

SENATE BILL NO. 1108

May 6, 1998, Introduced by Senators GEAKE, NORTH, STILLE, BENNETT, STEIL, GOUGEON, CISKY, MC MANUS, SCHWARZ and GAST and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 15b of chapter IV (MCL 764.15b), as amended
by 1996 PA 15.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER IV

2 Sec. 15b. (1) A peace officer, without a warrant, may
3 arrest and take into custody an individual when the peace officer
4 has reasonable cause to believe all of the following apply:

5 (a) A personal protection order has been issued under
6 section 2950 or 2950a of the revised judicature act of 1961, ~~Act~~
7 ~~No. 236 of the Public Acts of 1961, being sections 600.2950 and~~
8 ~~600.2950a of the Michigan Compiled Laws~~ 1961 PA 236,
9 MCL 600.2950 AND 600.2950A.

1 (b) The individual named in the personal protection order is
2 in violation of the order. An individual is in violation of the
3 order if that individual commits 1 or more of the following acts
4 the order specifically restrains or enjoins the individual from
5 committing:

6 (i) Assaulting, attacking, beating, molesting, or wounding a
7 named individual.

8 (ii) Removing minor children from an 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 (iii) Entering onto premises.

13 (iv) Engaging in conduct prohibited under section 411h or
14 411i of the Michigan penal code, ~~Act No. 328 of the Public Acts~~
15 ~~of 1931, being sections 750.411h and 750.411i of the Michigan~~
16 ~~Compiled Laws~~ 1931 PA 328, MCL 750.411H AND 750.411I.

17 (v) Threatening to kill or physically injure a named
18 individual.

19 (vi) ~~Beginning April 1, 1996, purchasing~~ PURCHASING or
20 possessing a firearm.

21 (vii) Interfering with petitioner's efforts to remove
22 petitioner's children or personal property from premises that are
23 solely owned or leased by the individual to be restrained or
24 enjoined.

25 (viii) Interfering with petitioner at petitioner's place of
26 employment or engaging in conduct that impairs petitioner's
27 employment relationship or environment.

1 (ix) Any other act or conduct specified by the court in the
2 personal protection order.

3 (c) The personal protection order states on its face that a
4 violation of its terms subjects the individual to immediate
5 arrest and to criminal contempt of court and, if found guilty of
6 criminal contempt, the individual shall be imprisoned for not
7 more than 93 days and may be fined not more than \$500.00.

8 (2) An individual arrested under this section shall be
9 brought before the ~~circuit~~ DISTRICT court having jurisdiction
10 in the cause within 24 hours after arrest to answer to a charge
11 of contempt for violation of the personal protection order, at
12 which time the court shall do each of the following:

13 (a) Set a time certain for a hearing on the alleged viola-
14 tion of the personal protection order within 72 hours after
15 arrest, unless extended by the court on the motion of the
16 arrested individual or the prosecuting attorney.

17 (b) Set a reasonable bond pending a hearing of the alleged
18 violation of the personal protection order.

19 (c) Notify the prosecuting attorney of the criminal contempt
20 proceeding.

21 (d) Notify the party who has procured the personal protec-
22 tion order and his or her attorney of record, if any, and direct
23 the party to appear at the hearing and give evidence on the
24 charge of contempt.

25 (3) In ~~circuits~~ DISTRICTS where the ~~circuit~~ DISTRICT
26 court judge ~~may not be~~ IS NOT present or available within 24
27 hours after arrest, an individual arrested under this section

1 shall be taken before the ~~district~~ CIRCUIT court within 24
2 hours after arrest, at which time the ~~district~~ CIRCUIT court
3 shall order the defendant to appear before the ~~circuit~~ DISTRICT
4 court of the ~~county~~ DISTRICT COURT DISTRICT for a hearing on
5 the charge. The ~~district~~ CIRCUIT court shall set bond for the
6 individual.

7 (4) The ~~circuit~~ DISTRICT court for each ~~county~~ DISTRICT
8 COURT DISTRICT of this state has jurisdiction to conduct contempt
9 proceedings based upon a violation of a personal protection order
10 described in this section issued by the ~~circuit~~ DISTRICT court
11 in any ~~county~~ DISTRICT COURT DISTRICT of this state. The court
12 of arraignment shall notify the ~~circuit~~ DISTRICT court that
13 issued the personal protection order that the issuing court may
14 request that the defendant be returned to that ~~county~~ DISTRICT
15 COURT DISTRICT for violating the personal protection order. If
16 the ~~circuit~~ DISTRICT court that issued the personal protection
17 order requests that the defendant be returned to that ~~county~~
18 DISTRICT COURT DISTRICT to stand trial, the requesting ~~county~~
19 DISTRICT COURT DISTRICT shall bear the cost of transporting the
20 defendant to that ~~county~~ DISTRICT COURT DISTRICT.

21 (5) The prosecuting attorney shall prosecute a criminal con-
22 tempt proceeding initiated by the court under subsection (2),
23 unless the party who procured the personal protection order
24 retains his or her own attorney for the criminal contempt
25 proceeding. If the prosecuting attorney prosecutes the criminal
26 contempt proceeding, the court shall grant an adjournment for not
27 less than 14 days or a lesser period requested if the prosecuting

1 attorney moves for adjournment. If the prosecuting attorney
2 prosecutes the criminal contempt proceeding, the court may dis-
3 miss the proceeding upon motion of the prosecuting attorney for
4 good cause shown.

5 (6) Upon receiving a true copy of a personal protection
6 order issued in compliance with this section, the law enforcement
7 agency shall enter the order into the law enforcement information
8 network as provided by the L.E.I.N. policy council act of 1974,
9 ~~Act No. 163 of the Public Acts of 1974, being sections 28.211 to~~
10 ~~28.216 of the Michigan Compiled Laws~~ 1974 PA 163, MCL 28.211 TO
11 28.216.