

HOUSE BILL No. 6406

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

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 15b of chapter IV (MCL 764.15b), as amended by
2001 PA 209.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER IV

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

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

1 ~~protection order.~~

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

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

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

13 (iii) Entering onto premises.

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

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

18 (vi) Purchasing or possessing a firearm.

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

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

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

1 (c) If the personal protection order was issued under section
2 2950, ~~or~~ 2950a, **OR 2976**, the personal protection order states on
3 its face that a violation of its terms subjects the individual to
4 immediate arrest and either of the following:

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

9 (ii) If the individual restrained or enjoined is less than 17
10 years of age, to the dispositional alternatives listed in section
11 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
12 712A.18.

13 (2) An individual arrested under this section shall be brought
14 before the family division of the circuit court ~~having~~ **THAT HAS**
15 jurisdiction ~~in~~ **OVER** the ~~cause~~ **CASE** within 24 hours after
16 arrest to answer to a charge of contempt for violating the personal
17 protection order, at which time the court shall do each of the
18 following:

19 (a) Set a time certain for a hearing on the alleged violation
20 of the personal protection order. The hearing shall be held within
21 72 hours after arrest, unless extended by the court on the motion
22 of the arrested individual or the prosecuting attorney.

23 (b) Set a reasonable bond pending a hearing ~~of~~ **ON** the
24 alleged violation of the personal protection order.

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

27 (d) Notify the party who procured the personal protection

1 order and his or her attorney of record, if any, and direct the
2 party to appear at the hearing and give evidence on the charge of
3 contempt.

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

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

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

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

24 (5) The family division of circuit court in each county of
25 this state has jurisdiction to conduct contempt proceedings based
26 upon a violation of a personal protection order described in this
27 section issued by the circuit court in any county of this state or

1 upon a violation of a valid foreign protection order. The court of
2 arraignment shall notify the court that issued the personal
3 protection order or foreign protection order that the issuing court
4 may request that the defendant be returned to that court for
5 violating the personal protection order or foreign protection
6 order. If the court that issued the personal protection order or
7 foreign protection order requests that the defendant be returned to
8 that court to stand trial, the county of the requesting court shall
9 bear the cost of transporting the defendant to that county.

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

27 (7) The prosecuting attorney shall prosecute a criminal

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

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

18 (9) As used in this section:

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

22 (b) "Personal protection order" means a personal protection
23 order issued under section 2950, ~~or~~ 2950a, **OR 2976** of the revised
24 judicature act of 1961, 1961 PA 236, MCL 600.2950, ~~and~~ 600.2950a,
25 and **600.2976**, **OR** unless the context indicates otherwise, includes a
26 valid foreign protection order.

27 (c) "Valid foreign protection order" means a foreign

1 protection order that satisfies the conditions for validity
2 provided in section 2950i of the revised judicature act of 1961,
3 1961 PA 236, MCL 600.2950i.

4 Enacting section 1. This amendatory act does not take effect
5 unless Senate Bill No.____ or House Bill No. 6403(request no.
6 06887'06) of the 93rd Legislature is enacted into law.