



HOUSE BILL No. 5804

September 14 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 and referred to the Committee on Judiciary

A bill to amend section 2950 of Act No 236 of the Public Acts of 1961, entitled as amended
"Revised judicature act of 1961,
as amended by Act No 61 of the Public Acts of 1994, being section 600 2950 of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 2950 of Act No 236 of the Public Acts
2 of 1961, as amended by Act No 61 of the Public Acts of 1994,
3 being section 600 2950 of the Michigan Compiled Laws is amended
4 to read as follows

5 Sec 2950 (1) By commencing an independent action to
6 obtain relief under this section or by joining a claim to an
7 ~~existing~~ action, an individual may petition the circuit court
8 to ENTER A PERSONAL PROTECTION ORDER TO restrain or enjoin a
9 spouse a former spouse, an individual with whom he or she has

1 had a child in common AN INDIVIDUAL WITH WHOM HE OR SHE HAS OR
2 HAS HAD A DATING RELATIONSHIP, or an individual residing or
3 having resided in the same household as the victim from doing 1
4 or more of the following

5 (a) Entering onto premises

6 (b) Assaulting ATTACKING, beating, molesting, or wounding a
7 named individual

8 (c) Threatening to kill or physically injure a named
9 individual

10 (d) Removing minor children from the individual having legal
11 custody of the children, except as otherwise authorized by a cus-
12 tody or visitation order issued by a court of competent
13 jurisdiction

14 (E) INTERFERING WITH PETITIONER S EFFORTS TO REMOVE CHILDREN
15 OR PERSONAL PROPERTY FROM PREMISES THAT ARE SOLELY OWNED OR
16 LEASED BY THE INDIVIDUAL TO BE RESTRAINED OR ENJOINED

17 (F) ANY OTHER ACT OR CONDUCT THAT IMPOSES A RESTRAINT UPON
18 PERSONAL LIBERTY OR THAT CAUSES A REASONABLE APPREHENSION OF
19 VIOLENCE

20 (2) ~~Except as provided in subsection (3), the~~ THE court
21 shall issue ~~an injunction under subsection (1)~~ A PERSONAL PRO-
22 TECTION ORDER UNDER THIS SECTION if the court determines FROM
23 SPECIFIC FACTS SHOWN BY AFFIDAVIT OR VERIFIED COMPLAINT that
24 there is reasonable cause to believe ~~any 2~~ THAT THE INDIVIDUAL
25 TO BE RESTRAINED OR ENJOINED MAY COMMIT OR HAS COMMITTED 1 OR
26 MORE OF THE ACTS LISTED IN SUBSECTION (1) IN DETERMINING

1 WHETHER REASONABLE CAUSE EXISTS THE COURT SHALL CONSIDER ALL of
2 the following

3 (a) ~~The defendant may commit an act of domestic violence~~
4 TESTIMONY, DOCUMENTS, OR OTHER EVIDENCE OFFERED IN SUPPORT OF THE
5 REQUEST FOR A PERSONAL PROTECTION ORDER

6 (b) ~~The defendant has committed an act of domestic violence~~
7 ~~within the past year~~ WHETHER THE INDIVIDUAL TO BE RESTRAINED OR
8 ENJOINED HAS PREVIOUSLY COMMITTED OR THREATENED TO COMMIT 1 OR
9 MORE OF THE ACTS LISTED IN SUBSECTION (1)

10 ~~(c) Good cause exists to issue the order~~

11 (3) A court shall not issue ~~an injunction under~~ A PERSONAL
12 PROTECTION ORDER THAT RESTRAINS OR ENJOINS CONDUCT DESCRIBED IN
13 subsection (1)(a) if all of the following apply

14 (a) The ~~defendant~~ INDIVIDUAL TO BE RESTRAINED OR ENJOINED
15 is not the spouse of the moving party

16 (b) The ~~defendant~~ INDIVIDUAL TO BE RESTRAINED OR ENJOINED
17 has a property interest in the premises

