

# HOUSE BILL No. 5658

June 11, 2014, Introduced by Reps. Santana, Rutledge, Zemke, Slavens, Irwin, Stallworth, Hobbs, Hovey-Wright, Geiss and Barnett and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending section 2950 (MCL 600.2950), as amended by 2001 PA 200.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2950. (1) Except as provided in subsections (27) and  
2       (28), by commencing an independent action to obtain relief under  
3       this section, by joining a claim to an action, or by filing a  
4       motion in an action in which the petitioner and the individual to  
5       be restrained or enjoined are parties, an individual may petition  
6       the family division of circuit court to enter a personal protection  
7       order to restrain or enjoin a spouse, a former spouse, an  
8       individual with whom he or she has had a child in common, an  
9       individual with whom he or she has or has had a dating  
10      relationship, or an individual residing or having resided in the  
11      same household as the petitioner from doing 1 or more of the

1 following:

2 (a) Entering onto premises.

3 (b) Assaulting, attacking, beating, molesting, or wounding a  
4 named individual.

5 (c) Threatening to kill or physically injure a named  
6 individual.

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

11 (e) Purchasing or possessing a firearm.

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

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

19 (h) Having access to information in records concerning a minor  
20 child of both petitioner and respondent that will inform respondent  
21 about the address or telephone number of petitioner and  
22 petitioner's minor child or about petitioner's employment address.

23 (i) Engaging in conduct that is prohibited under section 411h  
24 or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and  
25 750.411i.

26 **(J) DOING ANY OF THE FOLLOWING WITH RESPECT TO AN ANIMAL IN**  
27 **WHICH THE PETITIONER HAS AN OWNERSHIP INTEREST:**

1           (i) INJURING, KILLING, TORTURING, NEGLECTING, OR THREATENING TO  
2 INJURE, KILL, TORTURE, OR NEGLECT THE ANIMAL.

3           (ii) REMOVING THE ANIMAL FROM THE PETITIONER'S POSSESSION.

4           (iii) INTERFERING WITH THE PETITIONER'S EFFORTS TO REMOVE THE  
5 ANIMAL FROM PREMISES THAT ARE SOLELY OWNED OR LEASED BY THE  
6 INDIVIDUAL TO BE RESTRAINED OR ENJOINED.

7           (K) ~~(j)~~ Any other specific act or conduct that imposes upon or  
8 interferes with personal liberty or that causes a reasonable  
9 apprehension of violence.

10           (2) If the respondent is a person who is issued a license to  
11 carry a concealed weapon and is required to carry a weapon as a  
12 condition of his or her employment, a police officer certified by  
13 the commission on law enforcement standards act, 1965 PA 203, MCL  
14 28.601 to 28.616, a sheriff, a deputy sheriff or a member of the  
15 Michigan department of state police, a local corrections officer,  
16 department of corrections employee, or a federal law enforcement  
17 officer who carries a firearm during the normal course of his or  
18 her employment, the petitioner shall notify the court of the  
19 respondent's occupation prior to the issuance of the personal  
20 protection order. This subsection does not apply to a petitioner  
21 who does not know the respondent's occupation.

22           (3) A petitioner may omit his or her address of residence from  
23 documents filed with the court under this section. If a petitioner  
24 omits his or her address of residence, the petitioner shall provide  
25 the court with a mailing address.

26           (4) The court shall issue a personal protection order under  
27 this section if the court determines that there is reasonable cause

1 to believe that the individual to be restrained or enjoined may  
2 commit 1 or more of the acts listed in subsection (1). In  
3 determining whether reasonable cause exists, the court shall  
4 consider all of the following:

5 (a) Testimony, documents, or other evidence offered in support  
6 of the request for a personal protection order.

7 (b) Whether the individual to be restrained or enjoined has  
8 previously committed or threatened to commit 1 or more of the acts  
9 listed in subsection (1).

10 (5) A court shall not issue a personal protection order that  
11 restrains or enjoins conduct described in subsection (1)(a) if all  
12 of the following apply:

13 (a) The individual to be restrained or enjoined is not the  
14 spouse of the moving party.

15 (b) The individual to be restrained or enjoined or the parent,  
16 guardian, or custodian of the minor to be restrained or enjoined  
17 has a property interest in the premises.

18 (c) The moving party or the parent, guardian, or custodian of  
19 a minor petitioner has no property interest in the premises.

20 (6) A court shall not refuse to issue a personal protection  
21 order solely due to the absence of any of the following:

22 (a) A police report.

23 (b) A medical report.

