



# SENATE BILL No. 1184

September 25, 1996, Introduced by Senators BOUCHARD, CISKY, ROGERS, HOFFMAN and SHUGARS and referred to the Committee on Judiciary.

A bill to amend section 2950 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," as amended by Act No. 10 of the Public Acts of 1996, being section 600.2950 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Section 2950 of Act No. 236 of the Public Acts  
2 of 1961, as amended by Act No. 10 of the Public Acts of 1996,  
3 being section 600.2950 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5 Sec. 2950. (1) By commencing an independent action to  
6 obtain relief under this section, by joining a claim to an  
7 action, or by filing a motion in an action in which the  
8 petitioner and the individual to be restrained or enjoined are  
9 parties, an individual may petition the circuit court to enter a

1 personal protection order to restrain or enjoin a spouse, a  
2 former spouse, an individual with whom he or she has had a child  
3 in common, an individual with whom he or she has or has had a  
4 dating relationship, or an individual residing or having resided  
5 in the same household as the victim from doing 1 or more of the  
6 following:

7 (a) Entering onto premises.

8 (b) Assaulting, attacking, beating, molesting, or wounding a  
9 named individual.

10 (c) Threatening to kill or physically injure a named  
11 individual.

12 (d) Removing minor children from the individual having legal  
13 custody of the children, except as otherwise authorized by a cus-  
14 tody or parenting time order issued by a court of competent  
15 jurisdiction.

16 (e) Beginning April 1, 1996, purchasing or possessing a  
17 firearm.

18 (f) Interfering with petitioner's efforts to remove  
19 petitioner's children or personal property from premises that are  
20 solely owned or leased by the individual to be restrained or  
21 enjoined.

22 (g) Interfering with petitioner at petitioner's place of  
23 employment or engaging in conduct that impairs petitioner's  
24 employment relationship or environment.

25 (h) Any other specific act or conduct that imposes upon or  
26 interferes with personal liberty or that causes a reasonable  
27 apprehension of violence.

1 (2) A petitioner may omit his or her address of residence  
2 from documents filed with the court under this section. If a  
3 petitioner omits his or her address of residence, the petitioner  
4 shall provide the court with a mailing address.

5 (3) The court shall issue a personal protection order under  
6 this section if the court determines that there is reasonable  
7 cause to believe that the individual to be restrained or enjoined  
8 may commit 1 or more of the acts listed in subsection (1). In  
9 determining whether reasonable cause exists, the court shall con-  
10 sider all of the following:

11 (a) Testimony, documents, or other evidence offered in sup-  
12 port of the request for a personal protection order.

13 (b) Whether the individual to be restrained or enjoined has  
14 previously committed or threatened to commit 1 or more of the  
15 acts listed in subsection (1).

16 (4) A court shall not issue a personal protection order that  
17 restrains or enjoins conduct described in subsection (1)(a) if  
18 all of the following apply:

19 (a) The individual to be restrained or enjoined is not the  
20 spouse of the moving party.

21 (b) The individual to be restrained or enjoined has a prop-  
22 erty interest in the premises.

23 (c) The moving party has no property interest in the  
24 premises.

25 (5) A court shall not refuse to issue a personal protection  
26 order solely due to the absence of any of the following:

1 (a) A police report.

2 (b) A medical report.

3 (c) A report or finding of an administrative agency.

4 (d) Physical signs of abuse or violence.

5 (6) If the court refuses to grant a personal protection  
6 order, it shall state immediately in writing the specific reasons  
7 it refused to issue a personal protection order. If a hearing is  
8 held, the court shall also immediately state on the record the  
9 specific reasons it refuses to issue a personal protection  
10 order.

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

15 (8) A personal protection order is effective when signed by  
16 a judge.

17 (9) The court shall designate the law enforcement agency  
18 that is responsible for entering the personal protection order  
19 into the law enforcement information network as provided by the  
20 L.E.I.N. policy council act of 1974, Act No. 163 of the Public  
21 Acts of 1974, being sections 28.211 to 28.216 of the Michigan  
22 Compiled Laws.

23 (10) A personal protection order shall include all of the  
24 following:

25 (a) A statement that the personal protection order has been  
26 entered to restrain or enjoin conduct listed in the order and  
27 that violation of the personal protection order will subject the

1 individual restrained or enjoined to immediate arrest and the  
2 civil and criminal contempt powers of the court, and that if he  
3 or she is found guilty of criminal contempt, he or she shall be  
4 imprisoned for not more than 93 days and may be fined not more  
5 than \$500.00.

6 (b) A statement that the personal protection order is effec-  
7 tive when signed by a judge and is immediately enforceable.

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

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

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

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

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

23 (11) An ex parte personal protection order shall be issued  
24 and effective without written or oral notice to the individual  
25 restrained or enjoined or his or her attorney if it clearly  
26 appears from specific facts shown by verified complaint, written  
27 motion, or affidavit that immediate and irreparable injury, loss,

1 or damage will result from the delay required to effectuate  
2 notice or that the notice will itself precipitate adverse action  
3 before a personal protection order can be issued.

4 (12) A personal protection order issued under  
5 subsection (11) is valid for not less than 182 days. The indi-  
6 vidual restrained or enjoined may file a motion to modify or  
7 rescind the personal protection order and request a hearing under  
8 the Michigan court rules. The motion to modify or rescind the  
9 personal protection order shall be filed within 14 days after the  
10 order is served or after the individual restrained or enjoined  
11 has received actual notice of the personal protection order  
12 unless good cause is shown for filing the motion after the 14  
13 days have elapsed.

