



SENATE BILL No. 619

June 15, 1995, Introduced by Senators KOIVISTO, GEAKE, DINGELL, HOFFMAN, GOUGEON, SHUGARS, BYRUM, STILLE, MC MANUS, SCHUETTE, PETERS and EMMONS and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend sections 15b and 15c of Act No. 175 of the Public Acts of 1927, entitled as amended

"The code of criminal procedure,"

as amended by Act No. 418 of the Public Acts of 1994, being sections 764.15b and 764.15c of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 15b and 15c of Act No. 175 of the
2 Public Acts of 1927, as amended by Act No. 418 of the Public Acts
3 of 1994, being sections 764.15b and 764.15c of the Michigan
4 Compiled Laws, are amended to read as follows:

5 Sec. 15b. (1) A peace officer, without a warrant, may
6 arrest and take into custody an individual when the peace officer
7 has reasonable cause to believe all of the following ~~exist~~

8 APPLY:

1 (a) A personal protection order ~~that is~~ of the
2 following: ~~(i) Issued pursuant to~~ HAS BEEN ISSUED UNDER
3 section 2950 OR 2950A of the revised judicature act of 1961, Act
4 No. 236 of the Public Acts of 1961, being ~~section~~ SECTIONS
5 600.2950 AND 600.2950A of the Michigan Compiled Laws. ~~(ii)~~
6 ~~Issued pursuant to section 2950a of the revised judicature act of~~
7 ~~1961, Act No. 236 of the Public Acts of 1961, being~~
8 ~~section 600.2950a of the Michigan Compiled Laws.~~

9 (b) The individual named in the personal protection order is
10 in violation of the order. An individual is in violation of 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 (i) Assaulting, attacking, beating, molesting, or wounding a
15 named individual.

16 (ii) Removing minor children from an individual having legal
17 custody of the children, except as otherwise authorized by a cus-
18 tody or ~~visitation~~ PARENTING TIME order issued by a court of
19 competent jurisdiction.

20 (iii) Entering onto premises.

21 (iv) Engaging in conduct prohibited under section 411h or
22 411i of THE MICHIGAN PENAL CODE, Act No. 328 of the Public Acts
23 of 1931, BEING SECTIONS 750.411H AND 750.411I OF THE MICHIGAN
24 COMPILED LAWS.

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

1 (vi) Beginning April 1, 1996, purchasing or possessing a
2 firearm.

3 (vii) Interfering with petitioner's efforts to remove
4 petitioner's children or personal property from premises that are
5 solely owned or leased by the individual to be restrained or
6 enjoined.

7 (viii) Interfering with petitioner at petitioner's place of
8 employment or engaging in conduct that impairs petitioner's
9 employment relationship or environment.

10 (ix) Any other act or conduct specified by the court in the
11 personal protection order.

12 (c) The personal protection order states on its face that a
13 violation of its terms subjects the individual to immediate
14 arrest and to criminal contempt of court and, if found guilty of
15 criminal contempt, the individual shall be imprisoned for not
16 more than 93 days and may be fined not more than \$500.00.

17 (2) An individual arrested ~~pursuant to~~ UNDER this section
18 shall be brought before the circuit court having jurisdiction in
19 the cause within 24 hours after arrest to answer to a charge of
20 contempt for violation of the personal protection order, at which
21 time the court shall do each of the following:

22 (a) Set a time certain for a hearing on the alleged viola-
23 tion of the personal protection order within 72 hours after
24 arrest, unless extended by the court on the motion of the
25 arrested individual or the prosecuting attorney.

26 (b) Set a reasonable bond pending a hearing of the alleged
27 violation of the personal protection order.

1 (c) Notify the prosecuting attorney of the criminal contempt
2 proceeding.

3 (d) Notify the party who has procured the personal protec-
4 tion order and his or her attorney of record, if any, and direct
5 the party to appear at the hearing and give evidence on the
6 charge of contempt.

7 (3) In circuits where the circuit court judge may not be
8 present or available within 24 hours after arrest, an individual
9 arrested under this section shall be taken before the district
10 court within 24 hours after arrest, at which time the district
11 court shall order the defendant to appear before the circuit
12 court of the county for a hearing on the charge. The district
13 court shall set bond for the individual.

14 (4) The circuit court for each county of this state has
15 jurisdiction to conduct contempt proceedings based upon a viola-
16 tion of a personal protection order described in this section
17 issued by the circuit court in any county of this state. The
18 court of arraignment shall notify the circuit court that issued
19 the personal protection order that the issuing court may request
20 that the defendant be returned to that county for violating the
21 personal protection order. If the circuit court that issued the
22 personal protection order requests that the defendant be returned
23 to that county to stand trial, the requesting county shall bear
24 the cost of transporting the defendant to that county.

