian tribes to enforce the personal protection orders of other states and tribes as they do those issued in their own jurisdictions. The bills are tie-barred to each other and to House Bills 5275, 5299, 5300, 5303, and 5304. The bills would take effect April 1, 2002.

Senate Bill 729 would amend the Revised Judicature Act (MCL 600.2950d through 600.2950g) to implement the Full Faith and Credit provision of the federal Violence Against Women Act. The bill would require that a valid foreign protection order be accorded full faith and credit by a court and subject to the same enforcement procedures and penalties as if it had been issued in this state. "Foreign protection order" would be defined as an injunction or other order issued by a court of another state, Indian tribe, or U.S. territory for the purpose of preventing a person's violent or threatening acts against, harassment of, contact with, communication with, or physical proximity to another person. This would

**Senate Bills 729, 753-754 and 757-758 (12-5-01)**

include temporary and final orders issued by civil and criminal courts other than a support or child custody order issued under state divorce and child custody laws. However, such orders would be included to the extent that such an order was entitled to full faith and credit under other federal law if a civil order had been issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection. Under the bill, a foreign protection order would be valid if all of the following conditions were met:

- The issuing court had jurisdiction over the parties and subject matter under the laws of the issuing state, tribe, or territory.
- Reasonable notice and opportunity to be heard was given to the respondent sufficient to protect his or her right to due process. For ex parte orders, notice and opportunity to be heard would have to be provided to the respondent within the time required by state or tribal law, or within a reasonable time after issuance of the order sufficient to protect the respondent's due process rights.

Child custody or support provisions within a valid foreign protection order would also be accorded full faith and credit and enforced in a similar manner to provisions within a personal protection order (PPO).

Further, among other things, the bill would:

- Provide affirmative defenses to a charge or process seeking enforcement of a foreign protection order.
- Specify that a foreign protection order that was sought by a petitioner against a spouse or intimate partner and issued against both the petitioner and respondent would be entitled to full faith and credit against the respondent and enforceable against the respondent. However, a foreign protection order sought by a petitioner against a spouse or intimate partner and issued against both the petitioner and respondent would not be entitled to full faith and credit and would not be enforceable against the petitioner unless certain criteria specified in the bill were met.
- Define "spouse or intimate partner" to include a spouse, a former spouse, a person with whom the petitioner has had a child in common, a person living in the same household as the petitioner, and a person with whom the petitioner has had a dating relationship.

Senate Bill 753 would amend the Code of Criminal Procedure (MCL 764.15b) to allow an individual to be arrested without a warrant if he or she violated a valid foreign protection order. "Foreign protection order" and "valid foreign protection order" would be defined as they are in Sections 2950h and 2950i, respectively, of the Revised Judicature Act. The bill would also authorize the family division of circuit court to conduct contempt proceedings on a violation of either a state-issued PPO or a valid foreign protection order and either a violation of a PPO issued under Section 2(h) of the Probate Code or a valid foreign protection order issued against a respondent less than 18 years of age at the time of the alleged violation, and provide for the out-of-state court that issued the order to be notified of the violation in the same manner as are in-state courts.

Senate Bill 754 would amend the Code of Criminal Procedure (MCL 764.15c). Currently, after investigating or intervening in a domestic violence incident, a peace officer is required to prepare a domestic violence report. The bill would amend the definition of "domestic violence incident" to include a crime committed by an individual against an individual with whom he or she had or has had a dating relationship and to include a violation of a valid foreign protection order. "Foreign protection order" and "valid foreign protection order" would be defined as they are in Sections 2950h and 2950i, respectively, of the Revised Judicature Act. (The act defines "dating relationship" as meaning that term as defined in the domestic violence act, Public Act 389 of 1978, MCL 400.1501.) By June 1, 2002, the Department of State Police would have to develop a standard domestic violence incident report form, which peace officers would use to file such reports. The new forms, or a substantially similar form, would have to be used by the peace officers as of October 1, 2002. (These provisions are also contained within Senate Bill 731.)

Senate Bill 757 would amend the Probate Code (MCL 712A.1 et al.) to specify that the family division of circuit court would have authority and jurisdiction over a proceeding to enforce a valid foreign protection order issued against a respondent who was a minor less than 18 years of age. The court could authorize a peace officer to apprehend a juvenile who was alleged to have violated a valid foreign protection order. In addition, without an order of the court, any local police officer, county agent or probation officer, sheriff or deputy, or state police officer could take a juvenile into custody if there were reasonable cause to believe that he or she had violated or was violating a PPO issued under the

code or the Revised Judicature Act or a valid foreign protection order. Further, the bill would specify that a PPO could not be issued against a respondent that was a minor less than 10 years of age.