18 (c) The moving party has no property interest in the
19 premises

20 (4) ~~An order issued under subsection (1) that meets the~~
21 ~~requirements of section 15b of chapter IV of the code of criminal~~
22 ~~procedure, Act No 175 of the Public Acts of 1927, being~~
23 ~~section 764 15b of the Michigan Compiled Laws, is enforceable~~
24 ~~under that section~~ A COURT SHALL NOT REFUSE TO ISSUE A PERSONAL
25 PROTECTION ORDER SOLELY DUE TO THE ABSENCE OF ANY OF THE
26 FOLLOWING

1 (A) A POLICE REPORT
2 (B) A MEDICAL REPORT
3 (C) A REPORT OR FINDING OF AN ADMINISTRATIVE AGENCY
4 (D) PHYSICAL SIGNS OF ABUSE OR VIOLENCE
5 (5) IF THE COURT REFUSES TO GRANT A PERSONAL PROTECTION
6 ORDER IT MUST STATE IN WRITING OR ON THE RECORD THE SPECIFIC
7 REASONS IT REFUSED TO ISSUE A PERSONAL PROTECTION ORDER
8 (6) ~~(5) An~~ EXCEPT AS PROVIDED IN SUBSECTION (7), A PER-
9 SONAL PROTECTION order issued under ~~subsection (1) that meets~~
10 ~~the requirements of subsection (4)~~ THIS SECTION shall be served
11 personally or by registered or certified mail, return receipt
12 requested, delivery restricted to the ~~addressee, on~~ LAST KNOWN
13 ADDRESS OR ADDRESSES OF the individual to be restrained OR
14 ENJOINED OR BY ANY OTHER MANNER PROVIDED IN THE MICHIGAN COURT
15 RULES ~~The clerk of the court issuing an order under~~
16 ~~subsection (1) that meets the requirements of subsection (4)~~
17 ~~shall file a true copy and proof of service of the order with the~~
18 ~~law enforcement agency having jurisdiction of the area in which~~
19 ~~the moving party resides~~ A PROOF OF SERVICE SHALL BE FILED WITH
20 THE CLERK OF THE COURT ISSUING THE PERSONAL PROTECTION ORDER IF
21 THE PETITIONER IS NOT REPRESENTED BY AN ATTORNEY, THE CLERK OF
22 THE COURT ISSUING THE PERSONAL PROTECTION ORDER SHALL CAUSE SERV-
23 ICE TO BE MADE ON THE INDIVIDUAL TO BE RESTRAINED OR ENJOINED BY
24 FIRST-CLASS MAIL THIS SECTION DOES NOT PROHIBIT THE IMMEDIATE
25 ISSUANCE OF A PERSONAL PROTECTION ORDER OR ITS IMMEDIATE ENFORCE-
26 MENT UNDER SUBSECTION (14)

1 (7) A PERSONAL PROTECTION ORDER SHALL BE ISSUED AND
2 EFFECTIVE WITHOUT WRITTEN OR ORAL NOTICE TO THE INDIVIDUAL TO BE
3 RESTRAINED OR ENJOINED OR HIS OR HER ATTORNEY IF 1 OR MORE OF THE
4 FOLLOWING CIRCUMSTANCES EXIST

5 (A) IT CLEARLY APPEARS FROM SPECIFIC FACTS SHOWN BY AFFIDA-
6 VIT OR VERIFIED COMPLAINT THAT IMMEDIATE AND IRREPARABLE INJURY,
7 LOSS, OR DAMAGE WILL RESULT FROM THE DELAY REQUIRED TO EFFECTUATE
8 NOTICE OR FROM THE RISK THAT NOTICE WILL ITSELF PRECIPITATE
9 ADVERSE ACTION BEFORE A PERSONAL PROTECTION ORDER CAN BE ISSUED

10 (B) THERE IS ANOTHER BASIS FOR GRANTING EX PARTE RELIEF
11 SPECIFIED IN THE COURT RULES

12 (8) A PERSONAL PROTECTION ORDER ISSUED UNDER SUBSECTION (7)
13 IS VALID FOR 182 DAYS OR UNTIL FURTHER ORDER OF THE COURT THE
14 INDIVIDUAL TO BE RESTRAINED OR ENJOINED MAY FILE A WRITTEN OBJEC-
15 TION OR A MOTION TO MODIFY OR RESCIND THE PERSONAL PROTECTION
16 ORDER AND REQUEST A HEARING PURSUANT TO THE MICHIGAN COURT
17 RULES IF THE PETITIONER S ADDRESS HAS BEEN OMITTED UNDER
18 SUBSECTION (18), THE CLERK OF THE COURT SHALL CAUSE SERVICE OF
19 THE WRITTEN OBJECTION OR MOTION TO MODIFY OR RESCIND AND NOTICE
20 OF HEARING TO BE MADE ON THE PETITIONER OR HIS OR HER ATTORNEY

