

SCHOOL ZONE PERSONAL PROTECTION ORDERS

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House Bill 6403
Sponsor: Rep. Tom Casperson

House Bill 6405
Sponsor: Rep. Rick Baxter

House Bill 6404
Sponsor: Rep. Tim Moore

House Bill 6406
Sponsor: Rep. David Farhat

Committee: Judiciary

Complete to 9-19-06

A SUMMARY OF HOUSE BILLS 6403-6406 AS INTRODUCED 9-5-06

The bills would allow a school to obtain a personal protection order (PPO) against an individual alleged to have engaged in conduct that constituted an offense for which registration on the Sex Offenders Registry is required, prohibit certain conduct, require fines and jail time for criminal contempt for violating a PPO of a school zone, and include a school zone PPO in the definition of "personal protection order" contained in other acts. House Bills 6404-6406 are tie-barred to House Bill 6403, and House Bill 6403 is tie-barred to each of the other bills.

House Bill 6403 would add a new section to the Revised Judicature Act (MCL 600.2976) to allow a school, after being approved by its governing body, to commence an action in circuit court requesting a personal protection order (PPO) to restrain or enjoin an individual from one or all of the following:

- Entering on or coming within a stated distance from school property.
- Coming within a stated distance from a route traveled by one or more students of that school in going to or from school.
- Coming within a stated distance from a school bus stop.
- Talking or otherwise communicating, or attempted to do the same, with a student of the school while he or she is going to or from school.

The PPO would have to be issued if the complaint alleged facts that showed the respondent (person subject to the PPO) has, on or near school property or in the proximity of a student of that school while going to or from school, committed an act that constituted a listed offense as defined in the Sex Offenders Registration Act (MCL 28.722). A request could not be denied solely because the respondent had not been charged with or convicted of an offense for the conduct alleged in the complaint or because there was no police report related to the alleged conduct. The PPO would be effective and enforceable immediately upon being signed by a judge and would be enforceable by any law enforcement agency that had received a true copy of the order, was shown a copy of the order, or had verified its existence on the Law Enforcement Information Network (LEIN).

Penalties. Failure to comply with the PPO would be grounds for an immediate custodial arrest. An individual 17 years of age or older would be subject to the criminal contempt powers of the court and, if found guilty, would have to be imprisoned for not more than 93 days and could be fined not more than \$500. An individual less than 17 years of age would be subject to the dispositional alternatives listed in Section 18 of Chapter XIIA of the Probate Code. In addition, a criminal penalty could be imposed in addition to any penalty that may be imposed for another criminal offense arising from the same conduct.

A person who knowingly and intentionally made a false statement to a court in support of his or her petition for a PPO would also be subject to the contempt powers of the court.

Miscellaneous provisions. Among numerous provisions, the bill would add the following:

- Define "school" and "school property" as defined in the Sex Offenders Registration Act.
- Prohibit a court from issuing a PPO under the bill if the respondent was less than 10 years old. Issuance of PPO for a respondent under 18 years of age would be subject to Chapter XIIA of the Probate Code.
- Allow a court to modify the order as necessary to balance the rights of the respondent and the safety and welfare of the school's student under specify criteria.
- Require the court to state in writing the reasons for a denial of PPO request.
- Require the court to designate a law enforcement agency to be responsible for entering the PPO into LEIN.
- Require specific information to be included on a PPO, including the conduct enjoined.
- Require a PPO to be served personally, by registered or certified mail, or by any other method allowed by the Michigan Court Rules. A law enforcement officer or court clerk who knew about the PPO could, at any time, serve the respondent with a true copy of the order or advise the respondent about its existence, the conduct enjoined, the penalties for violating the order, and where he or she can obtain a copy of the order. A law enforcement agency or officer responding to a call alleging a violation of the PPO would have to, among other things, serve the respondent with a true copy of the order or advise him or her of its existence, and so forth, if the respondent had not been served.
- Allow, under certain conditions, a PPO to be issued without written or oral notice to the respondent.
- Allow a respondent to file a motion to modify or rescind a PPO and request a hearing under the Michigan Court Rules.
- Assign certain duties to a clerk of the court regarding filing true copies and making specified notifications to the petitioner and law enforcement agencies.
- Specify that a PPO issued under the bill would also be enforceable under Chapter XIIA of the Probate Code, Section 15b of Chapter IV of the Code of Criminal Procedure, and under Chapter 17 of the RJA.

House Bill 6404 would amend Public Act 59 of 1935 (MCL 28.6), which governs the Michigan State Police, to grant authority to the commissioner and all officers of the department to serve a personal protection order or arrest an individual who is violating or has violated a PPO issued under House Bill 6403.

House Bill 6405 would amend the Probate Code (MCL 714A.1 et al.) to do the following:

- Include a PPO issued under provisions of House Bill 6403 in the definition of "personal protection order."
- Include a proceeding under the provisions of House Bill 6403 in the list of what a court has authority and jurisdiction over.
- Allow specified law enforcement officers and court officers to take into custody a juvenile who violated a PPO issued under the provisions of House Bill 6403.
- Delete an obsolete provision pertaining to foster care home services.

House Bill 6406 would amend the Code of Criminal Procedure (MCL 764.15b) to include a PPO issued under the provisions of House Bill 6403 in the definition of "personal protection order".

FISCAL IMPACT:

House Bill 6403 would have no fiscal impact on the Department of Corrections and an indeterminate fiscal impact on local corrections systems. To the extent that individuals were jailed for criminal contempt of court, the bill could increase local jail costs; those costs vary by county. Any fiscal impact on the judicial system from the bill's provisions would depend upon the bill's impact on the number of additional personal protection orders requested. The bill stipulates that a fine of up to \$500 may be assessed for contempt of court charges for violating personal protection orders. Contempt of court fines go to local libraries which could benefit from any increase in revenues arising from the collection of additional fines.

House Bill 6404 would have an indeterminate fiscal impact on state and local governments.

House Bill 6405 may have an indeterminate fiscal impact on state and local governments. State and local police agencies may incur additional costs from enforcing these personal protection orders. Any fiscal impact on the judicial system from the bill's provisions would depend upon the bill's impact on the number of additional personal protection orders issued against persons less than 17 years of age, the number of contempt of court charges charged for violation of those personal protection orders, and the dispositional alternatives ordered by the judge in those instances.

House Bill 6406 may have an indeterminate fiscal impact on state and local governments. State and local police agencies may incur additional costs from enforcing these personal protection orders.

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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.