24 (c) A report or finding of an administrative agency.

25 (d) Physical signs of abuse or violence.

26 (7) If the court refuses to grant a personal protection order,  
27 it shall state immediately in writing the specific reasons it

1 refused to issue a personal protection order. If a hearing is held,  
2 the court shall also immediately state on the record the specific  
3 reasons it refuses to issue a personal protection order.

4 (8) A personal protection order shall not be made mutual.  
5 Correlative separate personal protection orders are prohibited  
6 unless both parties have properly petitioned the court ~~pursuant to~~  
7 **UNDER** subsection (1).

8 (9) A personal protection order is effective and immediately  
9 enforceable anywhere in this state when signed by a judge. Upon  
10 service, a personal protection order may also be enforced by  
11 another state, an Indian tribe, or a territory of the United  
12 States.

13 (10) The court shall designate the law enforcement agency that  
14 is responsible for entering the personal protection order into the  
15 law enforcement information network as provided by the ~~L.E.I.N.~~  
16 **C.J.I.S.** policy council act, ~~of 1974,~~ 1974 PA 163, MCL 28.211 to  
17 ~~28.216-28.215.~~

18 (11) A personal protection order ~~shall~~ **MUST** include all of the  
19 following, and to the extent practicable the following shall be  
20 contained in a single form:

21 (a) A statement that the personal protection order has been  
22 entered to restrain or enjoin conduct listed in the order and that  
23 violation of the personal protection order will subject the  
24 individual restrained or enjoined to 1 or more of the following:

25 (i) If the respondent is 17 years of age or more, immediate  
26 arrest and the civil and criminal contempt powers of the court, and  
27 that if he or she is found guilty of criminal contempt, he or she

1 shall be imprisoned for not more than 93 days and may be fined not  
2 more than \$500.00.

3 (ii) If the respondent is less than 17 years of age, immediate  
4 apprehension or being taken into custody, and subject to the  
5 dispositional alternatives listed in section 18 of chapter XIIA of  
6 the probate code of 1939, 1939 PA 288, MCL 712A.18.

7 (iii) If the respondent violates the personal protection order  
8 in a jurisdiction other than this state, the respondent is subject  
9 to the enforcement procedures and penalties of the state, Indian  
10 tribe, or United States territory under whose jurisdiction the  
11 violation occurred.

12 (b) A statement that the personal protection order is  
13 effective and immediately enforceable anywhere in this state when  
14 signed by a judge, and that, upon service, a personal protection  
15 order also may be enforced by another state, an Indian tribe, or a  
16 territory of the United States.

17 (c) A statement listing the type or types of conduct enjoined.

18 (d) An expiration date stated clearly on the face of the  
19 order.

20 (e) A statement that the personal protection order is  
21 enforceable anywhere in Michigan by any law enforcement agency.

22 (f) The law enforcement agency designated by the court to  
23 enter the personal protection order into the law enforcement  
24 information network.

25 (g) For ex parte orders, a statement that the individual  
26 restrained or enjoined may file a motion to modify or rescind the  
27 personal protection order and request a hearing within 14 days

1 after the individual restrained or enjoined has been served or has  
2 received actual notice of the order and that motion forms and  
3 filing instructions are available from the clerk of the court.

4 (12) An ex parte personal protection order shall be issued and  
5 effective without written or oral notice to the individual  
6 restrained or enjoined or his or her attorney if it clearly appears  
7 from specific facts shown by verified complaint, written motion, or  
8 affidavit that immediate and irreparable injury, loss, or damage  
9 will result from the delay required to effectuate notice or that  
10 the notice will itself precipitate adverse action before a personal  
11 protection order can be issued.

12 (13) A personal protection order issued under subsection (12)  
13 is valid for not less than 182 days. The individual restrained or  
14 enjoined may file a motion to modify or rescind the personal  
15 protection order and request a hearing under the Michigan court  
16 rules. The motion to modify or rescind the personal protection  
17 order shall be filed within 14 days after the order is served or  
18 after the individual restrained or enjoined has received actual  
19 notice of the personal protection order unless good cause is shown  
20 for filing the motion after the 14 days have elapsed.

21 (14) Except as otherwise provided in this subsection, the  
22 court shall schedule a hearing on the motion to modify or rescind  
23 the ex parte personal protection order within 14 days after the  
24 filing of the motion to modify or rescind. If the respondent is a  
25 person described in subsection (2) and the personal protection  
26 order prohibits him or her from purchasing or possessing a firearm,  
27 the court shall schedule a hearing on the motion to modify or

1 rescind the ex parte personal protection order within 5 days after  
2 the filing of the motion to modify or rescind.

