



HOUSE BILL No. 5807

September 14, 1994 Introduced by Reps Hill LeTarte, Weeks Hammerstrom Stille Kukuk Jersevic, Fitzgerald, Rhead, Brackenridge, Whyman Gustafson Vorva, Dalman, Gnodtke, London Dolan Munsell, Oxender Johnson Crissman Sikkema Lowe Galloway McBryde, Martin Gernaat Voorhees, Shugars Porreca McNutt McManus, Middleton, Bullard Goschka, Dobb Gire and Emerson and referred to the Committee on Judiciary

A bill to amend section 2950a of Act No 236 of the Public Acts of 1961, entitled as amended

"Revised judicature act of 1961,

as amended by Act No 61 of the Public Acts of 1994, being section 600 2950a of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 2950a of Act No 236 of the Public Acts
2 of 1961, as amended by Act No 61 of the Public Acts of 1994
3 being section 600 2950a of the Michigan Compiled Laws is amended
4 to read as follows

5 Sec 2950a (1) By commencing an independent action to
6 obtain relief under this section, or by joining a claim to an
7 ~~existing~~ action an individual may petition the circuit court
8 to ENTER A PERSONAL PROTECTION ORDER TO restrain or enjoin an
9 individual from engaging in conduct that is prohibited under

1 section 411h or 411i of the Michigan penal code Act No 328 of
2 the Public Acts of 1931 being sections 750 411h and 750 411i of
3 the Michigan Compiled Laws Relief may be sought and granted
4 under this section whether or not the individual to be restrained
5 or enjoined has been charged or convicted under section 411h or
6 411i of Act No 328 of the Public Acts of 1931 for the alleged
7 violation

8 (2) ~~An~~ A PERSONAL PROTECTION order issued under
9 ~~subsection (1)~~ THIS SECTION shall include all of the
10 following

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

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

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

19 (C) ~~(d)~~ A statement that violation of the PERSONAL
20 PROTECTION order will subject the individual restrained or
21 enjoined to immediate arrest and the civil and criminal contempt
22 powers of the court, and that if he or she is found guilty of
23 criminal contempt, he or she shall be imprisoned for not more
24 than ~~90~~ 93 days and may be fined not more than \$500 00

25 (D) FOR INJUNCTIONS ISSUED UNDER SUBSECTION (4) ALL OF THE
26 FOLLOWING

1 (1) A STATEMENT THAT THE PERSONAL PROTECTION ORDER IS VALID
2 FOR 182 DAYS OR UNTIL FURTHER ORDER OF THE COURT

3 (2) A STATEMENT THAT THE INDIVIDUAL TO BE RESTRAINED OR
4 ENJOINED MAY FILE A WRITTEN OBJECTION OR MOTION TO MODIFY OR
5 RESCIND AND REQUEST A HEARING IN ACCORDANCE WITH THE MICHIGAN
6 COURT RULES

7 (22) A STATEMENT THAT THE WRITTEN OBJECTION OR MOTION TO
8 MODIFY OR RESCIND THE PERSONAL PROTECTION ORDER AND A NOTICE OF
9 HEARING SHALL BE SERVED PERSONALLY OR BY CERTIFIED OR REGISTERED
10 MAIL, RETURN RECEIPT REQUESTED, DELIVERY RESTRICTED, TO THE LAST
11 KNOWN ADDRESS OR ADDRESSES OF THE PETITIONER OR BY ANY OTHER
12 MANNER AS PROVIDED IN THE MICHIGAN COURT RULES

13 (2v) A STATEMENT THAT ALL PROCEEDINGS AFTER THE WRITTEN
14 OBJECTION OR MOTION TO MODIFY OR RESCIND IS FILED SHALL BE CON-
15 DUCTED IN ACCORD WITH THE MICHIGAN COURT RULES

