

SENATE BILL No. 1376

June 18, 2002, Introduced by Senators HART, PETERS, DE BEAUSSAERT and SMITH and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 3 of chapter XI (MCL 711.3), as added by 2000 PA 111.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XI

1
2 Sec. 3. (1) In a proceeding under section 1 of this chap-
3 ter, the court may order for good cause that no publication of
4 the proceeding take place and that the record of the proceeding
5 be confidential. Good cause under this section includes, but is
6 not limited to, evidence that publication or availability of a
7 record of the proceeding could place the petitioner or another
8 individual in physical danger, such as evidence that the
9 petitioner or another individual has been the victim of stalking
10 or an assaultive crime.

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1 (2) IN A PROCEEDING UNDER SECTION 1 OF THIS CHAPTER, THE
2 COURT SHALL ORDER THAT NO PUBLICATION OF THE PROCEEDING TAKE
3 PLACE AND THAT THE RECORD OF THE PROCEEDING BE CONFIDENTIAL IF
4 THE COURT DETERMINES THAT BOTH OF THE FOLLOWING ARE TRUE:

5 (A) THE PETITIONER HAS BEEN A VICTIM OF DOMESTIC VIOLENCE OR
6 STALKING.

7 (B) PUBLICATION OR AVAILABILITY OF A RECORD OF THE PROCEED-
8 ING COULD PLACE THE PETITIONER OR A CHILD OF THE PETITIONER IN
9 PHYSICAL DANGER.

10 (3) ~~(2)~~ Evidence under subsection (1) OR (2) THAT THE
11 PETITIONER HAS BEEN A VICTIM OF DOMESTIC VIOLENCE OR STALKING OR
12 of the possibility of physical danger must include the
13 petitioner's or the endangered individual's sworn statement stat-
14 ing the FACTS OF THE DOMESTIC VIOLENCE OR STALKING OR THE reason
15 for the fear of physical danger if the record is published or
16 otherwise available. If evidence is offered of DOMESTIC
17 VIOLENCE, stalking, or an assaultive crime, the court shall not
18 require proof of an arrest or prosecution for that crime to
19 ~~reach~~ MAKE a finding of good cause under subsection (1) OR A
20 DETERMINATION UNDER SUBSECTION (2).

21 (4) ~~(3)~~ A court officer, employee, or agent who divulges,
22 uses, or publishes, beyond the scope of his or her duties with
23 the court, information from a record made confidential under this
24 section is guilty of a misdemeanor. This subsection does not
25 apply to a disclosure under a court order.

1 (5) ~~(4)~~ A confidential record created under this section
2 is exempt from disclosure under the freedom of information act,
3 1976 PA 442, MCL 15.231 to 15.246.

4 (6) ~~(5)~~ As used in this section: ~~, "stalking"~~

5 (A) "DOMESTIC VIOLENCE" MEANS THAT TERM AS DEFINED IN SEC-
6 TION 1 OF 1978 PA 389, MCL 400.1501.

7 (B) "STALKING" means that term as defined in sections 411h
8 and 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h
9 and 750.411i.