

Act No. 61
Public Acts of 1994
Approved by the Governor
April 10, 1994
Filed with the Secretary of State
April 11, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senators Van Regenmorter and Bouchard

ENROLLED SENATE BILL No. 1022

AN ACT to amend sections 2950 and 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 section 2950 as added by Act No 228 of the Public Acts of 1983 and section 2950a as added by Act No 262 of the Public Acts of 1992 being sections 600 2950 and 600 2950a of the Michigan Compiled Laws and to add section 2950b

The People of the State of Michigan enact

Section 1 Sections 2950 and 2950a of Act No 236 of the Public Acts of 1961 section 2950 as added by Act No 228 of the Public Acts of 1983 and section 2950a as added by Act No 262 of the Public Acts of 1992 being sections 600 2950 and 600 2950a of the Michigan Compiled Laws are amended and section 2950b is added to read as follows

Sec 2950 (1) By commencing an independent action to obtain relief under this section or by joining a claim to an existing action an individual may petition the circuit court to restrain or enjoin a spouse a former spouse an individual with whom he or she has had a child in common or an individual residing or having resided in the same household as the victim from doing 1 or more of the following

- (a) Entering onto premises
- (b) Assaulting beating molesting or wounding a named individual
- (c) Threatening to kill or physically injure a named individual
- (d) Removing minor children from the individual having legal custody of the children except as otherwise authorized by a custody or visitation order issued by a court of competent jurisdiction

(2) Except as provided in subsection (3) the court shall issue an injunction under subsection (1) if the court determines that there is reasonable cause to believe any 2 of the following

- (a) The defendant may commit an act of domestic violence
- (b) The defendant has committed an act of domestic violence within the past year
- (c) Good cause exists to issue the order

(3) A court shall not issue an injunction under subsection (1)(a) if all of the following apply

- (a) The defendant is not the spouse of the moving party
- (b) The defendant has a property interest in the premises
- (c) The moving party has no property interest in the premises

(4) An order issued under subsection (1) that meets the requirements of 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 is enforceable under that section

(5) An order issued under subsection (1) that meets the requirements of subsection (4) shall be served personally or by registered or certified mail return receipt requested delivery restricted to the addressee on the individual to be restrained The clerk of the court issuing an order under subsection (1) that meets the requirements of subsection (4) shall file a true copy and proof of service of the order with the law enforcement agency having jurisdiction of the area in which the moving party resides

(6) An individual who refuses or fails to comply with an order issued under subsection (1) that meets the requirements of subsection (4) is subject to the criminal contempt powers of the court and if found guilty shall be imprisoned for not more than 90 days and may be fined not more than \$500 00

(7) An order issued under subsection (1) is also enforceable under chapter 17

(8) This section does not apply if the moving party has filed an action for annulment divorce or separate maintenance and may obtain a preliminary injunctive order against a spouse or an injunctive order against the other party under section 14 of chapter 84 of the Revised Statutes of 1846 being section 552 14 of the Michigan Compiled Laws

Sec 2950a (1) By commencing an independent action to obtain relief under this section or by joining a claim to an existing action an individual may petition the circuit court 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) An order issued under subsection (1) shall include all of the following

(a) A statement that the order has been entered pursuant to this section to enjoin or restrain conduct prohibited under section 411h or 411i of the Michigan penal code Act No 328 of the Public Acts of 1931

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

(c) A statement of the period of time for which the order is valid

(d) A statement that violation of the 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 90 days and may be fined not more than \$500 00

(3) An order issued under subsection (1) shall be served personally or by registered or certified mail return receipt requested delivery restricted to the addressee on the individual to be restrained and proof of service shall be filed with the clerk of the court Upon filing of the proof of service the clerk of the court shall file true copies of the order and the proof of service with the law enforcement agency having jurisdiction of the area in which the petitioner resides Upon receipt of the true copies of the order and the proof of service the law enforcement agency shall enter the 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

(4) An individual who violates an order issued under subsection (1) after having been served with a copy of the order under subsection (3) is subject to the civil and criminal contempt powers of the court and if found guilty of criminal contempt shall be imprisoned for not more than 90 days and may be fined not more than \$500 00

(5) An order issued under subsection (1) that complies with 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 is enforceable under that section

(6) An order issued under subsection (1) is also enforceable under chapter 17

Sec 2950b (1) Before October 1 1994 the state court administrative office shall develop and make available forms for use by an individual who wishes to proceed without an attorney The forms shall include at least petitions for relief and proof of service under sections 2950 and 2950a and under section 14 of chapter 84 of the Revised Statutes of 1846 being section 552 14 of the Michigan Compiled Laws Instructions for the forms shall be written in plain English and shall include an explanation of the proper method of service and filing of the proof of service

(2) The court shall provide the forms prepared under this section without charge. Upon request, the court shall provide assistance, but not legal assistance, to an individual in completing those forms and the injunctive order if the court issues such an order, and shall instruct the individual regarding the requirements for proper service of the order.

Section 2. This amendatory act shall take effect July 1, 1994.

This act is ordered to take immediate effect.

Secretary of the Senate

Co. Clerk of the House of Representatives

Approved:

Governor