

SENATE BILL No. 410

July 11, 1991, Introduced by Senator DINGELL and referred to the Committee on Family Law, Criminal Law, and Corrections.

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 added by Act No. 228 of the Public Acts of 1983, 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 added by Act No. 228 of the Public Acts of 1983,
3 being section 600.2950 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 2950. (1) A person may, by commencing an independent
6 action for the purpose of obtaining relief under this section, or
7 by joining a claim to an existing action, petition the circuit
8 court to restrain or enjoin a spouse, a former spouse, or a

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

3 (a) Entering onto premises.

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

6 (c) Removing minor children from the person having legal
7 custody of the children, except as otherwise authorized by a cus-
8 tody or visitation order issued by a court of competent
9 jurisdiction.

10 (2) A court shall not issue an injunction under subsection
11 (1)(a) if all of the following apply:

12 (a) The defendant is not the spouse of the moving party.

13 (b) The defendant has a property interest in the premises.

14 (c) The moving party has no property interest in the
15 premises.

16 (3) An order issued under subsection (1) which complies with
17 the requirements of section 15b of chapter IV of the code of
18 criminal procedure, Act No. 175 of the Public Acts of 1927, being
19 section 764.15b of the Michigan Compiled Laws, shall be enforce-
20 able under that section.

21 (4) An order issued under subsection (1) which meets the
22 requirements of subsection (3) shall be served personally on the
23 person to be restrained.

24 (5) The clerk of the court issuing an order under
25 subsection (1) which meets the requirements of subsection (3)
26 shall file a true copy and proof of service of the order with the

1 law enforcement agency having jurisdiction of the area in which
2 the moving party resides.

3 (6) A person who refuses or fails to comply with an order
4 issued under subsection (1) which meets the requirements of
5 subsection (3) is subject to the criminal contempt powers of the
6 court and, if found guilty, shall be imprisoned for not more than
7 90 days and may be fined not more than \$500.00.

8 (7) An order issued under subsection (1) shall also be
9 enforceable under chapter 17.

10 (8) This section shall not apply if the moving party has
11 filed an action for annulment, divorce, or separate maintenance
12 and may obtain a preliminary injunctive order against a spouse or
13 an injunctive order against the other party under section 14 of
14 chapter 84 of the Revised Statutes of 1846, being section 552.14
15 of the Michigan Compiled Laws.

16 (9) UPON ENTRY OF AN ORDER UNDER SUBSECTION (1) OR UPON
17 ENTRY OF AN ORDER THAT AMENDS AN ORDER ENTERED UNDER SUBSECTION
18 (1), IF THE ORDER RESTRAINS OR ENJOINS A PERSON FROM PURCHASING
19 OR POSSESSING A FIREARM, THE CLERK OF THE COURT THAT ISSUED THE
20 ORDER SHALL IMMEDIATELY FILE A REPORT WITH THE DEPARTMENT OF
21 MENTAL HEALTH THAT CONTAINS THE NAME OF THE PERSON WHO IS
22 RESTRAINED OR ENJOINED IN THE ORDER AND OTHER INFORMATION CON-
23 CERNING THE ORDER THAT THE DEPARTMENT OF MENTAL HEALTH CONSIDERS
24 NECESSARY. THE DEPARTMENT OF MENTAL HEALTH SHALL USE THE INFOR-
25 MATION OBTAINED FROM A REPORT FILED UNDER THIS SUBSECTION AND
26 SUBSECTION (10) AS PROVIDED IN SECTION 2B OF ACT NO. 372 OF THE
27 PUBLIC ACTS OF 1927, BEING SECTION 28.422B OF THE MICHIGAN

1 COMPILED LAWS. A REPORT FILED WITH THE DEPARTMENT OF MENTAL
2 HEALTH UNDER THIS SUBSECTION AND SUBSECTION (10) SHALL BE ON A
3 FORM PRESCRIBED BY THE DEPARTMENT OF MENTAL HEALTH AND APPROVED
4 BY THE STATE COURT ADMINISTRATOR.

5 (10) UPON ENTRY OF AN ORDER VACATING AN ORDER THAT WAS
6 ENTERED UNDER SUBSECTION (1) AND WAS REPORTED TO THE DEPARTMENT
7 OF MENTAL HEALTH UNDER SUBSECTION (9), THE CLERK OF THE COURT
8 THAT ISSUED THE ORDER SHALL IMMEDIATELY FILE A REPORT WITH THE
9 DEPARTMENT OF MENTAL HEALTH THAT CONTAINS THE NAME OF THE PERSON
10 WHO WAS RESTRAINED OR ENJOINED IN THE ORDER AND OTHER INFORMATION
11 CONCERNING THE ORDER THAT THE DEPARTMENT OF MENTAL HEALTH CONSID-
12 ERS NECESSARY.

13 (11) BEFORE THE EXPIRATION OF 1 YEAR AFTER THE EFFECTIVE
14 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE CLERK
15 OF THE CIRCUIT COURT FOR EACH COUNTY SHALL EXAMINE THE CIRCUIT
16 COURT RECORDS FOR THE TIME PERIOD BETWEEN JANUARY 1, 1930 AND THE
17 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION
18 AND FILE A REPORT WITH THE DEPARTMENT OF MENTAL HEALTH UNDER SUB-
19 SECTION (9) OR (10), AS APPLICABLE, FOR EACH PERSON THE COURT
20 WOULD HAVE FILED A REPORT FOR UNDER SUBSECTION (9) OR (10), AS
21 APPLICABLE, IF THIS SECTION HAD BEEN IN EFFECT DURING THAT PERIOD
22 OF TIME.

23 Section 2. This amendatory act shall not take effect unless
24 Senate Bill No. 407
25 of the 86th Legislature is enacted into law.