

HB 5275, As Passed Senate, December 13, 2001

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5275**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9948) by adding sections 2950/ and 2950m.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2950/. (1) LAW ENFORCEMENT OFFICERS, PROSECUTORS, AND
2 THE COURT SHALL ENFORCE A FOREIGN PROTECTION ORDER OTHER THAN A
3 CONDITIONAL RELEASE ORDER OR PROBATION ORDER ISSUED BY A COURT IN
4 A CRIMINAL PROCEEDING IN THE SAME MANNER THAT THEY WOULD ENFORCE
5 A PERSONAL PROTECTION ORDER ISSUED IN THIS STATE UNDER SECTION
6 2950 OR 2950A OR SECTION 2(H) OF CHAPTER XIIIA OF THE PROBATE CODE
7 OF 1939, 1939 PA 288, MCL 712A.2, UNLESS INDICATED OTHERWISE IN
8 THIS SECTION.

9 (2) A FOREIGN PROTECTION ORDER THAT IS A CONDITIONAL RELEASE
10 ORDER OR A PROBATION ORDER ISSUED BY A COURT IN A CRIMINAL
11 PROCEEDING SHALL BE ENFORCED PURSUANT TO SECTION 2950M OF THIS

HB 5275, As Passed Senate, December 13, 2001

House Bill No. 5275

2

1 ACT, SECTION 15(1)(G) OF CHAPTER IV OF THE CODE OF CRIMINAL
2 PROCEDURE, 1927 PA 175, MCL 764.15, THE UNIFORM CRIMINAL EXTRADI-
3 TION ACT, 1937 PA 144, MCL 780.1 TO 780.31, OR THE UNIFORM RENDI-
4 TION OF ACCUSED PERSONS ACT, 1968 PA 281, MCL 780.41 TO 780.45.

5 (3) A LAW ENFORCEMENT OFFICER MAY RELY UPON A COPY OF ANY
6 PROTECTION ORDER THAT APPEARS TO BE A FOREIGN PROTECTION ORDER
7 AND THAT IS PROVIDED TO THE LAW ENFORCEMENT OFFICER FROM ANY
8 SOURCE IF THE PUTATIVE FOREIGN PROTECTION ORDER APPEARS TO CON-
9 TAIN ALL OF THE FOLLOWING:

10 (A) THE NAMES OF THE PARTIES.

11 (B) THE DATE THE PROTECTION ORDER WAS ISSUED, WHICH IS PRIOR
12 TO THE DATE WHEN ENFORCEMENT IS SOUGHT.

13 (C) THE TERMS AND CONDITIONS AGAINST RESPONDENT.

14 (D) THE NAME OF THE ISSUING COURT.

15 (E) THE SIGNATURE OF OR ON BEHALF OF A JUDICIAL OFFICER.

16 (F) NO OBVIOUS INDICATION THAT THE ORDER IS INVALID, SUCH AS
17 AN EXPIRATION DATE THAT IS BEFORE THE DATE ENFORCEMENT IS
18 SOUGHT.

19 (4) THE FACT THAT A PUTATIVE FOREIGN PROTECTION ORDER THAT
20 AN OFFICER HAS BEEN SHOWN CANNOT BE VERIFIED ON LEIN OR THE NCIC
21 NATIONAL PROTECTION ORDER FILE IS NOT GROUNDS FOR A LAW ENFORCE-
22 MENT OFFICER TO REFUSE TO ENFORCE THE TERMS OF THE PUTATIVE FOR-
23 EIGN PROTECTION ORDER, UNLESS IT IS APPARENT TO THE OFFICER THAT
24 THE PUTATIVE FOREIGN PROTECTION ORDER IS INVALID. A LAW ENFORCE-
25 MENT OFFICER MAY RELY UPON THE STATEMENT OF PETITIONER THAT THE
26 PUTATIVE FOREIGN PROTECTION ORDER THAT HAS BEEN SHOWN TO THE
27 OFFICER REMAINS IN EFFECT AND MAY RELY UPON THE STATEMENT OF

