

HB5567, As Passed House, December 10, 1998

- 7 ~~No. 236 of the Public Acts of 1961, being sections 600.2950
and~~
- 8 ~~600.2950a of the Michigan Compiled Laws 1961 PA 236, MCL~~
- 9 600.2950 AND 600.2950A.

02210'97 b * (S-1)

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2

1 (b) The individual named in the personal protection
order is

2 in violation of the order. An individual is in violation of
the

3 order if that individual commits 1 or more of the following
acts

4 the order specifically restrains or enjoins the individual
from

5 committing:

6 (i) Assaulting, attacking, beating, molesting, or
wounding a

7 named individual.

8 (ii) Removing minor children from an individual having
legal

9 custody of the children, except as otherwise authorized by a
cus-

10 tody or parenting time order issued by a court of competent

11 jurisdiction.

12 (iii) Entering onto premises.

13 (iv) Engaging in conduct prohibited under section 411h
or

14 411i of the Michigan penal code, ~~Act No. 328 of the Public
Acts~~

15 ~~of 1931, being sections 750.411h and 750.411i of the
Michigan~~

16 ~~Compiled Laws~~ 1931 PA 328, MCL 750.411H AND 750.411I.

17 (v) Threatening to kill or physically injure a named

18 individual.

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19 (vi) Beginning April 1, 1996, purchasing or possessing
a

20 firearm.

21 (vii) Interfering with petitioner's efforts to remove

22 petitioner's children or personal property from premises
that are

23 solely owned or leased by the individual to be restrained or

24 enjoined.

25 (viii) Interfering with petitioner at petitioner's
place of

26 employment OR EDUCATION or engaging in conduct that impairs

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1 petitioner's employment OR EDUCATIONAL relationship or
2 environment.

3 (ix) Any other act or conduct specified by the court in
4 the
5 personal protection order.

6 (c) The personal protection order states on its face
7 that a
8 violation of its terms subjects the individual to immediate
9 arrest and EITHER OF THE FOLLOWING:

10 (i) IF THE INDIVIDUAL RESTRAINED OR ENJOINED IS 17
11 YEARS OF
12 AGE OR OLDER, to criminal contempt of court and, if found
13 guilty
14 of criminal contempt, ~~the individual shall be imprisoned~~
15 TO
16 IMPRISONMENT for not more than 93 days and ~~may be fined~~ TO
17 A
18 FINE OF not more than \$500.00.

19 (ii) IF THE INDIVIDUAL RESTRAINED OR ENJOINED IS [LESS
20 THAN
21 17 YEARS OF AGE], TO THE DISPOSITIONAL ALTERNATIVES LISTED
22 IN SECTION
23 18 OF CHAPTER XIIIA OF THE PROBATE CODE, 1939 PA 288, MCL
24 712A.18.

25 (2) An individual arrested under this section shall be
26 brought before the FAMILY DIVISION OF THE circuit court
27 having
28 jurisdiction in the cause within 24 hours after arrest to

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answer

- 19 to a charge of contempt for violation of the personal
protection
- 20 order, at which time the court shall do each of the
following:
- 21 (a) Set a time certain for a hearing on the alleged
viola-
- 22 tion of the personal protection order within 72 hours after
- 23 arrest, unless extended by the court on the motion of the
- 24 arrested individual or the prosecuting attorney.
- 25 (b) Set a reasonable bond pending a hearing of the
alleged
- 26 violation of the personal protection order.

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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~~ IN 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

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- 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 FAMILY DIVISION OF CIRCUIT COURT HAS
JURISDICTION TO
- 26 CONDUCT CONTEMPT PROCEEDINGS BASED UPON A VIOLATION OF A
PERSONAL
- 27 PROTECTION ORDER ISSUED PURSUANT TO SECTION 2(H) OF CHAPTER
XIIA

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- 1 OF 1939 PA 288, MCL 712A.2, BY THE FAMILY DIVISION OF
CIRCUIT
- 2 COURT IN ANY COUNTY OF THIS STATE. THE FAMILY DIVISION OF
CIR-
- 3 CUIT COURT THAT CONDUCTS THE PRELIMINARY HEARING SHALL
NOTIFY THE
- 4 FAMILY DIVISION OF CIRCUIT COURT THAT ISSUED THE PERSONAL
PROTEC-
- 5 TION ORDER THAT THE ISSUING COURT MAY REQUEST THAT THE
RESPONDENT
- 6 BE RETURNED TO THAT COUNTY FOR VIOLATING THE PERSONAL
PROTECTION
- 7 ORDER. IF THE FAMILY DIVISION OF CIRCUIT COURT THAT ISSUED
THE
- 8 PERSONAL PROTECTION ORDER REQUESTS THAT THE RESPONDENT BE
- 9 RETURNED TO THAT COUNTY TO STAND TRIAL, THE REQUESTING
COUNTY
- 10 SHALL BEAR THE COST OF TRANSPORTING THE DEFENDANT TO THAT
COUNTY.
- 11 (6) ~~(5)~~ The prosecuting attorney shall prosecute a
crimi-
- 12 nal contempt proceeding initiated by the court under
subsection
- 13 (2), unless the party who procured the personal protection
order
- 14 retains his or her own attorney for the criminal contempt
- 15 proceeding. If the prosecuting attorney prosecutes the
criminal
- 16 contempt proceeding, the court shall grant an adjournment
for not

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17 less than 14 days or a lesser period requested if the
prosecuting

18 attorney moves for adjournment. If the prosecuting attorney

19 prosecutes the criminal contempt proceeding, the court may dis-

20 miss the proceeding upon motion of the prosecuting attorney
for

21 good cause shown.

