



SENATE BILL No. 1265

September 21, 1994, Introduced by Senator GOUGEON and
referred to the Committee on Judiciary

A bill to amend section 15b of chapter IV and section 22 of
chapter XVI of Act No 175 of the Public Acts of 1927, entitled
as amended

"The code of criminal procedure,"

section 15b as amended by Act No 62 of the Public Acts of 1994
and section 22 as added by Act No 69 of the Public Acts of 1994,
being sections 764 15b and 776 22 of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 15b of chapter IV and section 22 of
2 chapter XVI of Act No 175 of the Public Acts of 1927,
3 section 15b as amended by Act No 62 of the Public Acts of 1994
4 and section 22 as added by Act No 69 of the Public Acts of 1994,
5 being sections 764 15b and 776 22 of the Michigan Compiled Laws,
6 are amended to read as follows

CHAPTER IV

1

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 exist

5 (a) ~~An injunctive~~ A PERSONAL PROTECTION order that is 1 of
6 the following

7 (1) Issued pursuant to section ~~14 of chapter 84 of the~~
8 ~~Revised Statutes of 1846, as amended, being section 552 14~~ 2950
9 OF THE REVISED JUDICATURE ACT OF 1961, ACT NO 236 OF THE PUBLIC
10 ACTS OF 1961, BEING SECTION 600 2950 of the Michigan Compiled
11 Laws

12 (11) Issued ~~by the circuit court as authorized by law and~~
13 ~~stating on its face the period of time for which the order is~~
14 ~~valid and specifically restraining or enjoining a spouse, a~~
15 ~~former spouse, an individual with whom the victim has had a child~~
16 ~~in common, or an individual residing or having resided in the~~
17 ~~same household as the victim from entering onto premises, from~~
18 ~~assaulting, beating, molesting, or wounding a named individual,~~
19 ~~from threatening to kill or physically injure a named individual,~~
20 ~~or from removing minor children from the individual having legal~~
21 ~~custody of the children~~ PURSUANT TO SECTION 2950A OF THE REVISED
22 JUDICATURE ACT OF 1961, ACT NO 236 OF THE PUBLIC ACTS OF 1961,
23 BEING SECTION 600 2950A OF THE MICHIGAN COMPILED LAWS

24 ~~(111) Issued by the circuit court as authorized by law and~~
25 ~~stating on its face the period of time for which the order is~~
26 ~~valid and specifically restraining or enjoining an individual~~
27 ~~from engaging in conduct prohibited under section 411h or 411i of~~

1 ~~the Michigan penal code, Act No 328 of the Public Acts of 1931,~~
2 ~~being sections 750 411h and 750 411i of the Michigan Compiled~~
3 ~~Laws—~~

4 ~~(b) A true copy and proof of service of the order has been~~
5 ~~filed with the law enforcement agency having jurisdiction of the~~
6 ~~area in which the moving party resides—~~

7 ~~(c) The individual named in the order has received notice of~~
8 ~~the injunctive order—~~

9 (B) ~~(d)~~ The individual named in the PERSONAL PROTECTION
10 order is violating the order An individual is violating the
11 order if that individual commits 1 or more of the following acts
12 the order specifically restrains or enjoins the individual from
13 committing

14 (1) Assaulting, ATTACKING, beating, molesting, or wounding a
15 named individual

16 (11) Removing minor children from an individual having legal
17 custody of the children, ~~in violation of custody and visitation~~
18 ~~orders as issued by the court~~ EXCEPT AS OTHERWISE AUTHORIZED BY
19 A CUSTODY OR VISITATION ORDER ISSUED BY A COURT OF COMPETENT
20 JURISDICTION

21 (111) Entering onto premises

22 (1v) Engaging in conduct prohibited under section 411h or
23 411i of Act No 328 of the Public Acts of 1931

24 (v) Threatening to kill or physically injure a named
25 individual

1 (vi) ANY OTHER ACT OR CONDUCT THAT IMPOSES A RESTRAINT UPON
2 PERSONAL LIBERTY OR THAT CAUSES A REASONABLE APPREHENSION OF
3 VIOLENCE

4 (C) ~~—(e)—~~ The PERSONAL PROTECTION order states on its face
5 that a violation of its terms subjects the individual to immedi-
6 ate arrest and to criminal contempt of court and, if found guilty
7 of criminal contempt, the individual shall be imprisoned for not
8 more than ~~—90—~~ 93 days and may be fined not more than \$500 00

9 (2) An individual arrested pursuant to this section shall be
10 brought before the circuit court having jurisdiction in the cause
11 within 24 hours after arrest to answer to a charge of contempt
12 for violation of the ~~—injunctive—~~ PERSONAL PROTECTION order, at
13 which time the court shall do each of the following

14 (a) Set a time certain for a hearing on the alleged viola-
15 tion of the ~~—injunctive—~~ PERSONAL PROTECTION order within 72
16 hours after arrest, unless extended by the court on the motion of
17 the arrested individual or the prosecuting attorney

18 (b) Set a reasonable bond pending a hearing of the alleged
19 violation of the ~~—injunctive—~~ PERSONAL PROTECTION order

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

22 (d) Notify the party who has procured the ~~—injunctive—~~
23 PERSONAL PROTECTION order and his or her attorney of record, if
24 any, and direct the party to appear at the hearing and give evi-
25 dence on the charge of contempt

26 (3) In circuits where the circuit court judge may not be
27 present or available within 24 hours after arrest, an individual

1 arrested ~~pursuant to~~ UNDER this section shall be taken before
2 the district court within 24 hours after arrest, at which time
3 the district court shall order the defendant to appear before the
4 circuit court of the county for a hearing on the charge The
5 district court shall set bond for the individual

