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**SFA****BILL ANALYSIS**

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Senate Bill 866 (as introduced 2-5-98)  
Senate Bill 874 (as introduced 2-10-98)  
Sponsor: Senator William Van Regenmorter (Senate Bill 866)  
Senator Alma Wheeler Smith (Senate Bill 874)  
Committee: Judiciary

Date Completed: 3-10-98

### **CONTENT**

**The bills would amend the Revised Judicature Act to provide that a court could not issue a personal protection order (PPO) if either of the following applied:**

- **The respondent was the minor child of the petitioner.**
- **The petitioner was the minor child of the respondent.**

Senate Bill 866 would apply to PPOs that restrain or enjoin a person from committing stalking or aggravated stalking. Senate Bill 874 would apply to domestic violence PPOs, which enjoin or restrain a spouse, a former spouse, an individual with whom the petitioner has had a child in common or has or had a dating relationship, or an individual residing or formerly residing in the same household as the petitioner, from entering onto premises; assaulting, attacking, beating, molesting, or wounding a named individual; removing minor children from the individual having legal custody; purchasing or possessing a firearm; interfering with the petitioner's efforts to remove his or her children or personal property from premises of the individual to be restrained; interfering with the petitioner at his or her place of employment; or doing any other specific act that interferes with personal liberty or causes a reasonable apprehension of violence.

Currently, a PPO must state that it has been entered to enjoin or restrain conduct listed in the order and that violation of the PPO will subject the individual restrained or enjoined to immediate arrest and the civil and criminal contempt powers of the court, and that if the individual is found guilty of criminal contempt, he or she may be imprisoned for up to 93 days and fined up to \$500. Under the bills, a PPO would have to include this provision if the respondent were 17 years old or older. If the respondent were under 17, the PPO would have to state that it had been entered to enjoin or restrain conduct listed in the order and that violation of the PPO would subject the individual restrained or enjoined to the dispositional alternatives listed in Section 18 of the juvenile code. (Under Section 18, a court may warn a juvenile or his or her parents, guardian, or custodian; place the juvenile on probation or under supervision in his or her own home or in the home of a related adult; commit the juvenile to a public institution, county facility, institution operated as an agency of the court or county, or other agency authorized to receive juveniles; order the juvenile to engage in community service; order the juvenile to pay a civil fine; place the juvenile in juvenile boot camp; etc.)

The Act provides that a PPO must be served personally, by registered or certified mail to the address of the individual restrained or enjoined, or by any other manner provided in the Michigan court rules. Under the bills, if the respondent were under 17, his or her parent, guardian, or custodian also would have to be served personally or by registered or certified mail.

Under the Act, if an individual restrained or enjoined has not been served, the law enforcement agency or officer responding to a call alleging violation of the PPO must give a copy of the order to the individual or advise him or her of the order. The individual must be given an opportunity to comply before being arrested for violating the order, and is subject to arrest for failure to comply. The Act specifies that these provisions do not preclude an arrest under Section 15 or 15a of the Code of Criminal Procedure (which authorize warrantless arrests). The bills would add that these provisions would not preclude a proceeding under Section 14 of the juvenile code (which provides for juveniles to be taken into custody).

The Act states that a PPO is effective when signed by a judge. Under the bills, a PPO also would be immediately enforceable when signed.

Currently, a court may not issue a domestic violence PPO restraining or enjoining a person from entering onto premises if all of the following apply: the individual to be restrained or enjoined is not the spouse of the moving party, the individual to be restrained or enjoined has a property interest in the premises, and the moving party has no property interest in the premises. Under Senate Bill 874, a PPO could not restrain or enjoin a person from entering onto premises if all of the following applied:

- The individual to be restrained or enjoined was not the spouse of the moving party.
- The individual to be restrained or enjoined or the parent, guardian, or custodian of the minor to be restrained or enjoined had a property interest in the premises.
- The moving party or the parent, guardian, or custodian of a minor petitioner had no property interest in the premises.

In addition, the Act provides that an individual may petition the circuit court for a domestic violence PPO. Senate Bill 874 specifies that an individual could petition the family division of circuit court (family court).

Senate Bills 866 and 874 are tie-barred to each other and to House Bills 5564 and 5567, which would provide for the family court's jurisdiction in PPO proceedings.

MCL 600.2950a (S.B. 866)  
600.2950 (S.B. 874)

Legislative Analyst: S. Lowe

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.