22 (7) ~~(6)~~ Upon receiving a true copy of a personal
protec-

23 tion order issued in compliance with this section, the law

24 enforcement agency shall enter the order into the law
enforcement

25 information network as provided by the L.E.I.N. policy
council

26 act of 1974, ~~Act No. 163 of the Public Acts of 1974, being~~

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1 ~~sections 28.211 to 28.216 of the Michigan Compiled Laws~~
1974 PA

2 163, MCL 28.211 TO 28.216.

3 Sec. 15c. (1) After investigating or intervening in a
4 domestic dispute as described in section 15a or 15b of this
chap-

5 ter, a peace officer shall provide the victim with a copy of
the

6 notice in this section. The notice shall be written and
shall

7 include all of the following:

8 (a) The name and telephone number of the responding
police

9 agency.

10 (b) The name and badge number of the responding peace
11 officer.

12 (c) The following statement:

13 "You may obtain a copy of the police incident report
for

14 your case by contacting this law enforcement agency at the
tele-

15 phone number provided.

16 The domestic violence shelter program and other
resources in

17 your area are (include local information).

18 Information about emergency shelter, counseling
services,

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19 and the legal rights of domestic violence victims is
available

20 from these resources.

21 Your legal rights include the right to go to court and
file

22 a petition requesting a personal protection order to protect
you

23 or other members of your household from domestic abuse which

24 could include the following:

25 (a) An order restraining or enjoining the abuser from
enter-

26 ing onto premises.

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

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

6 (d) An order restraining or enjoining the abuser from
7 remov-
8 ing minor children from you, except as otherwise authorized
9 by a
10 custody or parenting time order issued by a court of
11 competent
12 jurisdiction.

13 (e) An order restraining or enjoining the abuser from
14 engag-
15 ing in stalking behavior.

16 (f) ~~Beginning April 1, 1996, an~~ AN order restraining
17 or
18 enjoining the abuser from purchasing or possessing a
19 firearm.

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

26 (h) An order restraining or enjoining the abuser from
27 inter-
28 fering with you at your place of employment OR EDUCATION or

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- 19 engaging in conduct that impairs your employment
relationship or
- 20 YOUR EMPLOYMENT OR EDUCATIONAL environment.
- 21 (i) An order restraining or enjoining the abuser from
engag-
- 22 ing in any other specific act or conduct that imposes upon
or
- 23 interferes with your personal liberty or that causes a
reasonable
- 24 apprehension of violence.".
- 25 (2) The peace officer shall prepare a domestic violence
26 report after investigating or intervening in a domestic
dispute
- 27 or an incident involving domestic violence as described in

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1 subsection (1). The report shall contain, but is not
limited to

2 containing, all of the following:

3 (a) The address, date, and time of the occurrence or
inci-

4 dent being investigated.

5 (b) The victim's name, address, home and work telephone
num-

6 bers, race, sex, and date of birth.

7 (c) The suspect's name, address, home and work
telephone

8 numbers, race, sex, date of birth, and information
describing the

9 suspect and whether an injunction or restraining order
covering

10 the suspect exists.

11 (d) The name, address, home and work telephone numbers,
12 race, sex, and date of birth of any witness, including a
child of

13 the victim or suspect, and the relationship of the witness
to the

14 suspect or victim.

15 (e) The following information about the occurrence or
inci-

16 dent being investigated:

17 (i) The name of the person that called the law
enforcement

18 agency.

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- 19 (ii) The relationship of the victim and suspect.
- 20 (iii) Whether alcohol or controlled substance use was
21 involved in the occurrence or incident, and by whom it was
 used.
- 22 (iv) A brief narrative describing the dispute or
 incident
23 and the circumstances that led to it.
- 24 (v) Whether and how many times the suspect physically
25 assaulted the victim and a description of any weapon or
 object
26 used.

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1 (vi) A description of all injuries sustained by the
victim

2 and an explanation of how the injuries were sustained.

3 (vii) If the victim sought medical attention,
information

4 concerning where and how the victim was transported, whether
the

5 victim was admitted to a hospital or clinic for treatment,
and

6 the name and telephone number of the attending physician.

7 (viii) A description of any property damage reported by
the

8 victim or evident at the scene.

9 (f) A description of any previous domestic disputes or inci-

10 dents involving domestic violence between the victim and the

11 suspect.

12 (g) The date and time of the report and the name, badge

13 number, and signature of the peace officer completing the

14 report.

15 (3) The law enforcement agency shall retain the
completed

16 domestic violence report in its files. The law enforcement

17 agency shall also file a copy of the completed domestic
violence

18 report with the prosecuting attorney within 48 hours after
the

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19 dispute or incident is reported to the law enforcement
agency.

20 Enacting section 1. This amendatory act takes effect
21 [March] 1, 1999.

22 Enacting section 2. This amendatory act does not take
23 effect unless all of the following bills of the 89th
Legislature

24 are enacted into law:

25 (a) Senate Bill No. 866.

26 (b) Senate Bill No. 874.

27 (C) House Bill No. 5564.

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