6 (4) The circuit court for each county of this state has
7 jurisdiction to conduct contempt proceedings based upon a viola-
8 tion of ~~an injunctive~~ A PERSONAL PROTECTION order described in
9 this section issued by the circuit court in any county of this
10 state The court of arraignment shall notify the circuit court
11 that issued the ~~injunctive~~ PERSONAL PROTECTION order that the
12 issuing court may request that the defendant be returned to that
13 county for violating the ~~injunctive~~ PERSONAL PROTECTION order
14 If the circuit court that issued the ~~injunctive~~ PERSONAL
15 PROTECTION order requests that the defendant be returned to that
16 county to stand trial, the requesting county shall bear the cost
17 of transporting the defendant to that county

18 (5) The prosecuting attorney shall prosecute a criminal con-
19 tempt proceeding initiated by the court ~~pursuant to~~ UNDER sub-
20 section (2), unless the party who procured the ~~injunctive~~
21 PERSONAL PROTECTION order retains his or her own attorney for the
22 criminal contempt proceeding If the prosecuting attorney prose-
23 cutes the criminal contempt proceeding, the court shall grant an
24 adjournment for not less than 14 days or a lesser period
25 requested if the prosecuting attorney moves for adjournment If
26 the prosecuting attorney prosecutes the criminal contempt

1 proceeding, the court may dismiss the proceeding upon motion of
2 the prosecuting attorney for good cause shown

3 (6) Upon ~~receipt of~~ RECEIVING a true copy ~~and proof of~~
4 ~~service of an injunctive~~ A PERSONAL PROTECTION order issued in
5 compliance with this section, the law enforcement agency shall
6 enter the order into the law enforcement information network as
7 provided by the L E I N policy council act of 1974, Act No 163
8 of the Public Acts of 1974, being sections 28 211 to 28 216 of
9 the Michigan Compiled Laws

10 CHAPTER XVI

11 Sec 22 (1) Each police agency in this state shall, by
12 January 1, 1995, develop, adopt, and implement written policies
13 for police officers responding to domestic violence calls The
14 policies shall reflect that domestic violence is criminal
15 conduct

16 (2) Each police agency shall consult with the prosecuting
17 attorney and with an area shelter for victims of domestic vio-
18 lence in the development, implementation, including training, and
19 evaluation of the policies and standards

20 (3) The policies shall address, but not be limited to
21 addressing, all of the following

22 (a) Procedures for conducting a criminal investigation with
23 specific standards for misdemeanor and felony arrests

24 (b) Procedures for making a criminal arrest The procedures
25 shall emphasize all of the following

26 (1) In most circumstances, an officer should arrest and take
27 an individual into custody if the officer has probable cause to

1 believe the individual is committing or has committed domestic
2 violence and his or her actions constitute a crime

3 (11) When the officer has probable cause to believe spouses,
4 former spouses, individuals who have had a child in common, or
5 other individuals who reside together or formerly resided
6 together are committing or have committed crimes against each
7 other, the officer, when determining whether to make an arrest of
8 1 or both individuals, should consider the intent of this section
9 to protect victims of domestic violence, the degree of injury
10 inflicted on the individuals involved, the extent to which the
11 individuals have been put in fear of physical injury to them-
12 selves or other members of the household, and any history of
13 domestic violence between the individuals, if that history can
14 reasonably be ascertained by the officer. In addition, the offi-
15 cer should not arrest an individual if the officer has reasonable
16 cause to believe the individual was acting in lawful self-defense
17 or in lawful defense of another individual

18 (111) A police officer's decision as to whether to arrest an
19 individual should not be based solely on the consent of the
20 victim to any subsequent prosecution or on the relationship of
21 the individuals involved in the incident

22 (1v) A police officer's decision not to arrest an individual
23 should not be based solely upon the absence of visible indica-
24 tions of injury or impairment

25 (c) Procedures for denial of interim bond, as provided in
26 Act No 44 of the Public Acts of 1961, being sections 780 581 to
27 780 588 of the Michigan Compiled Laws

1 (d) Procedures for verifying ~~an injunction~~ A PERSONAL
2 PROTECTION ORDER issued under ~~section 14 of chapter 84 of the~~
3 ~~revised statutes of 1846, being section 552 14 of the Michigan~~
4 ~~Compiled Laws, or~~ section 2950 or 2950a of the revised judica-
5 ture act of 1961, Act No 236 of the Public Acts of 1961, being
6 sections 600 2950 and 600 2950a of the Michigan Compiled Laws

7 (e) Procedures for making an arrest for a violation of a
8 ~~domestic abuse injunction~~ PERSONAL PROTECTION ORDER

9 (f) Procedures for providing or arranging for emergency
10 assistance to victims including, but not limited to, medical
11 care, transportation to a shelter, or remaining at the scene of
12 an alleged incident of domestic violence for a reasonable time
13 until, in the reasonable judgment of the police officer, the
14 likelihood of further imminent violence has been eliminated

15 (g) Procedures for informing the victim of community serv-
16 ices and legal options that are available pursuant to section 15c
17 of chapter IV of this act

18 (h) Procedures for preparing a written report, whether or
19 not an arrest is made

20 (i) Training of peace officers, dispatchers, and
21 supervisors

22 (j) Discipline for noncompliance with the policy

23 (k) Annual evaluations of the policy

24 (4) The local policies developed, adopted, and implemented
25 pursuant to this section shall be in writing and shall be avail-
26 able to the public upon request

1 Section 2 This amendatory act shall take effect on
2 January 1, 1995