



**House  
Legislative  
Analysis  
Section**

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**REVISE PPO ENFORCEMENT**

**House Bill 5275**

**Sponsor: Rep. Jennifer Faunce**

**House Bill 5299**

**Sponsor: Rep. Douglas Bovin**

**House Bill 5300**

**Sponsor: Rep. Ruth Johnson**

**House Bill 5301**

**Sponsor: Rep. Mike Kowall**

**House Bill 5302**

**Sponsor: Rep. Glenn S. Anderson**

**House Bill 5303**

**Sponsor: Rep. Mickey Mortimer**

**House Bill 5304**

**Sponsor: Rep. Jerry O. Kooiman**

**House Bill 5305**

**Sponsor: Rep. Jim Howell**

**House Bill 5306**

**Sponsor: Rep. Mary D. Waters**

**Committee: Criminal Justice**

**Complete to 10-28-01**

**House Bills 5275 and 5299-5305 (10-28-01)**

**A SUMMARY OF HOUSE BILLS 5275 AND 5299-5306 AS INTRODUCED 10-17-01**

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. House Bill 5275 is tie-barred to House Bills 5299-5306, and House Bills 5299-5306 are tie-barred to each other; however, House Bills 5299-5306 are not tie-barred to House Bill 5275.

House Bill 5275 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 would have to be accorded full faith and credit by a court and subject to the same enforcement procedures and penalties as if it were 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 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.

- Unless otherwise indicated in the bill, require law enforcement officers, prosecutors, and courts to enforce foreign protection orders other than conditional release orders or probation orders issued by a court in criminal proceedings in the same manner that Michigan-issued PPOs are enforced.

- For a foreign protection order that was a conditional release or probation order issued by a court in a criminal proceeding, provide for enforcement under provisions of the Code of Criminal Procedure, the Uniform Criminal Extradition Act, and the Uniform Rendition of Accused Persons Act.

- Allow, under certain conditions, a law enforcement officer to rely upon a copy of a PPO that appears to be a foreign protection order.

- Specify that an absence of verification of a foreign protection order on the Law Enforcement Information Network (LEIN) or the National Crime Information Center (NCIC) Protection Order File would not be grounds for refusal by a law enforcement officer to enforce the terms of the order. The bill would allow an officer to rely on the statement of the petitioner that the order was in effect and that the respondent had received notice of the order.

- Provide a procedure to verify a foreign protection order if a person seeking enforcement of the order did not have a copy. If the order could not be verified, require a law enforcement officer to maintain the peace and take appropriate action with regard to any violation of criminal law.

- Provide a procedure for a law enforcement officer to follow if there were no evidence that the respondent had received notice of the foreign protection order.

- Provide immunity from civil and criminal liability for a law enforcement officer, prosecutor, or court personnel who acted in good faith in enforcing a foreign protection order. This immunity would not limit or imply an absence of immunity in other circumstances.

House Bill 5299 and House Bill 5300 would amend the Revised Judicature Act (MCL 600.2950 and MCL 600.2950a, respectively) to specify that a personal protection order (PPO) would be enforceable anywhere in the state when signed by a judge. The bills would also allow a PPO, upon service, to be enforced by another state, Indian tribe, or U.S. territory. In addition to information already required to be listed on a PPO, the bills would require 1) a statement that if the respondent violated the PPO in a jurisdiction other than Michigan, that the respondent would be subject to the enforcement procedures and penalties of the state, Indian tribe, or U.S. territory with jurisdiction over the violation; and, 2) that upon service, a PPO could be enforced by another state, Indian tribe, or U.S. territory.

House Bill 5301 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. 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.

House Bill 5302 would amend the Code of Criminal Procedure (MCL 764.15c) to include a violation of a valid foreign protection order in the definition of “domestic violence incident”. (Currently, the act requires a peace officer to prepare a domestic violence report after investigating or intervening in a domestic violence incident.)

House Bill 5304 would amend the Revised Judicature Act (600.2529). Under the act, a fee of \$20 must be paid to the clerk of the court when a motion is filed. However, this fee is waived for several motions filed in conjunction with PPOs, such as a motion to dismiss the petition. The

bill would also waive the \$20 fee for a motion to dismiss a foreign protection order or a motion to show cause for a violation of a foreign protection order under provisions that would be added by House Bill 5275.

House Bill 5304 would amend the Code of Criminal Procedure (MCL 776.22) to require a police agency to include procedures for enforcing a valid foreign protection order in the agency's written policy regarding responses to domestic violence calls.

House Bill 5305 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. Further, 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.

House Bill 5306 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 imposed by a court.

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.