

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5567

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 15b and 15c of chapter IV (MCL 764.15b and
764.15c), as amended by 1996 PA 15.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER IV

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 apply:

5 (a) A personal protection order has been issued under
6 section 2950 or 2950a of the revised judicature act of 1961, ~~Act~~
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.

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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.

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 the
4 personal protection order.

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

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

13 (ii) IF THE INDIVIDUAL RESTRAINED OR ENJOINED IS 17 YEARS OF
14 AGE OR OLDER, TO THE DISPOSITIONAL ALTERNATIVES LISTED IN SECTION
15 18 OF CHAPTER XIIIA OF THE PROBATE CODE, 1939 PA 288, MCL 712A.18.

16 (2) An individual arrested under this section shall be
17 brought before the FAMILY DIVISION OF THE circuit court having
18 jurisdiction in the cause within 24 hours after arrest to 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
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
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,
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 person.

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

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

11 (f) ~~Beginning April 1, 1996, an~~ AN order restraining or
12 enjoining the abuser from purchasing or possessing a firearm.

13 (g) An order restraining or enjoining the abuser from inter-
14 fering with your efforts to remove your children or personal
15 property from premises that are solely owned or leased by the
16 abuser.

17 (h) An order restraining or enjoining the abuser from inter-
18 fering with you at your place of employment OR EDUCATION or
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.

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

20 Enacting section 1. This amendatory act takes effect
21 January 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.

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(c) House Bill No. 5564.