21 (9) THE COURT SHALL GIVE PRIORITY STATUS TO A WRITTEN OBJEC-
22 TION OR MOTION FILED UNDER SUBSECTION (8) AND SCHEDULE A HEARING
23 ON THE WRITTEN OBJECTION OR MOTION WITHIN 14 DAYS AFTER THE WRIT-
24 TEN OBJECTION OR MOTION HAS BEEN FILED

25 (10) THE CLERK OF THE COURT THAT ISSUES A PERSONAL PROTEC-
26 TION ORDER IMMEDIATELY AND WITHOUT REQUIRING A PROOF OF SERVICE

1 ON THE INDIVIDUAL TO BE RESTRAINED OR ENJOINED SHALL DO BOTH OF
2 THE FOLLOWING

3 (A) FILE A TRUE COPY OF THE PERSONAL PROTECTION ORDER WITH A
4 LAW ENFORCEMENT AGENCY THAT HAS JURISDICTION OVER THE AREA IN
5 WHICH THE PETITIONER LIVES

6 (B) ENTER THE PERSONAL PROTECTION ORDER OR CAUSE THE PER-
7 SONAL PROTECTION ORDER TO BE ENTERED INTO THE LAW ENFORCEMENT
8 INFORMATION NETWORK AS PROVIDED BY THE L E I N POLICY COUNCIL
9 ACT OF 1974, ACT NO 163 OF THE PUBLIC ACTS OF 1974, BEING
10 SECTIONS 28 211 TO 28 216 OF THE MICHIGAN COMPILED LAWS

11 (11) THE CLERK OF THE COURT SHALL IMMEDIATELY NOTIFY THE LAW
12 ENFORCEMENT AGENCY THAT RECEIVED THE PERSONAL PROTECTION ORDER
13 UNDER SUBSECTION (10) IF EITHER OF THE FOLLOWING OCCURS

14 (A) THE CLERK OF THE COURT HAS RECEIVED PROOF THAT THE INDI-
15 VIDUAL TO BE RESTRAINED OR ENJOINED HAS BEEN SERVED

16 (B) THE PERSONAL PROTECTION ORDER IS RESCINDED, MODIFIED, OR
17 EXTENDED BY COURT ORDER

18 (12) THE LAW ENFORCEMENT AGENCY THAT RECEIVES INFORMATION
19 UNDER SUBSECTION (11) SHALL ENTER THE INFORMATION INTO THE LAW
20 ENFORCEMENT INFORMATION NETWORK AS PROVIDED BY ACT NO 163 OF THE
21 PUBLIC ACTS OF 1974

22 (13) A PERSONAL PROTECTION ORDER SHALL INCLUDE ALL OF THE
23 FOLLOWING

24 (A) A STATEMENT THAT THE PERSONAL PROTECTION ORDER HAS BEEN
25 ENTERED TO RESTRAIN OR ENJOIN CONDUCT LISTED IN THIS ORDER AND
26 THAT VIOLATION OF ITS TERMS WILL SUBJECT THE INDIVIDUAL TO BE
27 RESTRAINED OR ENJOINED TO IMMEDIATE ARREST AND IF HE OR SHE IS

1 FOUND GUILTY OF CRIMINAL CONTEMPT HE OR SHE SHALL BE IMPRISONED
2 FOR NOT MORE THAN 93 DAYS AND MAY BE FINED NOT MORE THAN
3 \$500 00

