

HOUSE BILL No. 5299

October 18, 2001, Introduced by Rep. Bovin and referred to the Committee on Criminal Justice.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2950 (MCL 600.2950), as amended by 1999 PA
268.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2950. (1) Except as provided in subsections (27) and
2 (28), by commencing an independent action to obtain relief under
3 this section, by joining a claim to an action, or by filing a
4 motion in an action in which the petitioner and the individual to
5 be restrained or enjoined are parties, an individual may petition
6 the family division of circuit court to enter a personal protec-
7 tion order to restrain or enjoin a spouse, a former spouse, an
8 individual with whom he or she has had a child in common, an
9 individual with whom he or she has or has had a dating
10 relationship, or an individual residing or having resided in the

1 same household as the petitioner from doing 1 or more of the
2 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) Purchasing or possessing a firearm.

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

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

21 (h) Having access to information in records concerning a
22 minor child of both petitioner and respondent that will inform
23 respondent about the address or telephone number of petitioner
24 and petitioner's minor child or about petitioner's employment
25 address.

1 (i) Engaging in conduct that is prohibited under section
2 411h or 411i of the Michigan penal code, 1931 PA 328, MCL
3 750.411h and 750.411i.

4 (j) Any other specific act or conduct that imposes upon or
5 interferes with personal liberty or that causes a reasonable
6 apprehension of violence.

7 (2) If the respondent is a person who is issued a license to
8 carry a concealed weapon and is required to carry a weapon as a
9 condition of his or her employment, a police officer certified by
10 the commission on law enforcement standards act, 1965 PA 203, MCL
11 28.601 to 28.616, a sheriff, a deputy sheriff or a member of the
12 Michigan department of state police, a local corrections officer,
13 department of corrections employee, or a federal law enforcement
14 officer who carries a firearm during the normal course of his or
15 her employment, the petitioner shall notify the court of the
16 respondent's occupation prior to the issuance of the personal
17 protection order. This subsection does not apply to a petitioner
18 who does not know the respondent's occupation.

19 (3) A petitioner may omit his or her address of residence
20 from documents filed with the court under this section. If a
21 petitioner omits his or her address of residence, the petitioner
22 shall provide the court with a mailing address.

23 (4) The court shall issue a personal protection order under
24 this section if the court determines that there is reasonable
25 cause to believe that the individual to be restrained or enjoined
26 may commit 1 or more of the acts listed in subsection (1). In

1 determining whether reasonable cause exists, the court shall
2 consider all of the following:

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

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

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

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

13 (b) The individual to be restrained or enjoined or the
14 parent, guardian, or custodian of the minor to be restrained or
15 enjoined has a property interest in the premises.

16 (c) The moving party or the parent, guardian, or custodian
17 of a minor petitioner has no property interest in the premises.

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

20 (a) A police report.

21 (b) A medical report.

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

23 (d) Physical signs of abuse or violence.

24 (7) If the court refuses to grant a personal protection
25 order, it shall state immediately in writing the specific reasons
26 it refused to issue a personal protection order. If a hearing is
27 held, the court shall also immediately state on the record the

1 specific reasons it refuses to issue a personal protection
2 order.

3 (8) A personal protection order shall not be made mutual.
4 Correlative separate personal protection orders are prohibited
5 unless both parties have properly petitioned the court pursuant
6 to subsection (1).

7 (9) A personal protection order is effective and immediately
8 enforceable ANYWHERE IN THIS STATE when signed by a judge. UPON
9 SERVICE, A PERSONAL PROTECTION ORDER MAY ALSO BE ENFORCED BY
10 ANOTHER STATE, AN INDIAN TRIBE, OR A TERRITORY OF THE UNITED
11 STATES.

12 (10) The court shall designate the law enforcement agency
13 that is responsible for entering the personal protection order
14 into the law enforcement information network as provided by the
15 L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to
16 28.216.

17 (11) A personal protection order shall include all of the
18 following, and to the extent practicable the following shall be
19 contained in a single form:

20 (a) A statement that the personal protection order has been
21 entered to restrain or enjoin conduct listed in the order and
22 that violation of the personal protection order will subject the
23 individual restrained or enjoined to ~~either~~ 1 OR MORE of the
24 following:

25 (i) If the respondent is 17 years of age or more, immediate
26 arrest and the civil and criminal contempt powers of the court,
27 and that if he or she is found guilty of criminal contempt, he or

1 she shall be imprisoned for not more than 93 days and may be
2 fined not more than \$500.00.

3 (ii) If the respondent is less than 17 years of age, immedi-
4 ate apprehension or being taken into custody, and subject to the
5 dispositional alternatives listed in section 18 of chapter XIIA
6 of the probate code OF 1939, 1939 PA 288, MCL 712A.18.

