

A SUMMARY OF HOUSE BILL 4708 AS INTRODUCED 5-19-99

Under the Revised Judicature Act, a person may petition the circuit court for a personal protection order that enjoins or restrains another person from engaging in certain conduct. One section of the act provides for personal protection orders that prohibit someone from committing stalking or aggravated stalking, while another section provides for domestic violence personal protection orders. Domestic violence personal protection orders may enjoin or restrain a spouse, former spouse, a person with whom the petitioner has a child in common, a person with whom the petitioner has or has had a dating relationship, or a person who resides (or has resided) in the same household as the petitioner, from entering the home and harming or threatening the petitioner and his or her children.

The bill would amend the act to revise procedures pertaining to the issuance and enforcement of personal protection orders in the following ways:

1. A party filing a motion to modify or terminate a personal protection order would not be required to pay a motion fee.
2. Under the provisions governing domestic violence personal protection orders, the bill would add to the types of conduct that could be enjoined or restrained. It would allow a filing party to petition the court to restrain a person from:

--having access to information in records concerning a minor child of the parties (e.g., school records) that would reveal the petitioner's address, telephone number, or employment address;

--engaging in conduct that constitutes stalking under the penal code; and

--interfering with the petitioner's education (as well as employment, as under current law).

3. When issuing a domestic violence or stalking personal protection order, the clerk of the court is required to immediately file a true copy of the order with the local law enforcement agency and provide the petitioner with no less than two copies of the order. The bill would also require the clerk to notify the concealed weapon licensing board in the respondent's county of the existence and contents of the order if the order prohibited the respondent from purchasing or possessing a firearm. In addition, if the respondent had been identified in the pleadings as a law enforcement officer, the clerk would be required to notify the respondent's employer, if known, of the existence of the order.

4. A PPO can be served either personally or by registered or certified mail, or a police officer can serve a PPO when responding to a call. If the person being restrained or enjoined had not been served with the order, the bill would allow a police officer or a clerk of the court to, at any time, serve a copy of the order on the respondent or orally advise the respondent about the existence of the order, the conduct enjoined, the penalties for violation, and where the respondent could obtain a copy of the order. Proof of such oral notice would have to be filed with the clerk of the court that had issued the order.
5. Under the act, a person who refuses or fails to comply with a personal protection order is subject to the criminal contempt powers of the court, and, if found guilty, is to be imprisoned for up to 93 days, and may be fined up to \$500. The bill would allow a violation to be punished by probation for up to two years, rather than imprisonment.
6. With regard to a stalking personal protection order, the bill would specify that an order could not be issued unless the petition alleges facts that constitute stalking under the penal code.

The bill would take effect September 1, 1999.

MCL 600.2529 et al.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.