

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 729 (Substitute S-1 as reported)
Sponsor: Senator Bev Hammerstrom
Committee: Judiciary

CONTENT

The bill would amend the Revised Judicature Act to do the following:

- Require valid foreign protection orders (FPOs), including child custody or support provisions, to be accorded full faith and credit by Michigan courts.
- Provide that a valid FPO would be subject to the same enforcement procedures and penalties as if it were issued in Michigan.
- Provide that an FPO would be valid if the issuing court had jurisdiction over the parties and subject matter, and reasonable notice and opportunity to be heard were given to the respondent sufficient to protect his or her right to due process.
- Specify affirmative defenses against the enforcement of an FPO.
- Grant immunity to police and court personnel acting in good faith in enforcing FPOs.

("Foreign protection order" would mean an injunction issued by a court of another state, Indian tribe, or U.S. territory to prevent a person's violent or threatening acts against, harassment of, contact with, communication with, or physical proximity to another person.)

An FPO sought by a petitioner against a spouse or intimate partner and issued against both would be enforceable against the petitioner only if the respondent sought the order and the issuing court determined that each was entitled to relief. ("Spouse or intimate partner" would include an individual with whom the petitioner had had a child in common, was residing or had resided in the same household, or currently or formerly had a dating relationship.)

A law enforcement officer could rely upon a copy of any protection order that appeared to be an FPO if it appeared to contain the required information and there were no obvious indication that the order was invalid. If a person seeking enforcement of an FPO did not have a copy of it, the officer would have to attempt to verify the existence of the order and the required information. The officer would have to enforce the FPO if the order were verified. If there were no evidence that the respondent had received notice of the order, the respondent would have to be given an opportunity to comply with the order before the officer made an arrest for a violation. Failure to comply with the FPO would be grounds for an immediate arrest.

MCL 600.2950h-600.2950i

Legislative Analyst: P. Affholter

FISCAL IMPACT

The State Court Administrative Office reports that there were 49,932 personal protection order cases filed in 2000. Potential enforcement costs resulting from the bills are indeterminate, and would depend on the additional case filings to enforce FPOs. The bill also would have an indeterminate fiscal impact on the Family Independence Agency and on local units. Expanding the types of applicable protection orders could increase the number of cases served by State- or locally contracted detention service providers.

Date Completed: 11-3-01

Fiscal Analyst: B. Bowerman, C. Cole, B. Baker, B. Wicksall

[floor\sb729](#)

Analysis available @ <http://www.michiganlegislature.org>

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.