

Act No. 404
Public Acts of 1994
Approved by the Governor
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STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994

Introduced by Reps Hill LeTarte Weeks Hammerstrom Stille Kukuk Jersevic Fitzgerald Rhead
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ENROLLED HOUSE BILL No. 5807

AN ACT to amend section 2950a of Act No 236 of the Public Acts of 1961 entitled as amended An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state the powers and duties of such courts and of the judges and other officers thereof the forms and attributes of civil claims and actions the time within which civil actions and proceedings may be brought in said courts pleading evidence practice and procedure in civil and criminal actions and proceedings in said courts to provide remedies and penalties for the violation of certain provisions of this act and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act as amended by Act No 341 of the Public Acts of 1994 being section 600 2950a of the Michigan Compiled Laws

The People of the State of Michigan enact

Section 1 Section 2950a of Act No 236 of the Public Acts of 1961 as amended by Act No 341 of the Public Acts of 1994 being section 600 2950a of the Michigan Compiled Laws is amended to read as follows

Sec 2950a (1) By commencing an independent action to obtain relief under this section by joining a claim to an action or by filing a motion in an action in which the petitioner and the individual to be restrained or enjoined are parties an individual may petition the circuit court to enter a personal protection order to restrain or enjoin an individual from engaging in conduct that is prohibited under section 411h or 411i of the Michigan penal code Act No 328 of the Public Acts of 1931 being sections 750 411h and 750 411i of the Michigan Compiled Laws Relief may be sought and granted under this section whether or not the individual to be restrained or enjoined has been charged or convicted under section 411h or 411i of Act No 328 of the Public Acts of 1931 for the alleged violation

(2) A petitioner may omit his or her address of residence from documents filed with the court pursuant to this section If a petitioner omits his or her address of residence the petitioner shall provide the court a mailing address

(3) If the court refuses to grant a personal protection order it shall state in writing the specific reasons it refused to issue a personal protection order If a hearing is held the court shall also immediately state on the record the specific reasons it refuses to issue a personal protection order

(4) A personal protection order shall not be made mutual Correlative separate personal protection orders are prohibited unless both parties have properly petitioned the court pursuant to subsection (1)

(5) A personal protection order is effective when signed by a judge

(6) The court shall designate the law enforcement agency that is responsible for entering the personal protection order into the law enforcement information network as provided by the L E I N policy council act of 1974 Act No 163 of the Public Acts of 1974 being sections 28 211 to 28 216 of the Michigan Compiled Laws

(7) A personal protection order issued under this section shall include all of the following

(a) A statement that the personal protection order has been entered to enjoin or restrain conduct listed in the order and that violation of the personal protection order will subject the individual restrained or enjoined to immediate arrest and the civil and criminal contempt powers of the court and that if he or she is found guilty of criminal contempt he or she shall be imprisoned for not more than 93 days and may be fined not more than \$500.00

(b) A statement that the personal protection order is enforceable when signed by a judge and is immediately enforceable

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

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

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

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

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

(8) An ex parte personal protection order shall be issued and effective without written or oral notice to the individual enjoined or his or her attorney if it clearly appears from specific facts shown by verified complaint written motion or affidavit that immediate and irreparable injury loss or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued

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

(10) The court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 14 days after the filing of the motion to modify or rescind

(11) The clerk of the court that issues a personal protection order shall do both of the following immediately upon issuance and without requiring a proof of service on the individual restrained or enjoined

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

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

(12) The clerk of the court shall inform the petitioner that he or she may take a true copy of the personal protection order to the law enforcement agency designated by the court in subsection (6) to be immediately entered into the law enforcement information network

(13) The law enforcement agency that receives a true copy of the personal protection order under subsection (11) or (12) shall immediately and without requiring proof of service enter the personal protection order into the law enforcement information network as provided by Act No. 163 of the Public Acts of 1974

(14) A personal protection order issued under this section shall be served personally or by registered or certified mail return receipt requested delivery restricted to the addressee at the last known address or addresses of the individual restrained or enjoined or by any other manner provided in the Michigan court rules. A proof of service shall be filed with the clerk of the court issuing the personal protection order. This subsection does not prohibit the immediate effectiveness of a personal protection order or its immediate enforcement under subsections (17) and (18)

(15) The clerk of the court shall immediately notify the law enforcement agency that received the personal protection order under subsection (11) or (12) if either of the following occurs

(a) The clerk of the court has received proof that the individual restrained or enjoined has been served

(b) The personal protection order is rescinded modified or extended by court order

(16) The law enforcement agency that receives information under subsection (15) shall enter the information or cause the information to be entered into the law enforcement information network as provided by Act No. 163 of the Public Acts of 1974

(17) Subject to subsection (18) a personal protection order is immediately enforceable anywhere in this state by any law enforcement agency that has received a true copy of the order is shown a copy of it or has verified its existence on the law enforcement information network as provided by Act No. 163 of the Public Acts of 1974

(18) If the individual restrained or enjoined has not been served the law enforcement agency or officer responding to a domestic violence call alleging a violation of a personal protection order shall serve the individual restrained or

enjoined with a true copy of the order or advise the individual restrained or enjoined of the existence of the personal protection order the specific conduct enjoined the penalties for violating the order and where the individual restrained or enjoined may obtain a copy of the order The law enforcement officer shall enforce the personal protection order and immediately enter or cause to be entered into the law enforcement information network that the individual restrained or enjoined has actual notice of the personal protection order If the individual restrained or enjoined has not received notice of the personal protection order the individual restrained or enjoined shall be given an opportunity to comply with the personal protection order before the law enforcement officer makes a custodial arrest for violation of the personal protection order The failure to immediately comply with the personal protection order shall be grounds for an immediate custodial arrest This subsection does not preclude an arrest under section 15 or 15a of chapter IV of the code of criminal procedure Act No 175 of the Public Acts of 1927 being sections 764 15 and 764 15a of the Michigan Compiled Laws

(19) An individual who refuses or fails to comply with a personal protection order issued under this section is subject to the criminal contempt powers of the court and if found guilty of criminal contempt shall be imprisoned for not more than 93 days and may be fined not more than \$500 00 The criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct

(20) An individual who knowingly and intentionally makes a false statement to the court in support of his or her petition for a personal protection order is subject to the contempt powers of the court

(21) A personal protection order issued under this section is also enforceable under section 15b of chapter IV of the code of criminal procedure Act No 175 of the Public Acts of 1927 being section 764 15b of the Michigan Compiled Laws

(22) Beginning April 1 1996 a personal protection order issued under this section may enjoin or restrain an individual from purchasing or possessing a firearm

(23) A personal protection order issued under this section is also enforceable under chapter 17

(24) As used in this section personal protection order means an injunctive order issued by circuit court restraining or enjoining conduct prohibited under section 411h or 411i of the Michigan penal code Act No 328 of the Public Acts of 1931 being sections 750 411h and 750 411i of the Michigan Compiled Laws

Section 2 This amendatory act shall take effect on April 1 1995

Section 3 This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law

- (a) Senate Bill No 1264 or House Bill No 5804
- (b) Senate Bill No 1265 or House Bill No 5806
- (c) Senate Bill No 1266 or House Bill No 5805
- (d) Senate Bill No 1268 or House Bill No 5808

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor