

Act No. 402  
Public Acts of 1994  
Approved by the Governor  
December 29, 1994  
Filed with the Secretary of State  
December 29, 1994

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1994**

**Introduced by Reps Whyman Porreca Gustafson Hill Voorhees Dalman Vorva Horton McBryde  
Jaye Brown Jersevic Hammerstrom Rhead Kukuk Fitzgerald Middleton Nye Goschka Cropsey  
Crissman Stille Galloway Jamian Shugars Weeks Bullard McManus Clack Dobb and Munsell**

# **ENROLLED HOUSE BILL No. 5804**

AN ACT to amend section 2950 of Act No 236 of the Public Acts of 1961 entitled as amended An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state the powers and duties of such courts and of the judges and other officers thereof the forms and attributes of civil claims and actions the time within which civil actions and proceedings may be brought in said courts pleading evidence practice and procedure in civil and criminal actions and proceedings in said courts to provide remedies and penalties for the violation of certain provisions of this act and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act as amended by Act No 341 of the Public Acts of 1994 being section 600 2950 of the Michigan Compiled Laws

*The People of the State of Michigan enact*

Section 1 Section 2950 of Act No 236 of the Public Acts of 1961 as amended by Act No 341 of the Public Acts of 1994 being section 600 2950 of the Michigan Compiled Laws is amended to read as follows

Sec 2950 (1) By commencing an independent action to obtain relief under this section by joining a claim to an action or by filing a motion in an action in which the petitioner and the individual to be restrained or enjoined are parties an individual may petition the circuit court to enter a personal protection order to restrain or enjoin a spouse a former spouse an individual with whom he or she has had a child in common an individual with whom he or she has or has had a dating relationship or an individual residing or having resided in the same household as the victim from doing 1 or more of the following

- (a) Entering onto premises
- (b) Assaulting attacking beating molesting or wounding a named individual
- (c) Threatening to kill or physically injure a named individual
- (d) Removing minor children from the individual having legal custody of the children except as otherwise authorized by a custody or visitation order issued by a court of competent jurisdiction
- (e) Beginning April 1 1996 purchasing or possessing a firearm
- (f) Interfering with petitioner s efforts to remove petitioner s children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined
- (g) Interfering with petitioner at petitioner s place of employment or engaging in conduct that impairs petitioner s employment relationship or environment
- (h) Any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence

- (2) A petitioner may omit his or her address of residence from documents filed with the court pursuant to this section. If a petitioner omits his or her address of residence, the petitioner shall provide the court with a mailing address.
- (3) The court shall issue a personal protection order under this section if the court determines that there is reasonable cause to believe that the individual to be restrained or enjoined may commit 1 or more of the acts listed in subsection (1). In determining whether reasonable cause exists, the court shall consider all of the following:
- (a) Testimony, documents, or other evidence offered in support of the request for a personal protection order.
  - (b) Whether the individual to be restrained or enjoined has previously committed or threatened to commit 1 or more of the acts listed in subsection (1).
- (4) A court shall not issue a personal protection order that restrains or enjoins conduct described in subsection (1)(a) if all of the following apply:
- (a) The individual to be restrained or enjoined is not the spouse of the moving party.
  - (b) The individual to be restrained or enjoined has a property interest in the premises.
  - (c) The moving party has no property interest in the premises.
- (5) A court shall not refuse to issue a personal protection order solely due to the absence of any of the following:
- (a) A police report.
  - (b) A medical report.
  - (c) A report or finding of an administrative agency.
  - (d) Physical signs of abuse or violence.
- (6) If the court refuses to grant a personal protection order, it shall state immediately in writing the specific reasons it refused to issue a personal protection order. If a hearing is held, the court shall also immediately state on the record the specific reasons it refuses to issue a personal protection order.
- (7) A personal protection order shall not be made mutual. Correlative separate personal protection orders are prohibited unless both parties have properly petitioned the court pursuant to subsection (1).
- (8) A personal protection order is effective when signed by a judge.
- (9) The court shall designate the law enforcement agency that is responsible for entering the personal protection order into the law enforcement information network as provided by the L E I N policy council act of 1974, Act No. 163 of the Public Acts of 1974, being sections 28 211 to 28 216 of the Michigan Compiled Laws.
- (10) A personal protection order shall include all of the following:
- (a) A statement that the personal protection order has been entered to restrain or enjoin conduct listed in the order and that violation of the personal protection order will subject the individual restrained or enjoined to immediate arrest and the civil and criminal contempt powers of the court, and that if he or she is found guilty of criminal contempt, he or she shall be imprisoned for not more than 93 days and may be fined not more than \$500.00.
  - (b) A statement that the personal protection order is enforceable when signed by a judge and is immediately enforceable.
  - (c) A statement listing the type or types of conduct enjoined.
  - (d) An expiration date stated clearly on the face of the order.
  - (e) A statement that the personal protection order is enforceable anywhere in Michigan by any law enforcement agency.
  - (f) The law enforcement agency designated by the court to enter the personal protection order into the law enforcement information network.
  - (g) For ex parte orders, a statement that the individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing within 14 days after the individual restrained or enjoined has been served or has received actual notice of the order and that motion forms and filing instructions are available from the clerk of the court.
- (11) An ex parte personal protection order shall be issued and effective without written or oral notice to the individual restrained or enjoined or his or her attorney if it clearly appears from specific facts shown by verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued.
- (12) A personal protection order issued under subsection (11) is valid for not less than 182 days. The individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing pursuant to the Michigan court rules. The motion to modify or rescind the personal protection order shall be filed within