7 (iii) IF THE RESPONDENT VIOLATES THE PERSONAL PROTECTION
8 ORDER IN A JURISDICTION OTHER THAN THIS STATE, THE RESPONDENT IS
9 SUBJECT TO THE ENFORCEMENT PROCEDURES AND PENALTIES OF THE STATE,
10 INDIAN TRIBE, OR UNITED STATES TERRITORY UNDER WHOSE JURISDICTION
11 THE VIOLATION OCCURRED.

12 (b) A statement that the personal protection order is effec-
13 tive and immediately enforceable ANYWHERE IN THIS STATE when
14 signed by a judge, AND THAT, UPON SERVICE, A PERSONAL PROTECTION
15 ORDER ALSO MAY BE ENFORCED BY ANOTHER STATE, AN INDIAN TRIBE, OR
16 A TERRITORY OF THE UNITED STATES.

17 (c) A statement listing the type or types of conduct
18 enjoined.

19 (d) An expiration date stated clearly on the face of the
20 order.

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

23 (f) The law enforcement agency designated by the court to
24 enter the personal protection order into the law enforcement
25 information network.

26 (g) For ex parte orders, a statement that the individual
27 restrained or enjoined may file a motion to modify or rescind the

1 personal protection order and request a hearing within 14 days
2 after the individual restrained or enjoined has been served or
3 has received actual notice of the order and that motion forms and
4 filing instructions are available from the clerk of the court.

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

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

23 (14) Except as otherwise provided in this subsection, the
24 court shall schedule a hearing on the motion to modify or rescind
25 the ex parte personal protection order within 14 days after the
26 filing of the motion to modify or rescind. If the respondent is
27 a person described in subsection (2) and the personal protection

1 order prohibits him or her from purchasing or possessing a
2 firearm, the court shall schedule a hearing on the motion to
3 modify or rescind the ex parte personal protection order within 5
4 days after the filing of the motion to modify or rescind.

5 (15) The clerk of the court that issues a personal protec-
6 tion order shall do all of the following immediately upon issu-
7 ance and without requiring a proof of service on the individual
8 restrained or enjoined:

9 (a) File a true copy of the personal protection order with
10 the law enforcement agency designated by the court in the per-
11 sonal protection order.

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

14 (c) If respondent is identified in the pleadings as a law
15 enforcement officer, notify the officer's employing law enforce-
16 ment agency, if known, about the existence of the personal pro-
17 tection order.

18 (d) If the personal protection order prohibits respondent
19 from purchasing or possessing a firearm, notify the concealed
20 weapon licensing board in respondent's county of residence about
21 the existence and contents of the personal protection order.

22 (e) If the respondent is identified in the pleadings as a
23 department of corrections employee, notify the state department
24 of corrections about the existence of the personal protection
25 order.

26 (f) If the respondent is identified in the pleadings as
27 being a person who may have access to information concerning the

1 petitioner or a child of the petitioner or respondent and that
2 information is contained in friend of the court records, notify
3 the friend of the court for the county in which the information
4 is located about the existence of the personal protection order.

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

10 (17) The law enforcement agency that receives a true copy of
11 the personal protection order under subsection (15) or (16) shall
12 immediately and without requiring proof of service enter the per-
13 sonal protection order into the law enforcement information net-
14 work as provided by the L.E.I.N. policy council act of 1974, 1974
15 PA 163, MCL 28.211 to 28.216.

16 (18) A personal protection order issued under this section
17 shall be served personally or by registered or certified mail,
18 return receipt requested, delivery restricted to the addressee at
19 the last known address or addresses of the individual restrained
20 or enjoined or by any other manner provided in the Michigan court
21 rules. If the individual restrained or enjoined has not been
22 served, a law enforcement officer or clerk of the court who knows
23 that a personal protection order exists may, at any time, serve
24 the individual restrained or enjoined with a true copy of the
25 order or advise the individual restrained or enjoined about the
26 existence of the personal protection order, the specific conduct
27 enjoined, the penalties for violating the order, and where the

1 individual restrained or enjoined may obtain a copy of the
2 order. If the respondent is less than 18 years of age, the
3 parent, guardian, or custodian of that individual shall also be
4 served personally or by registered or certified mail, return
5 receipt requested, delivery restricted to the addressee at the
6 last known address or addresses of the parent, guardian, or cus-
7 todian of the individual restrained or enjoined. A proof of
8 service or proof of oral notice shall be filed with the clerk of
9 the court issuing the personal protection order. This subsection
10 does not prohibit the immediate effectiveness of a personal pro-
11 tection order or its immediate enforcement under subsections (21)
12 and (22).

