

# HOUSE BILL No. 6403

September 5, 2006, Introduced by Reps. Casperson, Schuitmaker, Baxter, Emmons, Moore, Shaffer, Elsenheimer and Farhat and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
(MCL 600.101 to 600.9947) by adding section 2976.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 2976. (1) EXCEPT AS PROVIDED IN SUBSECTION (23), A  
2        SCHOOL, AFTER APPROVAL BY THE GOVERNING BODY OF THE SCHOOL, MAY  
3        COMMENCE AN ACTION IN THE CIRCUIT COURT REQUESTING THE ISSUANCE OF  
4        A PERSONAL PROTECTION ORDER TO RESTRAIN OR ENJOIN AN INDIVIDUAL  
5        FROM DOING 1 OR MORE OF THE FOLLOWING:

6        (A) ENTERING ON OR COMING WITHIN A STATED DISTANCE FROM SCHOOL  
7        PROPERTY.

8        (B) COMING WITHIN A STATED DISTANCE FROM A ROUTE TRAVELED BY 1

1 OR MORE STUDENTS OF THE SCHOOL IN GOING TO OR FROM SCHOOL.

2 (C) COMING WITHIN A STATED DISTANCE FROM A SCHOOL BUS STOP.

3 (D) TALKING OR OTHERWISE COMMUNICATING, OR ATTEMPTING TO TALK  
4 OR OTHERWISE COMMUNICATE, WITH A STUDENT OF THE SCHOOL WHILE THE  
5 STUDENT IS GOING TO OR FROM SCHOOL.

6 (2) A COURT SHALL ISSUE A PERSONAL PROTECTION ORDER UNDER THIS  
7 SECTION IF THE COURT DETERMINES THAT THE COMPLAINT FILED UNDER  
8 SUBSECTION (1) ALLEGES FACTS THAT SHOW THAT THE RESPONDENT HAS, ON  
9 OR NEAR SCHOOL PROPERTY OR IN THE PROXIMITY OF A STUDENT OF THE  
10 SCHOOL WHILE THE STUDENT WAS GOING TO OR FROM SCHOOL, COMMITTED AN  
11 ACT THAT CONSTITUTES A LISTED OFFENSE AS THAT TERM IS DEFINED IN  
12 SECTION 2 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL  
13 28.722.

14 (3) A COURT SHALL NOT DENY A REQUEST FOR A PERSONAL PROTECTION  
15 ORDER UNDER THIS SECTION SOLELY BECAUSE THE RESPONDENT HAS NOT BEEN  
16 CHARGED WITH OR CONVICTED OF AN OFFENSE FOR THE CONDUCT ALLEGED IN  
17 THE COMPLAINT OR BECAUSE THERE IS NO POLICE REPORT RELATED TO THE  
18 CONDUCT ALLEGED IN THE COMPLAINT.

19 (4) IF A COURT DETERMINES THAT A PERSONAL PROTECTION ORDER IS  
20 WARRANTED UNDER THIS SECTION AND THAT 1 OR MORE OF THE FOLLOWING  
21 CONDITIONS APPLY, THE COURT MAY, IN ITS DISCRETION, TAILOR THE  
22 ORDER AS NECESSARY TO BALANCE THE RIGHTS OF THE RESPONDENT AND THE  
23 SAFETY AND WELFARE OF THE SCHOOL'S STUDENTS:

24 (A) THE RESPONDENT IS A STUDENT OF THE SCHOOL.

25 (B) THE RESPONDENT IS A PARENT OF A STUDENT OF THE SCHOOL.

26 (C) THE RESPONDENT IS A REGISTERED VOTER IN THIS STATE AND HIS  
27 OR HER POLLING PLACE IS LOCATED ON SCHOOL PROPERTY.

1           (5) IF A COURT DENIES A REQUEST FOR A PERSONAL PROTECTION  
2 ORDER UNDER THIS SECTION, IT SHALL IMMEDIATELY STATE IN WRITING THE  
3 SPECIFIC REASONS FOR THE DENIAL. IF A HEARING IS HELD AND THE COURT  
4 DENIES A REQUEST FOR A PERSONAL PROTECTION ORDER UNDER THIS  
5 SECTION, THE COURT SHALL ALSO IMMEDIATELY STATE ON THE RECORD THE  
6 SPECIFIC REASONS FOR ITS DENIAL.