16 (E) AN EXPIRATION DATE STATED CLEARLY ON THE FACE OF THE
17 ORDER

18 (3) ~~An~~ EXCEPT AS PROVIDED IN SUBSECTION (4) A PERSONAL
19 PROTECTION order issued under ~~subsection (1)~~ THIS SECTION shall
20 be served personally or by registered or certified mail return
21 receipt requested delivery restricted to the ~~addressee on~~
22 LAST KNOWN ADDRESS OR ADDRESSES OF the individual to be
23 restrained ~~and~~ OR ENJOINED OR BY ANY OTHER MANNER AS PROVIDED
24 IN THE MICHIGAN COURT RULES IF THE PETITIONER IS NOT REPRESENTED
25 BY AN ATTORNEY THE CLERK OF THE COURT ISSUING THE PERSONAL
26 PROTECTION ORDER SHALL CAUSE SERVICE TO BE MADE ON THE
27 INDIVIDUAL TO BE RESTRAINED OR ENJOINED BY FIRST-CLASS MAIL A

1 proof of service shall be filed with the clerk of the court
2 ~~Upon filing of the proof of service the clerk of the court~~
3 ~~shall file true copies of the order and the proof of service with~~
4 ~~the law enforcement agency having jurisdiction of the area in~~
5 ~~which the petitioner resides Upon receipt of the true copies of~~
6 ~~the order and the proof of service, the law enforcement agency~~
7 ~~shall enter the order into the law enforcement information net~~
8 ~~work as provided by the L E I N policy council act of 1974, Act~~
9 ~~No 163 of the Public Acts of 1974, being sections 28-211 to~~
10 ~~28-216 of the Michigan Compiled Laws~~

11 (4) A PERSONAL PROTECTION ORDER SHALL BE ISSUED WITHOUT
12 WRITTEN OR ORAL NOTICE TO THE INDIVIDUAL ENJOINED OR HIS OR HER
13 ATTORNEY IF 1 OF THE FOLLOWING CIRCUMSTANCES EXISTS

14 (A) IT CLEARLY APPEARS FROM SPECIFIC FACTS SHOWN BY AFFIDA-
15 VIT OR BY A VERIFIED COMPLAINT THAT IMMEDIATE AND IRREPARABLE
16 INJURY, LOSS, OR DAMAGE WILL RESULT FROM THE DELAY REQUIRED TO
17 EFFECTUATE THE NOTICE OR FROM THE RISK THAT THE NOTICE WILL
18 ITSELF PRECIPITATE ADVERSE ACTION BEFORE A PERSONAL PROTECTION
19 ORDER CAN BE ISSUED

20 (B) THERE IS ANOTHER BASIS FOR GRANTING EX PARTE RELIEF
21 SPECIFIED IN THE MICHIGAN COURT RULES

22 (5) THE CLERK OF THE COURT, IMMEDIATELY AND WITHOUT REQUIR-
23 ING A PROOF OF SERVICE ON THE INDIVIDUAL ENJOINED, SHALL DO BOTH
24 OF THE FOLLOWING

25 (A) FILE A TRUE COPY OF THE PERSONAL PROTECTION ORDER WITH A
26 LAW ENFORCEMENT AGENCY THAT HAS JURISDICTION OVER THE AREA IN
27 WHICH THE PETITIONER LIVES

1 (B) ENTER THE PERSONAL PROTECTION ORDER OR CAUSE THE
2 PERSONAL PROTECTION ORDER TO BE ENTERED INTO THE LAW ENFORCEMENT
3 INFORMATION NETWORK, AS PROVIDED BY THE L E I N POLICY COUNCIL
4 ACT OF 1974, ACT NO 163 OF THE PUBLIC ACTS OF 1974, BEING
5 SECTIONS 28 211 TO 28 216 OF THE MICHIGAN COMPILED LAWS

6 (6) THE CLERK OF THE COURT SHALL IMMEDIATELY NOTIFY THE LAW
7 ENFORCEMENT AGENCY THAT RECEIVED THE PERSONAL PROTECTION ORDER
8 UNDER SUBSECTION (5) IF EITHER OF THE FOLLOWING OCCURS