14 (13) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,  
15 THE court shall schedule a hearing on the motion to modify or  
16 rescind the ex parte personal protection order within 14 days  
17 after the filing of the motion to modify or rescind. IF THE  
18 RESPONDENT IS A LAW ENFORCEMENT OFFICER AND THE PERSONAL PROTEC-  
19 TION ORDER PROHIBITS HIM OR HER FROM PURCHASING OR POSSESSING A  
20 FIREARM, THE COURT SHALL SCHEDULE A HEARING ON THE MOTION TO  
21 MODIFY OR RESCIND THE EX PARTE PERSONAL PROTECTION ORDER WITHIN 5  
22 DAYS AFTER THE FILING OF THE MOTION TO MODIFY OR RESCIND.

23 (14) The clerk of the court that issues a personal protec-  
24 tion order shall do both of the following immediately upon issu-  
25 ance and without requiring a proof of service on the individual  
26 restrained or enjoined:

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

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

6 (15) The clerk of the court shall inform the petitioner that  
7 he or she may take a true copy of the personal protection order  
8 to the law enforcement agency designated by the court in  
9 subsection (9) to be immediately entered into the law enforcement  
10 information network.

11 (16) The law enforcement agency that receives a true copy of  
12 the personal protection order under subsection (14) or (15) shall  
13 immediately and without requiring proof of service enter the per-  
14 sonal protection order into the law enforcement information net-  
15 work as provided by Act No. 163 of the Public Acts of 1974.

16 (17) A personal protection order issued under this section  
17 shall be served personally or by registered or certified mail,  
18 return receipt requested, delivery restricted to the addressee at  
19 the last known address or addresses of the individual restrained  
20 or enjoined or by any other manner provided in the Michigan court  
21 rules. A proof of service shall be filed with the clerk of the  
22 court issuing the personal protection order. This subsection  
23 does not prohibit the immediate effectiveness of a personal pro-  
24 tection order or its immediate enforcement under subsections (20)  
25 and (21).

1 (18) The clerk of the court shall immediately notify the law  
2 enforcement agency that received the personal protection order  
3 under subsection (14) or (15) if either of the following occurs:

4 (a) The clerk of the court has received proof that the indi-  
5 vidual restrained or enjoined has been served.

6 (b) The personal protection order is rescinded, modified, or  
7 extended by court order.

8 (19) The law enforcement agency that receives information  
9 under subsection (18) shall enter the information or cause the  
10 information to be entered into the law enforcement information  
11 network as provided by Act No. 163 of the Public Acts of 1974.

12 (20) Subject to subsection (21), a personal protection order  
13 is immediately enforceable anywhere in this state by any law  
14 enforcement agency that has received a true copy of the order, is  
15 shown a copy of it, or has verified its existence on the law  
16 enforcement information network as provided by Act No. 163 of the  
17 Public Acts of 1974.

18 (21) If the individual restrained or enjoined has not been  
19 served, the law enforcement agency or officer responding to a  
20 domestic violence call alleging a violation of a personal protec-  
21 tion order shall serve the individual restrained or enjoined with  
22 a true copy of the order or advise the individual restrained or  
23 enjoined of the existence of the personal protection order, the  
24 specific conduct enjoined, the penalties for violating the order,  
25 and where the individual restrained or enjoined may obtain a copy  
26 of the order. The law enforcement officer shall enforce the  
27 personal protection order and immediately enter or cause to be

1 entered into the law enforcement information network that the  
2 individual restrained or enjoined has actual notice of the per-  
3 sonal protection order. If the individual restrained or enjoined  
4 has not received notice of the personal protection order, the  
5 individual restrained or enjoined shall be given an opportunity  
6 to comply with the personal protection order before the law  
7 enforcement officer makes a custodial arrest for violation of the  
8 personal protection order. The failure to immediately comply  
9 with the personal protection order shall be grounds for an imme-  
10 diate custodial arrest. This subsection does not preclude an  
11 arrest under section 15 or 15a of chapter IV of the code of crim-  
12 inal procedure, Act No. 175 of the Public Acts of 1927, being  
13 sections 764.15 and 764.15a of the Michigan Compiled Laws.

14 (22) An individual who refuses or fails to comply with a  
15 personal protection order is subject to the criminal contempt  
16 powers of the court and, if found guilty, shall be imprisoned for  
17 not more than 93 days and may be fined not more than \$500.00.  
18 The criminal penalty provided for under this section may be  
19 imposed in addition to a penalty that may be imposed for another  
20 criminal offense arising from the same conduct.

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

25 (24) A personal protection order issued under this section  
26 is also enforceable under section 15b of chapter IV of Act

1 No. 175 of the Public Acts of 1927, being section 764.15b of the  
2 Michigan Compiled Laws.

3 (25) A personal protection order issued under this section  
4 is also enforceable under chapter 17.

5 (26) As used in this act:

6 (a) "Dating relationship" means frequent, intimate associa-  
7 tions primarily characterized by the expectation of affectional  
8 involvement. This term does not include a casual relationship or  
9 an ordinary fraternization between 2 individuals in a business or  
10 social context.

11 (b) "Personal protection order" means an injunctive order  
12 issued by the circuit court restraining or enjoining activity and  
13 individuals listed in subsection (1).