HB 5275, As Passed Senate, December 13, 2001

House Bill No. 5275

3

1 PETITIONER OR RESPONDENT THAT RESPONDENT HAS RECEIVED NOTICE OF
2 THAT ORDER.

3 (5) IF A PERSON SEEKING ENFORCEMENT OF A FOREIGN PROTECTION
4 ORDER DOES NOT HAVE A COPY OF THE FOREIGN PROTECTION ORDER, THE
5 LAW ENFORCEMENT OFFICER SHALL ATTEMPT TO VERIFY THROUGH LEIN, OR
6 THE NCIC PROTECTION ORDER FILE, ADMINISTRATIVE MESSAGING, CON-
7 TACTING THE COURT THAT ISSUED THE FOREIGN PROTECTION ORDER, CON-
8 TACTING THE LAW ENFORCEMENT AGENCY IN THE ISSUING JURISDICTION,
9 CONTACTING THE ISSUING JURISDICTION'S PROTECTION ORDER REGISTRY,
10 OR ANY OTHER METHOD THE LAW ENFORCEMENT OFFICER BELIEVES TO BE
11 RELIABLE, THE EXISTENCE OF THE FOREIGN PROTECTION ORDER AND ALL
12 OF THE FOLLOWING:

13 (A) THE NAMES OF THE PARTIES.

14 (B) THE DATE THE FOREIGN PROTECTION ORDER WAS ISSUED, WHICH
15 IS PRIOR TO THE DATE WHEN ENFORCEMENT IS SOUGHT.

16 (C) TERMS AND CONDITIONS AGAINST RESPONDENT.

17 (D) THE NAME OF THE ISSUING COURT.

18 (E) NO OBVIOUS INDICATION THAT THE FOREIGN PROTECTION ORDER
19 IS INVALID, SUCH AS AN EXPIRATION DATE THAT IS BEFORE THE DATE
20 ENFORCEMENT IS SOUGHT.

21 (6) IF SUBSECTION (5) APPLIES, THE LAW ENFORCEMENT OFFICER
22 SHALL ENFORCE THE FOREIGN PROTECTION ORDER IF THE EXISTENCE OF
23 THE ORDER AND THE INFORMATION LISTED UNDER SUBSECTION (5) ARE
24 VERIFIED, SUBJECT TO SUBSECTION (9).

25 (7) IF A PERSON SEEKING ENFORCEMENT OF A FOREIGN PROTECTION
26 ORDER DOES NOT HAVE A COPY OF THE FOREIGN PROTECTION ORDER, AND
27 THE LAW ENFORCEMENT OFFICER CANNOT VERIFY THE ORDER AS DESCRIBED

HB 5275, As Passed Senate, December 13, 2001

House Bill No. 5275

4

1 IN SUBSECTION (5), THE LAW ENFORCEMENT OFFICER SHALL MAINTAIN THE
2 PEACE AND TAKE APPROPRIATE ACTION WITH REGARD TO ANY VIOLATION OF
3 CRIMINAL LAW.

4 (8) WHEN ENFORCING A FOREIGN PROTECTION ORDER, THE LAW
5 ENFORCEMENT OFFICER SHALL MAINTAIN THE PEACE AND TAKE APPROPRIATE
6 ACTION WITH REGARD TO ANY VIOLATION OF CRIMINAL LAW. THE PENAL-
7 TIES PROVIDED FOR UNDER SECTIONS 2950 AND 2950A AND CHAPTER XIIA
8 OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.1 TO 712A.32,
9 MAY BE IMPOSED IN ADDITION TO A PENALTY THAT MAY BE IMPOSED FOR
10 ANY CRIMINAL OFFENSE ARISING FROM THE SAME CONDUCT.