9 (A) THE CLERK OF THE COURT HAS RECEIVED PROOF THAT THE INDI-
10 VIDUAL TO BE RESTRAINED OR ENJOINED HAS BEEN SERVED

11 (B) THE PERSONAL PROTECTION ORDER IS RESCINDED, MODIFIED, OR
12 EXTENDED BY COURT ORDER

13 (7) THE LAW ENFORCEMENT AGENCY THAT RECEIVES INFORMATION
14 UNDER SUBSECTION (6) SHALL ENTER THE INFORMATION INTO THE LAW
15 ENFORCEMENT INFORMATION NETWORK AS PROVIDED BY ACT NO 163 OF THE
16 PUBLIC ACTS OF 1974

17 (8) A PERSONAL PROTECTION ORDER ISSUED UNDER SUBSECTION (4)
18 IS VALID FOR 182 DAYS OR UNTIL FURTHER ORDER OF THE COURT THE
19 INDIVIDUAL ENJOINED MAY FILE A WRITTEN OBJECTION OR A MOTION TO
20 MODIFY OR RESCIND THE PERSONAL PROTECTION ORDER AND REQUEST A
21 HEARING PURSUANT TO THE MICHIGAN COURT RULES IF THE
22 PETITIONER S ADDRESS HAS BEEN OMITTED UNDER SUBSECTION (14) THE
23 CLERK OF THE COURT SHALL CAUSE SERVICE TO BE MADE ON THE PETI-
24 TIONER OR HIS OR HER ATTORNEY

25 (9) THE COURT SHALL GIVE PRIORITY STATUS TO A MOTION FILED
26 UNDER SUBSECTION (8) AND SCHEDULE A HEARING ON THE MOTION WITHIN
27 14 DAYS OF THE FILING DATE

1 (10) IF THE COURT REFUSES TO GRANT A PERSONAL PROTECTION
2 ORDER UNDER THIS SECTION, IT MUST STATE IN WRITING OR ON THE
3 RECORD THE SPECIFIC REASONS IT REFUSED TO ISSUE A PERSONAL PRO-
4 TECTION ORDER

5 (11) A PERSONAL PROTECTION ORDER ISSUED UNDER THIS SECTION
6 IS EFFECTIVE WHEN SIGNED BY A JUDGE A LAW ENFORCEMENT AGENCY
7 SHALL ENFORCE THE PERSONAL PROTECTION ORDER IMMEDIATELY ON
8 RECEIPT THE PERSONAL PROTECTION ORDER IS ENFORCEABLE ANYWHERE
9 IN MICHIGAN BY ANY LAW ENFORCEMENT AGENCY THAT HAS RECEIVED A
10 TRUE COPY OF THE PERSONAL PROTECTION ORDER IS SHOWN A COPY OF
11 IT, OR HAS VERIFIED ITS EXISTENCE ON THE LAW ENFORCEMENT INFORMA-
12 TION NETWORK AS PROVIDED BY ACT NO 163 OF THE PUBLIC ACTS OF
13 1974 IF THE INDIVIDUAL TO BE RESTRAINED OR ENJOINED HAS NOT
14 BEEN SERVED THE LAW ENFORCEMENT AGENCY SHALL SERVE THE INDIVID-
15 UAL TO BE RESTRAINED OR ENJOINED WITH A COPY OF THE ORDER OR
16 ADVISE THE INDIVIDUAL TO BE RESTRAINED OR ENJOINED OF THE EXIS-
17 TENCE OF THE PERSONAL PROTECTION ORDER THE PENALTIES FOR VIOLAT-
18 ING THE PERSONAL PROTECTION ORDER AND WHERE THE INDIVIDUAL TO BE
19 RESTRAINED OR ENJOINED MAY OBTAIN A COPY OF THE PERSONAL PROTEC-
20 TION ORDER THE LAW ENFORCEMENT OFFICER SHALL ENFORCE THE PER-
21 SONAL PROTECTION ORDER AND SHALL ENTER ON THE LAW ENFORCEMENT
22 INFORMATION NETWORK THAT THE INDIVIDUAL TO BE RESTRAINED OR
23 ENJOINED HAS ACTUAL NOTICE OF THE PERSONAL PROTECTION ORDER
24 BEFORE THE LAW ENFORCEMENT OFFICER MAKES A CUSTODIAL ARREST THE
25 INDIVIDUAL TO BE RESTRAINED OR ENJOINED SHALL BE GIVEN AN OPPOR-
26 TUNITY TO COMPLY WITH THE PERSONAL PROTECTION ORDER THE FAILURE