4 (B) A STATEMENT LISTING THE TYPE OF CONDUCT ENJOINED

5 (C) FOR PERSONAL PROTECTION ORDERS ISSUED UNDER SUBSECTION
6 (7), ALL OF THE FOLLOWING

7 (1) A STATEMENT THAT THE PERSONAL PROTECTION ORDER IS VALID
8 FOR 182 DAYS OR UNTIL FURTHER ORDER OF THE COURT

9 (2) A STATEMENT THAT THE INDIVIDUAL TO BE RESTRAINED OR
10 ENJOINED MAY FILE A WRITTEN OBJECTION OR MOTION TO MODIFY OR
11 RESCIND THE PERSONAL PROTECTION ORDER AND REQUEST A HEARING PUR-
12 SUANT TO THE MICHIGAN COURT RULES

13 (3) A STATEMENT THAT THE WRITTEN OBJECTION OR MOTION TO
14 MODIFY OR RESCIND THE PERSONAL PROTECTION ORDER AND A NOTICE OF
15 HEARING SHALL BE SERVED PERSONALLY OR BY CERTIFIED OR REGISTERED
16 MAIL, RETURN RECEIPT REQUESTED RESTRICTED DELIVERY TO ADDRESSEE,
17 TO THE LAST KNOWN ADDRESS OR ADDRESSES OF THE PETITIONER OR BY
18 ANY OTHER MANNER AS PROVIDED IN THE MICHIGAN COURT RULES

19 (4) A STATEMENT THAT ALL PROCEEDINGS AFTER THE FILING OF
20 THE WRITTEN OBJECTION OR MOTION SHALL BE CONDUCTED IN ACCORD WITH
21 THE MICHIGAN COURT RULES

22 (D) AN EXPIRATION DATE STATED CLEARLY ON THE FACE OF THE
23 ORDER

24 (14) A PERSONAL PROTECTION ORDER IS EFFECTIVE WHEN SIGNED BY
25 A JUDGE A LAW ENFORCEMENT AGENCY SHALL ENFORCE A PERSONAL PRO-
26 TECTION ORDER IMMEDIATELY ON RECEIPT A PERSONAL PROTECTION
27 ORDER IS ENFORCEABLE ANYWHERE IN THIS STATE BY ANY LAW

1 ENFORCEMENT AGENCY THAT HAS RECEIVED A TRUE COPY OF THE ORDER IS
2 SHOWN A COPY OF THE ORDER OR HAS VERIFIED THE ORDER S EXISTENCE
3 ON THE LAW ENFORCEMENT INFORMATION NETWORK AS PROVIDED BY ACT
4 NO 163 OF THE PUBLIC ACTS OF 1974 IF THE INDIVIDUAL TO BE
5 RESTRAINED OR ENJOINED HAS NOT BEEN SERVED, THE LAW ENFORCEMENT
6 AGENCY SHALL SERVE THE INDIVIDUAL TO BE RESTRAINED OR ENJOINED
7 WITH A COPY OF THE ORDER OR ADVISE THE INDIVIDUAL TO BE
8 RESTRAINED OR ENJOINED OF THE EXISTENCE OF THE PERSONAL PROTEC-
9 TION ORDER, THE SPECIFIC CONDUCT ENJOINED, THE PENALTIES FOR VIO-
10 LATING THE ORDER, AND WHERE THE INDIVIDUAL TO BE RESTRAINED OR
11 ENJOINED MAY OBTAIN A COPY OF THE ORDER THE LAW ENFORCEMENT
12 OFFICER SHALL ENFORCE THE PERSONAL PROTECTION ORDER AND IMMEDI-
13 ATELY ENTER INTO THE LAW ENFORCEMENT INFORMATION NETWORK THAT THE
14 INDIVIDUAL TO BE RESTRAINED OR ENJOINED HAS ACTUAL NOTICE OF THE
15 PERSONAL PROTECTION ORDER BEFORE THE LAW ENFORCEMENT OFFICER
16 MAKES A CUSTODIAL ARREST THE INDIVIDUAL TO BE RESTRAINED OR
17 ENJOINED SHALL BE GIVEN AN OPPORTUNITY TO COMPLY WITH THE PER-
18 SONAL PROTECTION ORDER THE FAILURE TO IMMEDIATELY COMPLY WITH
19 THE PERSONAL PROTECTION ORDER SHALL BE GROUNDS FOR AN IMMEDIATE
20 CUSTODIAL ARREST

