

HOUSE BILL No. 5301

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

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 15b of chapter IV (MCL 764.15b), as amended
by 1999 PA 269.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER IV

2

Sec. 15b. (1) A peace officer, without a warrant, may

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arrest and take into custody an individual when the peace officer

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has or receives positive information that another peace officer

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has reasonable cause to believe all of the following apply:

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(a) A personal protection order has been issued under

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section 2950 or 2950a of the revised judicature act of 1961, 1961

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PA 236, MCL 600.2950 and 600.2950a, OR IS A VALID FOREIGN

9

PROTECTION ORDER.

1 (b) The individual named in the personal protection order is
2 violating or has violated the order. An individual is violating
3 or has violated the order if that individual commits 1 or more of
4 the following acts the order specifically restrains or enjoins
5 the individual from committing:

6 (i) Assaulting, attacking, beating, molesting, or wounding a
7 named individual.

8 (ii) Removing minor children from an 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 (iii) Entering onto premises.

13 (iv) Engaging in conduct prohibited under section 411h or
14 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and
15 750.411i.

16 (v) Threatening to kill or physically injure a named
17 individual.

18 (vi) Purchasing or possessing a firearm.

19 (vii) Interfering with petitioner's efforts to remove
20 petitioner's children or personal property from premises that are
21 solely owned or leased by the individual to be restrained or
22 enjoined.

23 (viii) Interfering with petitioner at petitioner's place of
24 employment or education or engaging in conduct that impairs
25 petitioner's employment or educational relationship or
26 environment.

1 (ix) Any other act or conduct specified by the court in the
2 personal protection order.

3 (c) ~~The~~ IF THE PERSONAL PROTECTION ORDER WAS ISSUED UNDER
4 SECTION 2950 OR 2950A, THE personal protection order states on
5 its face that a violation of its terms subjects the individual to
6 immediate arrest and either of the following:

7 (i) If the individual restrained or enjoined is 17 years of
8 age or older, to criminal contempt of court and, if found guilty
9 of criminal contempt, to imprisonment for not more than 93 days
10 and to a fine of not more than \$500.00.

11 (ii) If the individual restrained or enjoined is less than
12 17 years of age, to the dispositional alternatives listed in sec-
13 tion 18 of chapter XIIIA of the probate code of 1939, 1939 PA 288,
14 MCL 712A.18.

15 (2) An individual arrested under this section shall be
16 brought before the family division of the circuit court having
17 jurisdiction in the cause within 24 hours after arrest to answer
18 to a charge of contempt for violating the personal protection
19 order, at which time the court shall do each of the following:

20 (a) Set a time certain for a hearing on the alleged viola-
21 tion of the personal protection order. The hearing shall be held
22 within 72 hours after arrest, unless extended by the court on the
23 motion of the arrested individual or the prosecuting attorney.

24 (b) Set a reasonable bond pending a hearing of the alleged
25 violation of the personal protection order.

26 (c) Notify the prosecuting attorney of the criminal contempt
27 proceeding.

1 (d) Notify the party who procured the personal protection
2 order and his or her attorney of record, if any, and direct the
3 party to appear at the hearing and give evidence on the charge of
4 contempt.

5 (3) In circuits in which the circuit court judge may not be
6 present or available within 24 hours after arrest, an individual
7 arrested under this section shall be taken before the district
8 court within 24 hours after arrest, at which time the district
9 court shall set bond and order the defendant to appear before the
10 family division of circuit court in the county for a hearing on
11 the charge. If the district court will not be open within 24
12 hours after arrest, a judge or district court magistrate shall
13 set bond and order the defendant to appear before the circuit
14 court in the county for a hearing on the charge.

15 (4) If a criminal contempt proceeding for violation of a
16 personal protection order is not initiated by an arrest under
17 this section but is initiated as a result of a show cause order
18 or other process or proceedings, the court shall do all of the
19 following:

20 (a) Notify the party who procured the personal protection
21 order and his or her attorney of record, if any, and direct the
22 party to appear at the hearing and give evidence on the contempt
23 charge.

24 (b) Notify the prosecuting attorney of the criminal contempt
25 proceeding.