1 TO IMMEDIATELY COMPLY WITH THE PERSONAL PROTECTION ORDER SHALL BE
2 GROUNDS FOR IMMEDIATE CUSTODIAL ARREST

3 (12) UPON RECEIPT OF A TRUE COPY OF A PERSONAL PROTECTION
4 ORDER ISSUED UNDER THIS SECTION, THE LAW ENFORCEMENT AGENCY SHALL
5 CONFIRM WHETHER THE PERSONAL PROTECTION ORDER HAS BEEN ENTERED ON
6 THE LAW ENFORCEMENT INFORMATION NETWORK AND, IF NOT, SHALL IMMEDIATELY
7 ENTER THE PERSONAL PROTECTION ORDER ON THAT NETWORK

8 (13) ~~(4)~~ An individual who violates ~~an~~ A PERSONAL
9 PROTECTION order issued under ~~subsection (1) after having been~~
10 ~~served with a copy of the order under subsection (3)~~ THIS
11 SECTION is subject to the civil and criminal contempt powers of
12 the court and, if found guilty of criminal contempt, shall be
13 imprisoned for not more than ~~90~~ 93 days and may be fined not
14 more than \$500 00

15 (14) FOR GOOD CAUSE SHOWN, A PETITIONER MAY OMIT HIS OR HER
16 ADDRESS FROM DOCUMENTS FILED WITH THE COURT IF A PETITIONER
17 OMITS HIS OR HER ADDRESS, THE PETITIONER MUST PROVIDE THE COURT A
18 MAILING ADDRESS IF DISCLOSURE OF THE ADDRESS OF THE
19 PETITIONER'S RESIDENCE IS NECESSARY TO DETERMINE JURISDICTION,
20 THE COURT MAY ORDER DISCLOSURE TO BE MADE ORALLY IN CHAMBERS,
21 AND OUT OF THE PRESENCE OF THE RESPONDENT THE MAILING ADDRESS
22 SHALL BE CONFIDENTIAL AND SHALL NOT BE REVEALED BY ANY COURT
23 EMPLOYEE, COURT OFFICER, OR ATTORNEY FAILURE TO COMPLY WITH
24 THIS SUBSECTION WILL SUBJECT THE INDIVIDUAL TO THE CONTEMPT
25 POWERS OF THE COURT

26 (15) ~~(5)~~ ~~An~~ A PERSONAL PROTECTION order issued under
27 ~~subsection (1)~~ THIS SECTION that complies with section 15b of

1 chapter IV of the code of criminal procedure Act No 175 of the
2 Public Acts of 1927 being section 764 15b of the Michigan
3 Compiled Laws, is enforceable under that section

4 (16) ~~(6) An~~ A PERSONAL PROTECTION order issued under
5 ~~subsection (1)~~ THIS SECTION is also enforceable under chapter
6 17

7 (17) AS USED IN THIS SECTION, 'PERSONAL PROTECTION ORDER
8 MEANS AN ORDER ISSUED BY CIRCUIT COURT RESTRAINING OR ENJOINING
9 CONDUCT PROHIBITED UNDER SECTIONS 411H OR 411I OF THE MICHIGAN
10 PENAL CODE, ACT NO 328 OF THE PUBLIC ACTS OF 1931, BEING
11 SECTIONS 750 411H AND 750 411I OF THE MICHIGAN COMPILED LAWS
12 Section 2 This amendatory act shall take effect on January
13 1, 1995