7           (6) A PERSONAL PROTECTION ORDER IS EFFECTIVE AND IMMEDIATELY  
8 ENFORCEABLE WHEN SIGNED BY A JUDGE.

9           (7) THE COURT SHALL DESIGNATE A LAW ENFORCEMENT AGENCY TO BE  
10 RESPONSIBLE FOR ENTERING THE PERSONAL PROTECTION ORDER INTO THE LAW  
11 ENFORCEMENT INFORMATION NETWORK AS PROVIDED BY THE C.J.I.S. POLICY  
12 COUNCIL ACT, 1974 PA 163, MCL 28.211 TO 28.215.

13           (8) A PERSONAL PROTECTION ORDER ISSUED UNDER THIS SECTION  
14 SHALL INCLUDE ALL OF THE FOLLOWING, TO THE EXTENT PRACTICABLE IN A  
15 SINGLE DOCUMENT:

16           (A) A STATEMENT THAT THE PERSONAL PROTECTION ORDER HAS BEEN  
17 ENTERED TO RESTRAIN OR ENJOIN CONDUCT LISTED IN THE ORDER AND THAT  
18 VIOLATION OF THE PERSONAL PROTECTION ORDER WILL SUBJECT THE  
19 RESPONDENT TO 1 OF THE FOLLOWING:

20           (i) IF THE RESPONDENT IS 17 YEARS OF AGE OR OLDER, IMMEDIATE  
21 ARREST AND THE CIVIL AND CRIMINAL CONTEMPT POWERS OF THE COURT,  
22 AND, IF FOUND GUILTY OF CRIMINAL CONTEMPT, IMPRISONMENT FOR NOT  
23 MORE THAN 93 DAYS AND A FINE OF NOT MORE THAN \$500.00.

24           (ii) IF THE RESPONDENT IS LESS THAN 17 YEARS OF AGE, IMMEDIATE  
25 APPREHENSION OR BEING TAKEN INTO CUSTODY AND THE DISPOSITIONAL  
26 ALTERNATIVES LISTED IN SECTION 18 OF CHAPTER XIIA OF THE PROBATE  
27 CODE OF 1939, 1939 PA 288, MCL 712A.18.

1 (B) A STATEMENT THAT THE PERSONAL PROTECTION ORDER IS  
2 EFFECTIVE AND IMMEDIATELY ENFORCEABLE WHEN SIGNED BY A JUDGE.

3 (C) A STATEMENT OF THE CONDUCT ENJOINED.

4 (D) A CLEARLY STATED EXPIRATION DATE.

5 (E) A STATEMENT THAT THE PERSONAL PROTECTION ORDER IS  
6 ENFORCEABLE BY ANY APPROPRIATE LAW ENFORCEMENT AGENCY.

7 (F) THE LAW ENFORCEMENT AGENCY DESIGNATED BY THE COURT TO  
8 ENTER THE PERSONAL PROTECTION ORDER INTO THE LAW ENFORCEMENT  
9 INFORMATION NETWORK.

10 (G) IF THE ORDER IS ISSUED UNDER SUBSECTION (9), A STATEMENT  
11 THAT THE RESPONDENT MAY FILE A MOTION TO MODIFY OR RESCIND THE  
12 PERSONAL PROTECTION ORDER AND REQUEST A HEARING WITHIN 14 DAYS  
13 AFTER THE RESPONDENT IS SERVED WITH OR RECEIVES ACTUAL NOTICE OF  
14 THE ORDER, AND THAT MOTION FORMS AND FILING INSTRUCTIONS ARE  
15 AVAILABLE FROM THE CLERK OF THE COURT.

16 (9) IF IT CLEARLY APPEARS FROM SPECIFIC FACTS CONTAINED IN A  
17 VERIFIED COMPLAINT, WRITTEN MOTION, OR AFFIDAVIT THAT IMMEDIATE AND  
18 IRREPARABLE INJURY, LOSS, OR DAMAGE WILL RESULT FROM THE DELAY  
19 REQUIRED TO GIVE NOTICE OF A REQUEST FOR A PERSONAL PROTECTION  
20 ORDER UNDER THIS SECTION OR THAT GIVING NOTICE WILL ITSELF  
21 PRECIPITATE ADVERSE ACTION BEFORE A PERSONAL PROTECTION ORDER CAN  
22 BE ISSUED, A PERSONAL PROTECTION ORDER SHALL BE ISSUED UNDER THIS  
23 SECTION WITHOUT WRITTEN OR ORAL NOTICE TO THE RESPONDENT. A  
24 PERSONAL PROTECTION ORDER ISSUED UNDER THIS SUBSECTION IS VALID FOR  
25 NOT LESS THAN 182 DAYS.