11 (9) IF THERE IS NO EVIDENCE THAT THE RESPONDENT HAS BEEN
12 SERVED WITH OR RECEIVED NOTICE OF THE FOREIGN PROTECTION ORDER,
13 THE LAW ENFORCEMENT OFFICER SHALL SERVE THE RESPONDENT WITH A
14 COPY OF THE FOREIGN PROTECTION ORDER, OR ADVISE THE RESPONDENT
15 ABOUT THE EXISTENCE OF THE FOREIGN PROTECTION ORDER, THE NAME OF
16 THE ISSUING COURT, THE SPECIFIC CONDUCT ENJOINED, THE PENALTIES
17 FOR VIOLATING THE ORDER IN THIS STATE, AND, IF THE OFFICER IS
18 AWARE OF THE PENALTIES IN THE ISSUING JURISDICTION, THE PENALTIES
19 FOR VIOLATING THE ORDER IN THE ISSUING JURISDICTION. THE OFFICER
20 SHALL ENFORCE THE FOREIGN PROTECTION ORDER AND SHALL PROVIDE THE
21 PETITIONER, OR CAUSE THE PETITIONER TO BE PROVIDED, WITH PROOF OF
22 SERVICE OR PROOF OF ORAL NOTICE. THE OFFICER ALSO SHALL PROVIDE
23 THE ISSUING COURT, OR CAUSE THE ISSUING COURT TO BE PROVIDED,
24 WITH A PROOF OF SERVICE OR PROOF OF ORAL NOTICE, IF THE ADDRESS
25 OF THE ISSUING COURT IS APPARENT ON THE FACE OF THE FOREIGN PRO-
26 TECTION ORDER OR OTHERWISE IS READILY AVAILABLE TO THE OFFICER.
27 IF THE FOREIGN PROTECTION ORDER IS ENTERED INTO LEIN OR THE NCIC

HB 5275, As Passed Senate, December 13, 2001

House Bill No. 5275

5

1 PROTECTION ORDER FILE, THE OFFICER SHALL PROVIDE THE LEIN OR THE
2 NCIC PROTECTION ORDER FILE ENTERING AGENCY, OR CAUSE THE LEIN OR
3 NCIC PROTECTION ORDER FILE ENTERING AGENCY TO BE PROVIDED, WITH A
4 PROOF OF SERVICE OR PROOF OF ORAL NOTICE. IF THERE IS NO EVI-
5 DENCE THAT THE RESPONDENT HAS RECEIVED NOTICE OF THE FOREIGN PRO-
6 TECTION ORDER, THE RESPONDENT SHALL BE GIVEN AN OPPORTUNITY TO
7 COMPLY WITH THE FOREIGN PROTECTION ORDER BEFORE THE OFFICER MAKES
8 A CUSTODIAL ARREST FOR VIOLATION OF THE FOREIGN PROTECTION
9 ORDER. THE FAILURE TO COMPLY IMMEDIATELY WITH THE FOREIGN PRO-
10 TECTION ORDER IS GROUNDS FOR AN IMMEDIATE CUSTODIAL ARREST. THIS
11 SUBSECTION DOES NOT PRECLUDE AN ARREST UNDER SECTION 15 OR 15A OF
12 CHAPTER IV OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL
13 764.15 AND 764.15A, OR A PROCEEDING UNDER SECTION 14 OF CHAPTER
14 XIIIA OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL
15 712A.14.

16 (10) A LAW ENFORCEMENT OFFICER, PROSECUTOR, OR COURT PERSON-
17 NEL ACTING IN GOOD FAITH ARE IMMUNE FROM CIVIL AND CRIMINAL
18 LIABILITY IN ANY ACTION ARISING FROM THE ENFORCEMENT OF A FOREIGN
19 PROTECTION ORDER. THIS IMMUNITY DOES NOT IN ANY MANNER LIMIT OR
20 IMPLY AN ABSENCE OF IMMUNITY IN OTHER CIRCUMSTANCES.

21 SEC. 2950M. A PERSON WHO VIOLATES A FOREIGN PROTECTION
22 ORDER THAT IS A CONDITIONAL RELEASE ORDER OR A PROBATION ORDER
23 ISSUED BY A COURT IN A CRIMINAL PROCEEDING IS GUILTY OF A MISDE-
24 MEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A
25 FINE OF \$500.00, OR BOTH.

26 Enacting section 1. This amendatory act takes effect
27 April 1, 2002.

HB 5275, As Passed Senate, December 13, 2001

House Bill No. 5275

6

1 Enacting section 2. This amendatory act does not take
2 effect unless all of the following bills of the 91st Legislature
3 are enacted into law:

4 (a) Senate Bill No. 729.

5 (b) Senate Bill No. 753.

6 (c) Senate Bill No. 754.

7 (d) Senate Bill No. 757.

8 (e) Senate Bill No. 758.

9 (f) House Bill No. 5299.

10 (g) House Bill No. 5300.

11 (h) House Bill No. 5303.

12 (i) House Bill No. 5304.