25 (5) The prosecuting attorney shall prosecute a criminal con-
26 tempt proceeding initiated by the court under subsection (2),
27 unless the party who procured the personal protection order

1 retains his or her own attorney for the criminal contempt
2 proceeding. If the prosecuting attorney prosecutes the criminal
3 contempt proceeding, the court shall grant an adjournment for not
4 less than 14 days or a lesser period requested if the prosecuting
5 attorney moves for adjournment. If the prosecuting attorney
6 prosecutes the criminal contempt proceeding, the court may dis-
7 miss the proceeding upon motion of the prosecuting attorney for
8 good cause shown.

9 (6) Upon receiving a true copy of a personal protection
10 order issued in compliance with this section, the law enforcement
11 agency shall enter the order into the law enforcement information
12 network as provided by the L.E.I.N. policy council act of 1974,
13 Act No. 163 of the Public Acts of 1974, being sections 28.211 to
14 28.216 of the Michigan Compiled Laws.

15 Sec. 15c. (1) After investigating or intervening in a
16 domestic dispute as described in section 15a or 15b of this chap-
17 ter, a peace officer shall provide the victim with a copy of the
18 notice in this section. The notice shall be written and shall
19 include all of the following:

20 (a) The name and telephone number of the responding police
21 agency.

22 (b) The name and badge number of the responding peace
23 officer.

24 (c) The following statement:

25 "You may obtain a copy of the police incident report for
26 your case by contacting this law enforcement agency at the
27 telephone number provided.

1 The domestic violence shelter program and other resources in
2 your area are (include local information).

3 Information about emergency shelter, counseling services,
4 and the legal rights of domestic violence victims is available
5 from these resources.

6 Your legal rights include the right to go to court and file
7 a petition requesting a personal protection order to protect you
8 or other members of your household from domestic abuse which
9 could include the following:

10 (a) An order restraining or enjoining the abuser from enter-
11 ing onto premises.

12 (b) An order restraining or enjoining the abuser from
13 assaulting, attacking, beating, molesting, or wounding you.

14 (c) An order restraining or enjoining the abuser from
15 threatening to kill or physically injure you or another person.

16 (d) An order restraining or enjoining the abuser from remov-
17 ing minor children from you, except as otherwise authorized by a
18 custody or ~~visitation~~ PARENTING TIME order issued by a court of
19 competent jurisdiction.

20 (e) An order restraining or enjoining the abuser from engag-
21 ing in stalking behavior.

22 (f) Beginning April 1, 1996, an order restraining or enjoin-
23 ing the abuser from purchasing or possessing a firearm.

24 (g) An order restraining or enjoining the abuser from inter-
25 fering with your efforts to remove your children or personal
26 property from premises that are solely owned or leased by the
27 abuser.

1 (h) An order restraining or enjoining the abuser from
2 interfering with you at your place of employment or engaging in
3 conduct that impairs your employment relationship or
4 environment.

5 (i) An order restraining or enjoining the abuser from engag-
6 ing in any other specific act or conduct that imposes upon or
7 interferes with your personal liberty or that causes a reasonable
8 apprehension of violence.".

9 (2) The peace officer shall prepare a domestic violence
10 report after investigating or intervening in a domestic dispute
11 or an incident involving domestic violence as described in sub-
12 section (1). The report shall contain, but is not limited to
13 containing, all of the following:

14 (a) The address, date, and time of the occurrence or inci-
15 dent being investigated.

16 (b) The victim's name, address, home and work telephone num-
17 bers, race, sex, and date of birth.

18 (c) The suspect's name, address, home and work telephone
19 numbers, race, sex, date of birth, and information describing the
20 suspect and whether an injunction or restraining order covering
21 the suspect exists.

22 (d) The name, address, home and work telephone numbers,
23 race, sex, and date of birth of any witness, including a child of
24 the victim or suspect, and the relationship of the witness to the
25 suspect or victim.

26 (e) The following information about the occurrence or
27 incident being investigated:

1 (i) The name of the person that called the law enforcement
2 agency.

3 (ii) The relationship of the victim and suspect.

4 (iii) Whether alcohol or controlled substance use was
5 involved in the occurrence or incident, and by whom IT WAS USED.

6 (iv) A brief narrative describing the dispute or incident
7 and the circumstances that led to it.

8 (v) Whether and how many times the suspect physically
9 assaulted the victim and a description of any weapon or object
10 used.

11 (vi) A description of all injuries sustained by the victim
12 and an explanation of how the injuries were sustained.

13 (vii) If the victim sought medical attention, information
14 concerning where and how the victim was transported, whether the
15 victim was admitted to a hospital or clinic for treatment, and
16 the name and telephone number of the attending physician.

17 (viii) A description of any property damage reported by the
18 victim or evident at the scene.

19 (f) A description of any previous domestic disputes or inci-
20 dents involving domestic violence between the victim and the
21 suspect.

22 (g) The date and time of the report and the name, badge
23 number, and signature of the peace officer completing the
24 report.

25 (3) The law enforcement agency shall retain the completed
26 domestic violence report in its files. The law enforcement
27 agency shall also file a copy of the completed domestic violence

1 report with the prosecuting attorney within 48 hours after the
2 dispute or incident is reported to the law enforcement agency.