21 (15) UPON RECEIPT OF A TRUE COPY OF A PERSONAL PROTECTION
22 ORDER, THE LAW ENFORCEMENT AGENCY SHALL CONFIRM WHETHER THE ORDER
23 HAS BEEN ENTERED ON THE LAW ENFORCEMENT INFORMATION NETWORK AND,
24 IF NOT, SHALL IMMEDIATELY ENTER THE ORDER ON THAT NETWORK

25 (16) A PERSONAL PROTECTION ORDER SHALL NOT BE MADE MUTUAL
26 THIS SUBSECTION DOES NOT PROHIBIT THE COURT FROM ISSUING SEPARATE

1 PERSONAL PROTECTION ORDERS BASED ON AN APPROPRIATE PETITION IN
2 ACCORDANCE WITH SUBSECTION (2)

3 (17) ~~(6)~~ An individual who refuses or fails to comply with
4 ~~an~~ A PERSONAL PROTECTION order ~~issued under subsection (1)~~
5 ~~that meets the requirements of subsection (4)~~ is subject to the
6 criminal contempt powers of the court and, if found guilty, shall
7 be imprisoned for not more than ~~90~~ 93 days and may be fined not
8 more than \$500 00

9 (18) FOR GOOD CAUSE SHOWN, A PETITIONER MAY OMIT HIS OR HER
10 ADDRESS FROM DOCUMENTS FILED WITH THE COURT IF A PETITIONER
11 OMITS HIS OR HER ADDRESS, THE PETITIONER SHALL PROVIDE THE COURT
12 WITH A MAILING ADDRESS IF DISCLOSURE OF THE ADDRESS OF THE
13 PETITIONER'S RESIDENCE IS NECESSARY TO DETERMINE JURISDICTION
14 THE COURT MAY ORDER DISCLOSURE TO BE MADE ORALLY, IN CHAMBERS
15 AND OUT OF THE PRESENCE OF THE RESPONDENT THE PETITIONER S
16 ADDRESS SHALL BE CONFIDENTIAL AND SHALL NOT BE REVEALED BY ANY
17 COURT EMPLOYEE COURT OFFICER, OR ATTORNEY FAILURE TO COMPLY
18 WITH THIS SUBSECTION WILL SUBJECT THE INDIVIDUAL DISCLOSING THE
19 ADDRESS TO THE CONTEMPT POWERS OF THE COURT

20 (19) A PERSONAL PROTECTION ORDER THAT MEETS THE REQUIREMENTS
21 OF SECTION 15B OF CHAPTER IV OF THE CODE OF CRIMINAL PROCEDURE,
22 ACT NO 175 OF THE PUBLIC ACTS OF 1927 BEING SECTION 764 15B OF
23 THE MICHIGAN COMPILED LAWS, IS ENFORCEABLE UNDER THAT SECTION

24 (20) ~~(7)~~ An order issued under ~~subsection (1)~~ THIS
25 SECTION is also enforceable under chapter 17

26 ~~(8) This section does not apply if the moving party has~~
27 ~~filed an action for annulment, divorce, or separate maintenance~~

1 ~~and may obtain a preliminary injunctive order against a spouse or~~
 2 ~~an injunctive order against the other party under section 14 of~~
 3 ~~chapter 84 of the Revised Statutes of 1846, being section 552 14~~
 4 ~~of the Michigan Compiled Laws—~~

5 (21) AS USED IN THIS ACT

6 (A) DATING RELATIONSHIP MEANS FREQUENT, INTIMATE ASSOCIA-
 7 TIONS PRIMARILY CHARACTERIZED BY THE EXPECTATION OF AFFECTIONAL
 8 OR SEXUAL INVOLVEMENT THE COURT MAY CONSIDER ALL OF THE FOLLOW-
 9 ING FACTORS IN MAKING THIS DETERMINATION

10 (1) THE LENGTH OF TIME THE RELATIONSHIP HAS EXISTED

11 (11) THE NATURE OF THE RELATIONSHIP

12 (111) THE FREQUENCY OF INTERACTION BETWEEN THE PARTIES

13 (B) "PERSONAL PROTECTION ORDER" MEANS AN ORDER ISSUED BY
 14 CIRCUIT COURT RESTRAINING OR ENJOINING ACTIVITY LISTED IN SUBSEC-
 15 TION (1)

16 Section 2 This amendatory act shall take effect January 1
 17 1995