

SENATE BILL NO. 874

February 10, 1998, Introduced by Senators A. SMITH and
YOUNG and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2950 (MCL 600.2950), as amended by 1997 PA
115.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2950. (1) By commencing an independent action to
2 obtain relief under this section, by joining a claim to an
3 action, or by filing a motion in an action in which the peti-
4 tioner and the individual to be restrained or enjoined are par-
5 ties, an individual may petition the FAMILY DIVISION OF circuit
6 court to enter a personal protection order to restrain or enjoin
7 a spouse, a former spouse, an individual with whom he or she has
8 had a child in common, an individual with whom he or she has or
9 has had a dating relationship, or an individual residing or

1 having resided in the same household as the ~~victim~~ PETITIONER
2 from doing 1 or more of the following:

3 (a) Entering onto premises.

4 (b) Assaulting, attacking, beating, molesting, or wounding a
5 named individual.

6 (c) Threatening to kill or physically injure a named
7 individual.

8 (d) Removing minor children from the 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 (e) ~~Beginning April 1, 1996, purchasing~~ PURCHASING or pos-
13 sassing a firearm.

14 (f) Interfering with petitioner's efforts to remove
15 petitioner's children or personal property from premises that are
16 solely owned or leased by the individual to be restrained or
17 enjoined.

18 (g) Interfering with petitioner at petitioner's place of
19 employment or engaging in conduct that impairs petitioner's
20 employment relationship or environment.

21 (h) Any other specific act or conduct that imposes upon or
22 interferes with personal liberty or that causes a reasonable
23 apprehension of violence.

24 (2) If the respondent is a person who is issued a license to
25 carry a concealed weapon and is required to carry a weapon as a
26 condition of his or her employment, a police officer certified by
27 the Michigan law enforcement training council act of 1965, 1965

1 PA 203, MCL 28.601 to 28.616, a sheriff, a deputy sheriff or a
2 member of the Michigan department of state police, a local cor-
3 rections officer, department of corrections employee, or a fed-
4 eral law enforcement officer who carries a firearm during the
5 normal course of his or her employment, the petitioner shall
6 notify the court of the respondent's occupation prior to the
7 issuance of the personal protection order. This subsection does
8 not apply to a petitioner who does not know the respondent's
9 occupation.

10 (3) A petitioner may omit his or her address of residence
11 from documents filed with the court under this section. If a
12 petitioner omits his or her address of residence, the petitioner
13 shall provide the court with a mailing address.

14 (4) The court shall issue a personal protection order under
15 this section if the court determines that there is reasonable
16 cause to believe that the individual to be restrained or enjoined
17 may commit 1 or more of the acts listed in subsection (1). In
18 determining whether reasonable cause exists, the court shall con-
19 sider all of the following:

20 (a) Testimony, documents, or other evidence offered in sup-
21 port of the request for a personal protection order.

22 (b) Whether the individual to be restrained or enjoined has
23 previously committed or threatened to commit 1 or more of the
24 acts listed in subsection (1).

25 (5) A COURT SHALL NOT ISSUE A PERSONAL PROTECTION ORDER THAT
26 RESTRAINS OR ENJOINS CONDUCT DESCRIBED IN SUBSECTION (1) IF
27 EITHER OF THE FOLLOWING APPLIES:

1 (A) THE RESPONDENT IS THE MINOR CHILD OF THE PETITIONER.

2 (B) THE PETITIONER IS THE MINOR CHILD OF THE RESPONDENT.

3 (6) ~~-(5)-~~ A court shall not issue a personal protection
4 order that restrains or enjoins conduct described in subsection
5 (1)(a) if all of the following apply:

6 (a) The individual to be restrained or enjoined is not the
7 spouse of the moving party.

8 (b) The individual to be restrained or enjoined OR THE
9 PARENT, GUARDIAN, OR CUSTODIAN OF THE MINOR TO BE RESTRAINED OR
10 ENJOINED has a property interest in the premises.