14 days after the order is served or after the individual restrained or enjoined has received actual notice of the personal protection order unless good cause is shown for filing the motion after the 14 days have elapsed

(13) The court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 14 days after the filing of the motion to modify or rescind

(14) The clerk of the court that issues a personal protection order shall do both of the following immediately upon issuance and without requiring a proof of service on the individual restrained or enjoined

(a) File a true copy of the personal protection order with the law enforcement agency designated by the court in the personal protection order

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

(15) The clerk of the court shall inform the petitioner that he or she may take a true copy of the personal protection order to the law enforcement agency designated by the court in subsection (9) to be immediately entered into the law enforcement information network

(16) The law enforcement agency that receives a true copy of the personal protection order under subsection (14) or (15) shall immediately and without requiring proof of service enter the personal protection order into the law enforcement information network as provided by Act No 163 of the Public Acts of 1974

(17) A personal protection order issued under this section shall be served personally or by registered or certified mail return receipt requested delivery restricted to the addressee at the last known address or addresses of the individual restrained or enjoined or by any other manner provided in the Michigan court rules A proof of service shall be filed with the clerk of the court issuing the personal protection order This subsection does not prohibit the immediate effectiveness of a personal protection order or its immediate enforcement under subsections (20) and (21)

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

(a) The clerk of the court has received proof that the individual restrained or enjoined has been served

(b) The personal protection order is rescinded modified or extended by court order

(19) The law enforcement agency that receives information under subsection (18) shall enter the information or cause the information to be entered into the law enforcement information network as provided by Act No 163 of the Public Acts of 1974

(20) Subject to subsection (21) a personal protection order is immediately enforceable anywhere in this state by any law enforcement agency that has received a true copy of the order is shown a copy of it or has verified its existence on the law enforcement information network as provided by Act No 163 of the Public Acts of 1974

(21) If the individual restrained or enjoined has not been served the law enforcement agency or officer responding to a domestic violence call alleging a violation of a personal protection order shall serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined of the existence of the personal protection order the specific conduct enjoined the penalties for violating the order and where the individual restrained or enjoined may obtain a copy of the order The law enforcement officer shall enforce the personal protection order and immediately enter or cause to be entered into the law enforcement information network that the individual restrained or enjoined has actual notice of the personal protection order If the individual restrained or enjoined has not received notice of the personal protection order the individual restrained or enjoined shall be given an opportunity to comply with the personal protection order before the law enforcement officer makes a custodial arrest for violation of the personal protection order The failure to immediately comply with the personal protection order shall be grounds for an immediate custodial arrest This subsection does not preclude an arrest under section 15 or 15a of chapter IV of the code of criminal procedure Act No 175 of the Public Acts of 1927 being sections 764 15 and 764 15a of the Michigan Compiled Laws

(22) An individual who refuses or fails to comply with a personal protection order is subject to the criminal contempt powers of the court and if found guilty shall be imprisoned for not more than 93 days and may be fined not more than \$500 00 The criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct

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

(24) A personal protection order issued under this section is also enforceable under section 15b of chapter IV of the code of criminal procedure Act No 175 of the Public Acts of 1927 being section 764 15b of the Michigan Compiled Laws

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

(26) As used in this act

(a) Dating relationship means frequent intimate associations primarily characterized by the expectation of affectional involvement This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context

(b) Personal protection order means an injunctive order issued by the circuit court restraining or enjoining activity and individuals listed in subsection (1)

Section 2 This amendatory act shall take effect April 1 1995

Section 3 This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law

- (a) Senate Bill No 1265 or House Bill No 5806
- (b) Senate Bill No 1266 or House Bill No 5805
- (c) Senate Bill No 1267 or House Bill No 5807
- (d) Senate Bill No 1268 or House Bill No 5808

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor