

Act No. 209
Public Acts of 2001
Approved by the Governor
December 27, 2001
Filed with the Secretary of State
December 27, 2001
EFFECTIVE DATE: April 1, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Senators Johnson, Peters, Young, Byrum, North, Stille, Bennett, McCotter, Koivisto, Steil, Sikkema, Schuette, Van Regenmorter Scott, DeBeaussiaert, McManus, Gougeon, Goschka, Bullard, Dunaskiss, Miller, Hart, Murphy, Leland, Schwarz and Smith

ENROLLED SENATE BILL No. 753

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 15b of chapter IV (MCL 764.15b), as amended by 1999 PA 269.

The People of the State of Michigan enact:

CHAPTER IV

Sec. 15b. (1) A peace officer, without a warrant, may arrest and take into custody an individual when the peace officer has or receives positive information that another peace officer has reasonable cause to believe all of the following apply:

(a) A personal protection order has been issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or is a valid foreign protection order.

(b) The individual named in the personal protection order is violating or has violated the order. An individual is violating or has violated the order if that individual commits 1 or more of the following acts the order specifically restrains or enjoins the individual from committing:

(i) Assaulting, attacking, beating, molesting, or wounding a named individual.

(ii) Removing minor children from an individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.

(iii) Entering onto premises.

(iv) Engaging in conduct prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

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

(vi) Purchasing or possessing a firearm.

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

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

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

(c) If the personal protection order was issued under section 2950 or 2950a, the personal protection order states on its face that a violation of its terms subjects the individual to immediate arrest and either of the following:

(i) If the individual restrained or enjoined is 17 years of age or older, to criminal contempt of court and, if found guilty of criminal contempt, to imprisonment for not more than 93 days and to a fine of not more than \$500.00.

(ii) If the individual restrained or enjoined is less than 17 years of age, to the dispositional alternatives listed in section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.

(2) An individual arrested under this section shall be brought before the family division of the circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violating the personal protection order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the personal protection order. The hearing shall be held within 72 hours after arrest, unless extended by the court on the motion of the arrested individual or the prosecuting attorney.

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

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

(d) Notify the party who procured the personal protection order and his or her attorney of record, if any, and direct the party to appear at the hearing and give evidence on the charge of contempt.

(3) In circuits in which the circuit court judge may not be present or available within 24 hours after arrest, an individual arrested under this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall set bond and order the defendant to appear before the family division of circuit court in the county for a hearing on the charge. If the district court will not be open within 24 hours after arrest, a judge or district court magistrate shall set bond and order the defendant to appear before the circuit court in the county for a hearing on the charge.

(4) If a criminal contempt proceeding for violation of a personal protection order is not initiated by an arrest under this section but is initiated as a result of a show cause order or other process or proceedings, the court shall do all of the following:

(a) Notify the party who procured the personal protection order and his or her attorney of record, if any, and direct the party to appear at the hearing and give evidence on the contempt charge.

(b) Notify the prosecuting attorney of the criminal contempt proceeding.

(5) The family division of circuit court in each county of this state has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order described in this section issued by the circuit court in any county of this state or upon a violation of a valid foreign protection order. The court of arraignment shall notify the court that issued the personal protection order or foreign protection order that the issuing court may request that the defendant be returned to that court for violating the personal protection order or foreign protection order. If the court that issued the personal protection order or foreign protection order requests that the defendant be returned to that court to stand trial, the county of the requesting court shall bear the cost of transporting the defendant to that county.

(6) The family division of circuit court has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order issued pursuant to section 2(h) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, by the family division of circuit court in any county of this state or a valid foreign protection order issued against a respondent who is less than 18 years of age at the time of the alleged violation of the foreign protection order in this state. The family division of circuit court that conducts the preliminary inquiry shall notify the court that issued the personal protection order or foreign protection order that the issuing court may request that the respondent be returned to that county for violating the personal protection order or foreign protection order. If the court that issued the personal protection order or foreign protection order requests that the respondent be returned to that court to stand trial, the county of the requesting court shall bear the cost of transporting the respondent to that county.

(7) The prosecuting attorney shall prosecute a criminal contempt proceeding initiated by the court under subsection (2) or initiated by a show cause order under subsection (4), unless the party who procured the personal protection order retains his or her own attorney for the criminal contempt proceeding or the prosecuting attorney determines that the personal protection order was not violated or that it would not be in the interest of justice to prosecute the criminal contempt violation. If the prosecuting attorney prosecutes the criminal contempt proceeding, the court shall grant an adjournment for not less than 14 days or a lesser period requested if the prosecuting attorney moves for adjournment. If the prosecuting attorney prosecutes the criminal contempt proceeding, the court may dismiss the proceeding upon motion of the prosecuting attorney for good cause shown.

(8) A court shall not rescind a personal protection order, dismiss a contempt proceeding based on a personal protection order, or impose any other sanction for a failure to comply with a time limit prescribed in this section.

(9) As used in this section:

(a) "Foreign protection order" means that term as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.

(b) "Personal protection order" means a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, and, unless the context indicates otherwise, includes a valid foreign protection order.

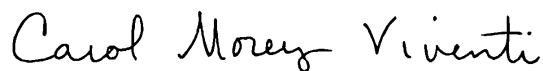
(c) "Valid foreign protection order" means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

Enacting section 1. This amendatory act takes effect April 1, 2002.

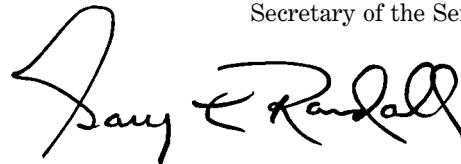
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

- (a) Senate Bill No. 729.
- (b) Senate Bill No. 754.
- (c) Senate Bill No. 757.
- (d) Senate Bill No. 758.
- (e) House Bill No. 5275.
- (f) House Bill No. 5299.
- (g) House Bill No. 5300.
- (h) House Bill No. 5303.
- (i) House Bill No. 5304.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved _____

Governor.