11 (c) The moving party OR THE PARENT, GUARDIAN, OR CUSTODIAN
12 OF A MINOR PETITIONER has no property interest in the premises.

13 (7) ~~-(6)-~~ A court shall not refuse to issue a personal pro-
14 tection order solely due to the absence of any of the following:

15 (a) A police report.

16 (b) A medical report.

17 (c) A report or finding of an administrative agency.

18 (d) Physical signs of abuse or violence.

19 (8) ~~-(7)-~~ If the court refuses to grant a personal protec-
20 tion order, it shall state immediately in writing the specific
21 reasons it refused to issue a personal protection order. If a
22 hearing is held, the court shall also immediately state on the
23 record the specific reasons it refuses to issue a personal pro-
24 tection order.

25 (9) ~~-(8)-~~ A personal protection order shall not be made
26 mutual. Correlative separate personal protection orders are

1 prohibited unless both parties have properly petitioned the court
2 pursuant to subsection (1).

3 (10) ~~(9)~~ A personal protection order is effective AND
4 IMMEDIATELY ENFORCEABLE when signed by a judge.

5 (11) ~~(10)~~ The court shall designate the law enforcement
6 agency that is responsible for entering the personal protection
7 order into the law enforcement information network as provided by
8 the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211
9 to 28.216.

10 (12) ~~(11)~~ A personal protection order shall include all of
11 the following:

12 (a) ~~A~~ EITHER OF THE FOLLOWING:

13 (i) IF THE RESPONDENT IS 17 YEARS OF AGE OR MORE, A state-
14 ment that the personal protection order has been entered to
15 restrain or enjoin conduct listed in the order and that violation
16 of the personal protection order will subject the individual
17 restrained or enjoined to immediate arrest and the civil and
18 criminal contempt powers of the court, and that if he or she is
19 found guilty of criminal contempt, he or she shall be
20 ~~imprisoned~~ SUBJECT TO IMPRISONMENT for not more than 93 days
21 and may be fined not more than \$500.00.

22 (ii) IF THE RESPONDENT IS LESS THAN 17 YEARS OF AGE, A
23 STATEMENT THAT THE PERSONAL PROTECTION ORDER HAS BEEN ENTERED TO
24 ENJOIN OR RESTRAIN CONDUCT LISTED IN THE ORDER AND THAT VIOLATION
25 OF THE ORDER WILL SUBJECT THE INDIVIDUAL RESTRAINED OR ENJOINED
26 TO THE DISPOSITIONAL ALTERNATIVES LISTED IN SECTION 18 OF CHAPTER
27 XIIA OF THE PROBATE CODE, 1939 PA 288, MCL 712A.18.

1 (b) A statement that the personal protection order is
2 effective ~~when signed by a judge~~ and ~~is~~ immediately enforce-
3 able WHEN SIGNED BY A JUDGE.

4 (c) A statement listing the type or types of conduct
5 enjoined.

6 (d) An expiration date stated clearly on the face of the
7 order.

8 (e) A statement that the personal protection order is
9 enforceable anywhere in Michigan by any law enforcement agency.

10 (f) The law enforcement agency designated by the court to
11 enter the personal protection order into the law enforcement
12 information network.

13 (g) For ex parte orders, a statement that the individual
14 restrained or enjoined may file a motion to modify or rescind the
15 personal protection order and request a hearing within 14 days
16 after the individual restrained or enjoined has been served or
17 has received actual notice of the order and that motion forms and
18 filing instructions are available from the clerk of the court.

19 (13) ~~(12)~~ An ex parte personal protection order shall be
20 issued and effective without written or oral notice to the indi-
21 vidual restrained or enjoined or his or her attorney if it
22 clearly appears from specific facts shown by verified complaint,
23 written motion, or affidavit that immediate and irreparable
24 injury, loss, or damage will result from the delay required to
25 effectuate notice or that the notice will itself precipitate
26 adverse action before a personal protection order can be issued.