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

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

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

20 (20) The law enforcement agency that receives information
21 under subsection (19) shall enter the information or cause the
22 information to be entered into the law enforcement information
23 network as provided by the L.E.I.N. policy council act of 1974,
24 1974 PA 163, MCL 28.211 to 28.216.

25 (21) Subject to subsection (22), a personal protection order
26 is immediately enforceable anywhere in this state by any law
27 enforcement agency that has received a true copy of the order, is

1 shown a copy of it, or has verified its existence on the law
2 enforcement information network as provided by the
3 L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to
4 28.216.

5 (22) If the individual restrained or enjoined has not been
6 served, the law enforcement agency or officer responding to a
7 call alleging a violation of a personal protection order shall
8 serve the individual restrained or enjoined with a true copy of
9 the order or advise the individual restrained or enjoined about
10 the existence of the personal protection order, the specific con-
11 duct enjoined, the penalties for violating the order, and where
12 the individual restrained or enjoined may obtain a copy of the
13 order. The law enforcement officer shall enforce the personal
14 protection order and immediately enter or cause to be entered
15 into the law enforcement information network that the individual
16 restrained or enjoined has actual notice of the personal protec-
17 tion order. The law enforcement officer also shall file a proof
18 of service or proof of oral notice with the clerk of the court
19 issuing the personal protection order. If the individual
20 restrained or enjoined has not received notice of the personal
21 protection order, the individual restrained or enjoined shall be
22 given an opportunity to comply with the personal protection order
23 before the law enforcement officer makes a custodial arrest for
24 violation of the personal protection order. The failure to imme-
25 diately comply with the personal protection order shall be
26 grounds for an immediate custodial arrest. This subsection does
27 not preclude an arrest under section 15 or 15a of chapter IV of

1 the code of criminal procedure, 1927 PA 175, MCL 764.15 and
2 764.15a, or a proceeding under section 14 of chapter XIIIA of THE
3 PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.14.

4 (23) An individual who is 17 years of age or more and who
5 refuses or fails to comply with a personal protection order under
6 this section is subject to the criminal contempt powers of the
7 court and, if found guilty, shall be imprisoned for not more than
8 93 days and may be fined not more than \$500.00. An individual
9 who is less than 17 years of age and who refuses or fails to
10 comply with a personal protection order issued under this section
11 is subject to the dispositional alternatives listed in section 18
12 of chapter XIIIA of THE PROBATE CODE OF 1939, 1939 PA 288,
13 MCL 712A.18. The criminal penalty provided for under this sec-
14 tion may be imposed in addition to a penalty that may be imposed
15 for another criminal offense arising from the same conduct.

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

20 (25) A personal protection order issued under this section
21 is also enforceable under chapter XIIIA of THE PROBATE CODE OF
22 1939, 1939 PA 288, MCL 712A.1 to ~~712A.31~~ 712A.32, and
23 section 15b of chapter IV of the code of criminal procedure, 1927
24 PA 175, MCL 764.15b.

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

1 (27) A court shall not issue a personal protection order
2 that restrains or enjoins conduct described in subsection (1) if
3 either of the following applies:

4 (a) The respondent is the unemancipated minor child of the
5 petitioner.

6 (b) The petitioner is the unemancipated minor child of the
7 respondent.

8 (28) If the respondent is less than 18 years of age, issu-
9 ance of a personal protection order under this section is subject
10 to chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
11 712A.1 to 712A.32.

12 (29) A personal protection order that is issued prior to the
13 effective date of the amendatory act that added this subsection
14 is not invalid on the ground that it does not comply with 1 or
15 more of the requirements added by this amendatory act.

16 (30) As used in this section:

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

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

26 (c) "Personal protection order" means an injunctive order
27 issued by the circuit court or the family division of circuit

1 court restraining or enjoining activity and individuals listed in
2 subsection (1).

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

6 (a) Senate Bill No. _____ or House Bill No. _____ (request
7 no. 05225'01 b).

8 (b) Senate Bill No. _____ or House Bill No. _____ (request
9 no. 05225'01 c).

10 (c) Senate Bill No. _____ or House Bill No. _____ (request
11 no. 05225'01 d).

12 (d) Senate Bill No. _____ or House Bill No. _____ (request
13 no. 05225'01 e).

14 (e) Senate Bill No. _____ or House Bill No. _____ (request
15 no. 05225'01 f).

16 (f) Senate Bill No. _____ or House Bill No. _____ (request
17 no. 05225'01 g).

18 (g) Senate Bill No. _____ or House Bill No. _____ (request
19 no. 05225'01 h).