26 (10) A RESPONDENT MAY FILE A MOTION TO MODIFY OR RESCIND A  
27 PERSONAL PROTECTION ORDER ISSUED UNDER SUBSECTION (9) AND REQUEST A

1 HEARING UNDER THE MICHIGAN COURT RULES. A MOTION UNDER THIS  
2 SUBSECTION SHALL BE FILED WITHIN 14 DAYS AFTER THE ORDER IS SERVED  
3 OR AFTER THE RESPONDENT RECEIVES ACTUAL NOTICE OF THE PERSONAL  
4 PROTECTION ORDER UNLESS GOOD CAUSE IS SHOWN FOR FILING THE MOTION  
5 LATER. THE COURT SHALL SCHEDULE A HEARING ON THE MOTION WITHIN 14  
6 DAYS AFTER THE MOTION IS FILED.

7 (11) THE CLERK OF A COURT THAT ISSUES A PERSONAL PROTECTION  
8 ORDER UNDER THIS SECTION SHALL DO BOTH OF THE FOLLOWING IMMEDIATELY  
9 ON ISSUANCE AND WITHOUT REQUIRING PROOF OF SERVICE ON THE  
10 RESPONDENT:

11 (A) FILE A TRUE COPY OF THE PERSONAL PROTECTION ORDER WITH THE  
12 LAW ENFORCEMENT AGENCY DESIGNATED IN THE ORDER.

13 (B) PROVIDE THE PETITIONER WITH 2 OR MORE TRUE COPIES OF THE  
14 PERSONAL PROTECTION ORDER.

15 (12) THE CLERK OF A COURT THAT ISSUES A PERSONAL PROTECTION  
16 ORDER UNDER THIS SECTION SHALL INFORM THE PETITIONER THAT HE OR SHE  
17 MAY TAKE A TRUE COPY OF THE PERSONAL PROTECTION ORDER TO THE LAW  
18 ENFORCEMENT AGENCY DESIGNATED IN THE ORDER FOR IMMEDIATE ENTRY INTO  
19 THE LAW ENFORCEMENT INFORMATION NETWORK.

20 (13) A LAW ENFORCEMENT AGENCY THAT RECEIVES A TRUE COPY OF A  
21 PERSONAL PROTECTION ORDER UNDER SUBSECTION (11) OR (12) SHALL  
22 IMMEDIATELY AND WITHOUT REQUIRING PROOF OF SERVICE ENTER THE  
23 PERSONAL PROTECTION ORDER INTO THE LAW ENFORCEMENT INFORMATION  
24 NETWORK AS PROVIDED BY THE C.J.I.S. POLICY COUNCIL ACT, 1974 PA  
25 163, MCL 28.211 TO 28.215.

26 (14) A PERSONAL PROTECTION ORDER ISSUED UNDER THIS SECTION  
27 SHALL BE SERVED PERSONALLY; BY REGISTERED OR CERTIFIED MAIL, RETURN

1 RECEIPT REQUESTED, DELIVERY RESTRICTED TO THE ADDRESSEE AT THE LAST  
2 KNOWN ADDRESS OR ADDRESSES OF THE RESPONDENT; OR BY ANY OTHER  
3 METHOD ALLOWED BY THE MICHIGAN COURT RULES. IF THE RESPONDENT HAS  
4 NOT BEEN SERVED, A LAW ENFORCEMENT OFFICER OR CLERK OF THE COURT  
5 WHO KNOWS THAT A PERSONAL PROTECTION ORDER EXISTS MAY, AT ANY TIME,  
6 SERVE THE RESPONDENT WITH A TRUE COPY OF THE ORDER OR ADVISE THE  
7 RESPONDENT ABOUT THE EXISTENCE OF THE PERSONAL PROTECTION ORDER,  
8 THE SPECIFIC CONDUCT ENJOINED, THE PENALTIES FOR VIOLATING THE  
9 ORDER, AND WHERE THE RESPONDENT MAY OBTAIN A COPY OF THE ORDER. IF  
10 THE RESPONDENT IS LESS THAN 18 YEARS OF AGE, THE PARENT, GUARDIAN,  
11 OR CUSTODIAN OF THE RESPONDENT SHALL ALSO BE SERVED PERSONALLY; BY  
12 REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, DELIVERY  
13 RESTRICTED TO THE ADDRESSEE AT THE LAST KNOWN ADDRESS OR ADDRESSES  
14 OF THE PARENT, GUARDIAN, OR CUSTODIAN; OR BY ANY OTHER METHOD  
15 ALLOWED BY THE MICHIGAN COURT RULES. A PROOF OF SERVICE OR PROOF OF  
16 ORAL NOTICE SHALL BE FILED WITH THE CLERK OF THE COURT THAT ISSUED  
17 THE PERSONAL PROTECTION ORDER. THIS SUBSECTION DOES NOT PROHIBIT  
18 THE IMMEDIATE EFFECTIVENESS OF A PERSONAL PROTECTION ORDER OR ITS  
19 IMMEDIATE ENFORCEMENT UNDER SUBSECTIONS (17) AND (18).