1 (14) ~~-(13)-~~ A personal protection order issued under
2 subsection ~~-(12)-~~ (13) is valid for not less than 182 days. The
3 individual restrained or enjoined may file a motion to modify or
4 rescind the personal protection order and request a hearing under
5 the Michigan court rules. The motion to modify or rescind the
6 personal protection order shall be filed within 14 days after the
7 order is served or after the individual restrained or enjoined
8 has received actual notice of the personal protection order
9 unless good cause is shown for filing the motion after the 14
10 days have elapsed.

11 (15) ~~-(14)-~~ Except as otherwise provided in this subsection,
12 the court shall schedule a hearing on the motion to modify or
13 rescind the ex parte personal protection order within 14 days
14 after the filing of the motion to modify or rescind. If the
15 respondent is a person described in subsection (2) and the per-
16 sonal protection order prohibits him or her from purchasing or
17 possessing a firearm, the court shall schedule a hearing on the
18 motion to modify or rescind the ex parte personal protection
19 order within 5 days after the filing of the motion to modify or
20 rescind.

21 (16) ~~-(15)-~~ The clerk of the court that issues a personal
22 protection order shall do both of the following immediately upon
23 issuance and without requiring a proof of service on the individ-
24 ual restrained or enjoined:

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

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

3 (17) ~~(16)~~ The clerk of the court shall inform the peti-
4 tioner that he or she may take a true copy of the personal pro-
5 tection order to the law enforcement agency designated by the
6 court in subsection ~~(10)~~ (11) to be immediately entered into
7 the law enforcement information network.

8 (18) ~~(17)~~ The law enforcement agency that receives a true
9 copy of the personal protection order under subsection ~~(15) or~~
10 (16) OR (17) shall immediately and without requiring proof of
11 service enter the personal protection order into the law enforce-
12 ment information network as provided by the L.E.I.N. policy coun-
13 cil act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

14 (19) ~~(18)~~ A personal protection order issued under this
15 section shall be served personally or by registered or certified
16 mail, return receipt requested, delivery restricted to the
17 addressee at the last known address or addresses of the individ-
18 ual restrained or enjoined or by any other manner provided in the
19 Michigan court rules. IF THE RESPONDENT IS LESS THAN 17 YEARS OF
20 AGE, THE PARENT, GUARDIAN, OR CUSTODIAN OF THAT INDIVIDUAL SHALL
21 ALSO BE SERVED PERSONALLY OR BY REGISTERED OR CERTIFIED MAIL,
22 RETURN RECEIPT REQUESTED, DELIVERY RESTRICTED TO THE ADDRESSEE AT
23 THE LAST KNOWN ADDRESS OR ADDRESSES OF THE PARENT, GUARDIAN, OR
24 CUSTODIAN OF THE INDIVIDUAL RESTRAINED OR ENJOINED. A proof of
25 service shall be filed with the clerk of the court issuing the
26 personal protection order. This subsection does not prohibit the
27 immediate effectiveness of a personal protection order or its

1 immediate enforcement under subsections ~~(21) and~~ (22) AND
2 (23).

3 (20) ~~(19)~~ The clerk of the court shall immediately notify
4 the law enforcement agency that received the personal protection
5 order under subsection ~~(15) or~~ (16) OR (17) if either of the
6 following occurs:

7 (a) The clerk of the court has received proof that the indi-
8 vidual restrained or enjoined has been served.

9 (b) The personal protection order is rescinded, modified, or
10 extended by court order.

11 (21) ~~(20)~~ The law enforcement agency that receives infor-
12 mation under subsection ~~(19)~~ (20) shall enter the information
13 or cause the information to be entered into the law enforcement
14 information network as provided by the L.E.I.N. policy council
15 act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

16 (22) ~~(21)~~ Subject to subsection ~~(22)~~ (23), a personal
17 protection order is immediately enforceable anywhere in this
18 state by any law enforcement agency that has received a true copy
19 of the order, is shown a copy of it, or has verified its exis-
20 tence on the law enforcement information network as provided by
21 the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211
22 to 28.216.