Senate Bill 758 would amend the Code of Criminal Procedure (MCL 764.15) to allow a peace officer, without a warrant, to arrest a person that the officer had reasonable cause to believe had violated one or more conditions of a conditional release order or probation order imposed by a court of this state, another state, Indian tribe, or U.S. territory.

### ***HOUSE COMMITTEE ACTION:***

All of the bills were amended to revise the tie-bar to specify that Senate Bills 753, 754, 757, and 758, and House Bills 5275, 5299, 5300, 5303, and 5304 would be tie-barred to each other. In addition, the House committee adopted changes to several bills as follows:

Senate Bill 729. The committee adopted a substitute bill that divided provisions of the Senate-passed version of the bill with House Bill 5275.

Senate Bill 754. The committee adopted a substitute that included a dating relationship and a violation of a valid foreign protection order in the definition of “domestic violence incident”, defined “foreign protection order” and “valid foreign protection order”, required a peace officer to use a standard domestic violence incident report form, and required the Department of State Police to develop the standard form.

Senate Bill 758. The committee adopted an amendment to clarify that a warrantless arrest could be made for a violation of conditions of a conditional release order or probation order that had been imposed by a Michigan court or a court of another state, Indian tribe, or U.S. territory.

### ***BACKGROUND INFORMATION:***

The bills are nearly identical to House Bills 5275, 5301, 5302, 5305, and 5306, which have passed the House. Further, Senate Bill 754 is nearly identical to the House committee version of Senate Bill 731.)

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill package would have an indeterminate fiscal impact. The impact would depend on how the bills affected state and local workloads and funding opportunities.

There are no data indicating how many people in Michigan might be protected by a “foreign” protection order. However, provisions assuring enforcement of foreign protection orders could increase workloads and attendant costs for affected courts and law enforcement agencies, although grant availability could help to offset costs in a limited number of jurisdictions. Specifically, the bills would affect state and local governments in the following ways:

Senate Bill 729 could increase workloads for local courts and law enforcement agencies to an extent dependent on the number of foreign protection orders needing enforcement. Senate Bill 753 and 758 would have no direct fiscal impact; but, if arrests led to increased use of jail or other sanctions for the arrested offenders, the bills could increase local correctional costs or otherwise affect utilization of local law enforcement and correctional resources. Senate Bill 754 would have no direct fiscal impact on state or local units of government. Expanded caseloads under Senate Bill 757 could increase court costs and demand for detention services, which could increase state and local costs. (12-4-01)

### ***ARGUMENTS:***

#### ***For:***

Reportedly, Michigan is one of the last states to implement the full faith and credit provisions of the Violence Against Women Act with regard to upholding and enforcing protection orders issued by other state, tribal, or territorial jurisdictions. However, enacting the bill package will also mean that other states with similar laws will enforce personal protection orders (PPOs) issued in this state. This is an important protection to offer victims of abuse and threatened abuse. For those who stalk and prey on others, it means that they will be held accountable for their actions, for under the bills, a PPO issued against them in Michigan will be upheld by other states (though each state would enforce the PPO according to their own law) and that Michigan would enforce a protection order issued by another state. This should provide a powerful disincentive for an abuser or stalker to follow his or her victim across jurisdictional boundaries, and should increase the protective intent of the PPOs for abuse victims.

#### ***For:***

Senate Bill 757 would add a prohibition on issuing a PPO against a child who was less than 10 years old. Though originally intended to provide protection for people being stalked and for victims of domestic

violence, PPOs have been sought by adults in neighbor-to-disputes and by parents whose children have been threatened or abused by other children. However, neither the state Law Enforcement Information Network (LEIN) nor the National Crime Information Center (NCIC) database will enter a PPO issued against a child of less than 10 years of age. An important part of the legislation is to require the LEIN system to enter PPO information and track violations; therefore, the provisions relating to issuing PPOs need to be adjusted to accommodate the policies of the LEIN and NCIC systems.

***POSITIONS:***

The Office of the Governor supports the bills. (10-31-01)

The Prosecuting Attorneys Association of Michigan (PAAM) supports the concept of the bills. (12-4-01)

The Michigan Coalition Against Domestic and Sexual Violence is in strong support of the concept of the bills. (10-30-01)

Analyst: S. Stutzky

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.