20 (15) THE CLERK OF A COURT THAT ISSUED A PERSONAL PROTECTION  
21 ORDER UNDER THIS SECTION SHALL IMMEDIATELY NOTIFY THE LAW  
22 ENFORCEMENT AGENCY THAT RECEIVED THE PERSONAL PROTECTION ORDER  
23 UNDER SUBSECTION (11) OR (12) IF EITHER OF THE FOLLOWING OCCURS:

24 (A) THE CLERK RECEIVES PROOF THAT THE RESPONDENT HAS BEEN  
25 SERVED.

26 (B) THE PERSONAL PROTECTION ORDER IS RESCINDED, MODIFIED, OR  
27 EXTENDED BY COURT ORDER.

1           (16) A LAW ENFORCEMENT AGENCY THAT RECEIVES INFORMATION UNDER  
2       SUBSECTION (15) SHALL ENTER THE INFORMATION OR CAUSE THE  
3       INFORMATION TO BE ENTERED INTO THE LAW ENFORCEMENT INFORMATION  
4       NETWORK AS PROVIDED BY THE C.J.I.S. POLICY COUNCIL ACT, 1974 PA  
5       163, MCL 28.211 TO 28.215.

6           (17) SUBJECT TO SUBSECTION (18), A PERSONAL PROTECTION ORDER  
7       IS IMMEDIATELY ENFORCEABLE BY ANY LAW ENFORCEMENT AGENCY THAT HAS  
8       RECEIVED A TRUE COPY OF THE ORDER, IS SHOWN A COPY OF IT, OR HAS  
9       VERIFIED ITS EXISTENCE ON THE LAW ENFORCEMENT INFORMATION NETWORK  
10      AS PROVIDED BY THE C.J.I.S. POLICY COUNCIL ACT, 1974 PA 163, MCL  
11      28.211 TO 28.215.

12          (18) IF THE RESPONDENT HAS NOT BEEN SERVED, A LAW ENFORCEMENT  
13      AGENCY OR OFFICER WHO RESPONDS TO A CALL ALLEGING A VIOLATION OF A  
14      PERSONAL PROTECTION ORDER ISSUED UNDER THIS SECTION SHALL SERVE THE  
15      RESPONDENT WITH A TRUE COPY OF THE ORDER OR ADVISE THE RESPONDENT  
16      ABOUT THE EXISTENCE OF THE PERSONAL PROTECTION ORDER, THE SPECIFIC  
17      CONDUCT ENJOINED, THE PENALTIES FOR VIOLATING THE ORDER, AND WHERE  
18      THE RESPONDENT MAY OBTAIN A COPY OF THE ORDER. THE LAW ENFORCEMENT  
19      OFFICER SHALL ENFORCE THE PERSONAL PROTECTION ORDER AND IMMEDIATELY  
20      ENTER OR HAVE ENTERED INTO THE LAW ENFORCEMENT INFORMATION NETWORK  
21      THAT THE RESPONDENT HAS ACTUAL NOTICE OF THE PERSONAL PROTECTION  
22      ORDER. THE LAW ENFORCEMENT OFFICER ALSO SHALL FILE A PROOF OF  
23      SERVICE OR PROOF OF ORAL NOTICE WITH THE CLERK OF THE COURT THAT  
24      ISSUED THE PERSONAL PROTECTION ORDER. IF THE RESPONDENT HAS NOT  
25      RECEIVED NOTICE OF THE PERSONAL PROTECTION ORDER, THE RESPONDENT  
26      SHALL BE GIVEN AN OPPORTUNITY TO COMPLY WITH THE PERSONAL  
27      PROTECTION ORDER BEFORE THE LAW ENFORCEMENT OFFICER MAKES A