23 (23) ~~(22)~~ If the individual restrained or enjoined has not
24 been served, the law enforcement agency or officer responding to
25 a ~~domestic violence~~ call alleging a violation of a personal
26 protection order shall serve the individual restrained or
27 enjoined with a true copy of the order or advise the individual

1 restrained or enjoined of the existence of the personal
2 protection order, the specific conduct enjoined, the penalties
3 for violating the order, and where the individual restrained or
4 enjoined may obtain a copy of the order. The law enforcement
5 officer shall enforce the personal protection order and immedi-
6 ately enter or cause to be entered into the law enforcement
7 information network that the individual restrained or enjoined
8 has actual notice of the personal protection order. If the indi-
9 vidual restrained or enjoined has not received notice of the per-
10 sonal protection order, the individual restrained or enjoined
11 shall be given an opportunity to comply with the personal protec-
12 tion order before the law enforcement officer makes a custodial
13 arrest for violation of the personal protection order. The fail-
14 ure to immediately comply with the personal protection order
15 shall be grounds for an immediate custodial arrest. This subsec-
16 tion does not preclude an arrest under section 15 or 15a of
17 chapter IV of the code of criminal procedure, 1927 PA 175, MCL
18 764.15 and 764.15a, OR A PROCEEDING UNDER SECTION 14 OF CHAPTER
19 XIIIA OF 1939 PA 288, MCL 712A.14.

20 (24) ~~-(23)-~~ An individual WHO IS 17 YEARS OF AGE OR MORE AND
21 who refuses or fails to comply with a personal protection order
22 UNDER THIS SECTION is subject to the criminal contempt powers of
23 the court and, if found guilty, shall be ~~imprisoned~~ SUBJECT TO
24 IMPRISONMENT for not more than 93 days and may be fined not more
25 than \$500.00. AN INDIVIDUAL WHO IS LESS THAN 17 YEARS OF AGE AND
26 WHO REFUSES OR FAILS TO COMPLY WITH A PERSONAL PROTECTION ORDER
27 ISSUED UNDER THIS SECTION IS SUBJECT TO THE DISPOSITIONAL

1 ALTERNATIVES LISTED IN SECTION 18 OF CHAPTER XIIA OF 1939 PA 288,
2 MCL 712A.18. The criminal penalty provided for under this section
3 may be imposed in addition to a penalty that may be imposed for
4 another criminal offense arising from the same conduct.

5 (25) ~~-(24)-~~ An individual who knowingly and intentionally
6 makes a false statement to the court in support of his or her
7 petition for a personal protection order is subject to the con-
8 tempt powers of the court.

9 (26) ~~-(25)-~~ A personal protection order issued under this
10 section is also enforceable under CHAPTER XIIA OF 1939 PA 288,
11 MCL 712A.1 TO 712A.31, AND section 15b of chapter IV of the code
12 of criminal procedure, 1927 PA 175, MCL 764.15b.

13 (27) ~~-(26)-~~ A personal protection order issued under this
14 section is also enforceable under chapter 17.

15 (28) ~~-(27)-~~ As used in this section:

16 (a) "Dating relationship" means frequent, intimate associa-
17 tions primarily characterized by the expectation of affectional
18 involvement. This term does not include a casual relationship or
19 an ordinary fraternization between 2 individuals in a business or
20 social context.

21 (b) "Federal law enforcement officer" means an officer or
22 agent employed by a law enforcement agency of the United States
23 government whose primary responsibility is the enforcement of
24 laws of the United States.

25 (c) "Personal protection order" means an injunctive order
26 issued by the circuit court restraining or enjoining activity and
27 individuals listed in subsection (1).

1 Enacting section 1. This amendatory act does not take
2 effect unless all of the following bills of the 89th Legislature
3 are enacted into law:

4 (a) Senate Bill No. _____ or House Bill No. _____
5 (request no. 02210'97 **).

6 (b) Senate Bill No. _____ or House Bill No. _____
7 (request no. 02210'97 a *).

8 (c) Senate Bill No. _____ or House Bill No. _____
9 (request no. 02210'97 b *).