26 (5) The family division of circuit court in each county of
27 this state has jurisdiction to conduct contempt proceedings based

1 upon a violation of a personal protection order described in this
2 section issued by the circuit court in any county of this state
3 OR UPON A VIOLATION OF A VALID FOREIGN PROTECTION ORDER. The
4 court of arraignment shall notify the ~~circuit~~ court that issued
5 the personal protection order OR FOREIGN PROTECTION ORDER that
6 the issuing court may request that the defendant be returned to
7 that court for violating the personal protection order OR FOREIGN
8 PROTECTION ORDER. If the court that issued the personal protec-
9 tion order OR FOREIGN PROTECTION ORDER requests that the
10 defendant be returned to that court to stand trial, the county of
11 the requesting court shall bear the cost of transporting the
12 defendant to that county.

13 (6) The family division of circuit court has jurisdiction to
14 conduct contempt proceedings based upon a violation of a personal
15 protection order issued pursuant to section 2(h) of chapter XIIIA
16 of the probate code of 1939, 1939 PA 288, MCL 712A.2, by the
17 family division of circuit court in any county of this state OR A
18 VALID FOREIGN PROTECTION ORDER ISSUED AGAINST A RESPONDENT WHO IS
19 LESS THAN 18 YEARS OF AGE AT THE TIME OF THE ALLEGED VIOLATION OF
20 THE FOREIGN PROTECTION ORDER IN THIS STATE. The family division
21 of circuit court that conducts the preliminary inquiry shall
22 notify the ~~family division of circuit~~ court that issued the
23 personal protection order OR FOREIGN PROTECTION ORDER that the
24 issuing court may request that the respondent be returned to that
25 county for violating the personal protection order OR FOREIGN
26 PROTECTION ORDER. If the ~~family division of circuit~~ court that
27 issued the personal protection order OR FOREIGN PROTECTION ORDER

1 requests that the respondent be returned to that court to stand
2 trial, the county of the requesting court shall bear the cost of
3 transporting the respondent to that county.

4 (7) The prosecuting attorney shall prosecute a criminal con-
5 tempt proceeding initiated by the court under subsection (2) or
6 initiated by a show cause order under subsection (4), unless the
7 party who procured the personal protection order retains his or
8 her own attorney for the criminal contempt proceeding or the
9 prosecuting attorney determines that the personal protection
10 order was not violated or that it would not be in the interest of
11 justice to prosecute the criminal contempt violation. If the
12 prosecuting attorney prosecutes the criminal contempt proceeding,
13 the court shall grant an adjournment for not less than 14 days or
14 a lesser period requested if the prosecuting attorney moves for
15 adjournment. If the prosecuting attorney prosecutes the criminal
16 contempt proceeding, the court may dismiss the proceeding upon
17 motion of the prosecuting attorney for good cause shown.

18 (8) A court shall not rescind a personal protection order,
19 dismiss a contempt proceeding based on a personal protection
20 order, or impose any other sanction for a failure to comply with
21 a time limit prescribed in this section.

22 (9) AS USED IN THIS SECTION:

23 (A) "FOREIGN PROTECTION ORDER" MEANS THAT TERM AS DEFINED IN
24 SECTION 2950D OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,
25 MCL 600.2950D.

26 (B) "PERSONAL PROTECTION ORDER" MEANS A PERSONAL PROTECTION
27 ORDER ISSUED UNDER SECTION 2950 OR 2950A OF THE REVISED

1 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2950 AND 600.2950A,
2 AND, UNLESS THE CONTEXT INDICATES OTHERWISE, INCLUDES A VALID
3 FOREIGN PROTECTION ORDER.

4 (C) "VALID FOREIGN PROTECTION ORDER" MEANS A FOREIGN PROTEC-
5 TION ORDER THAT SATISFIES THE CONDITIONS FOR VALIDITY PROVIDED IN
6 SECTION 2950D OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,
7 MCL 600.2950D.

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

11 (a) Senate Bill No. _____ or House Bill No. 5299 (request
12 no. 05225'01 a).

13 (b) Senate Bill No. _____ or House Bill No. 5300 (request
14 no. 05225'01 b).

15 (c) Senate Bill No. _____ or House Bill No. 5302 (request
16 no. 05225'01 d).

17 (d) Senate Bill No. _____ or House Bill No. 5303 (request
18 no. 05225'01 e).

19 (e) Senate Bill No. _____ or House Bill No. 5304 (request
20 no. 05225'01 f).

21 (f) Senate Bill No. _____ or House Bill No. 5305 (request
22 no. 05225'01 g).

23 (g) Senate Bill No. _____ or House Bill No. 5306 (request
24 no. 05225'01 h).