1 CUSTODIAL ARREST FOR VIOLATION OF THE PERSONAL PROTECTION ORDER.  
2 FAILURE TO IMMEDIATELY COMPLY WITH THE PERSONAL PROTECTION ORDER IS  
3 GROUNDS FOR AN IMMEDIATE CUSTODIAL ARREST. THIS SUBSECTION DOES NOT  
4 PRECLUDE AN ARREST UNDER SECTION 15 OR 15A OF CHAPTER IV OF THE  
5 CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 764.15 AND 764.15A, OR  
6 A PROCEEDING UNDER SECTION 14 OF CHAPTER XIIA OF THE PROBATE CODE  
7 OF 1939, 1939 PA 288, MCL 712A.14.

8 (19) AN INDIVIDUAL WHO IS 17 YEARS OF AGE OR OLDER AND WHO  
9 REFUSES OR FAILS TO COMPLY WITH A PERSONAL PROTECTION ORDER ISSUED  
10 UNDER THIS SECTION IS SUBJECT TO THE CRIMINAL CONTEMPT POWERS OF  
11 THE COURT AND, IF FOUND GUILTY, SHALL BE IMPRISONED FOR NOT MORE  
12 THAN 93 DAYS AND MAY BE FINED NOT MORE THAN \$500.00. AN INDIVIDUAL  
13 WHO IS LESS THAN 17 YEARS OF AGE AND WHO REFUSES OR FAILS TO COMPLY  
14 WITH A PERSONAL PROTECTION ORDER ISSUED UNDER THIS SECTION IS  
15 SUBJECT TO THE DISPOSITIONAL ALTERNATIVES LISTED IN SECTION 18 OF  
16 CHAPTER XIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.18.  
17 A CRIMINAL PENALTY MAY BE IMPOSED UNDER THIS SECTION IN ADDITION TO  
18 ANY PENALTY THAT MAY BE IMPOSED FOR ANOTHER CRIMINAL OFFENSE  
19 ARISING FROM THE SAME CONDUCT.

20 (20) AN INDIVIDUAL WHO KNOWINGLY AND INTENTIONALLY MAKES A  
21 FALSE STATEMENT TO A COURT IN SUPPORT OF HIS OR HER PETITION FOR A  
22 PERSONAL PROTECTION ORDER IS SUBJECT TO THE CONTEMPT POWERS OF THE  
23 COURT.

24 (21) A PERSONAL PROTECTION ORDER ISSUED UNDER THIS SECTION IS  
25 ALSO ENFORCEABLE UNDER CHAPTER XIIA OF THE PROBATE CODE OF 1939,  
26 1939 PA 288, MCL 712A.1 TO 712A.32, AND SECTION 15B OF CHAPTER IV  
27 OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 764.15B.



1 (22) A PERSONAL PROTECTION ORDER ISSUED UNDER THIS SECTION IS  
2 ALSO ENFORCEABLE UNDER CHAPTER 17.

3 (23) A COURT SHALL NOT ISSUE A PERSONAL PROTECTION ORDER UNDER  
4 THIS SECTION IF THE RESPONDENT IS LESS THAN 10 YEARS OF AGE.

5 (24) IF THE RESPONDENT IS LESS THAN 18 YEARS OF AGE, ISSUANCE  
6 OF A PERSONAL PROTECTION ORDER UNDER THIS SECTION IS SUBJECT TO  
7 CHAPTER XIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.1  
8 TO 712A.32.

9 (25) AS USED IN THIS SECTION, "SCHOOL" AND "SCHOOL PROPERTY"  
10 MEAN THOSE TERMS AS DEFINED IN SECTION 33 OF THE SEX OFFENDERS  
11 REGISTRATION ACT, 1994 PA 295, MCL 28.733.

12 Enacting section 1. This amendatory act does not take effect  
13 unless all of the following bills of the 93rd Legislature are  
14 enacted into law:

15 (a) Senate Bill No.\_\_\_\_ or House Bill No. 6404(request no.  
16 06887'06 a).

17 (b) Senate Bill No.\_\_\_\_ or House Bill No. 6405(request no.  
18 06887'06 b).

19 (c) Senate Bill No.\_\_\_\_ or House Bill No. 6406(request no.  
20 06887'06 c).