3 (15) The clerk of the court that issues a personal protection  
4 order shall do all of the following immediately upon issuance and  
5 without requiring a proof of service on the individual restrained  
6 or enjoined:

7 (a) File a true copy of the personal protection order with the  
8 law enforcement agency designated by the court in the personal  
9 protection order.

10 (b) Provide the petitioner with not less than 2 true copies of  
11 the personal protection order.

12 (c) If respondent is identified in the pleadings as a law  
13 enforcement officer, notify the officer's employing law enforcement  
14 agency, if known, about the existence of the personal protection  
15 order.

16 (d) If the personal protection order prohibits respondent from  
17 purchasing or possessing a firearm, notify the concealed weapon  
18 licensing board in respondent's county of residence about the  
19 existence and contents of the personal protection order.

20 (e) If the respondent is identified in the pleadings as a  
21 department of corrections employee, notify the state department of  
22 corrections about the existence of the personal protection order.

23 (f) If the respondent is identified in the pleadings as being  
24 a person who may have access to information concerning the  
25 petitioner or a child of the petitioner or respondent and that  
26 information is contained in friend of the court records, notify the  
27 friend of the court for the county in which the information is

1 located about the existence of the personal protection order.

2 (16) The clerk of the court shall inform the petitioner that  
3 he or she may take a true copy of the personal protection order to  
4 the law enforcement agency designated by the court ~~in~~ **UNDER**  
5 subsection (10) to be immediately entered into the law enforcement  
6 information network.

7 (17) The law enforcement agency that receives a true copy of  
8 the personal protection order under subsection (15) or (16) shall  
9 immediately and without requiring proof of service enter the  
10 personal protection order into the law enforcement information  
11 network as provided by the ~~L.E.I.N.-C.J.I.S.~~ policy council act, ~~of~~  
12 ~~1974,~~ 1974 PA 163, MCL 28.211 to ~~28.216-~~ **28.215**.

13 (18) A personal protection order issued under this section  
14 shall be served personally or by registered or certified mail,  
15 return receipt requested, delivery restricted to the addressee at  
16 the last known address or addresses of the individual restrained or  
17 enjoined or by any other manner provided in the Michigan court  
18 rules. If the individual restrained or enjoined has not been  
19 served, a law enforcement officer or clerk of the court who knows  
20 that a personal protection order exists may, at any time, serve the  
21 individual restrained or enjoined with a true copy of the order or  
22 advise the individual restrained or enjoined about the existence of  
23 the personal protection order, the specific conduct enjoined, the  
24 penalties for violating the order, and where the individual  
25 restrained or enjoined may obtain a copy of the order. If the  
26 respondent is less than 18 years of age, the parent, guardian, or  
27 custodian of that individual shall also be served personally or by

1 registered or certified mail, return receipt requested, delivery  
2 restricted to the addressee at the last known address or addresses  
3 of the parent, guardian, or custodian of the individual restrained  
4 or enjoined. A proof of service or proof of oral notice shall be  
5 filed with the clerk of the court issuing the personal protection  
6 order. This subsection does not prohibit the immediate  
7 effectiveness of a personal protection order or its immediate  
8 enforcement under subsections (21) and (22).

9 (19) The clerk of the court shall immediately notify the law  
10 enforcement agency that received the personal protection order  
11 under subsection (15) or (16) if either of the following occurs:

12 (a) The clerk of the court has received proof that the  
13 individual restrained or enjoined has been served.

14 (b) The personal protection order is rescinded, modified, or  
15 extended by court order.

16 (20) The law enforcement agency that receives information  
17 under subsection (19) shall enter the information or cause the  
18 information to be entered into the law enforcement information  
19 network as provided by the ~~L.E.I.N.-C.J.I.S.~~ policy council act, ~~of~~  
20 ~~1974,~~ 1974 PA 163, MCL 28.211 to ~~28.216-28.215.~~

21 (21) Subject to subsection (22), a personal protection order  
22 is immediately enforceable anywhere in this state by any law  
23 enforcement agency that has received a true copy of the order, is  
24 shown a copy of it, or has verified its existence on the law  
25 enforcement information network as provided by the ~~L.E.I.N.-~~  
26 ~~C.J.I.S.~~ policy council act, ~~of 1974,~~ 1974 PA 163, MCL 28.211 to  
27 ~~28.216-28.215.~~

1           (22) If the individual restrained or enjoined has not been  
2 served, the law enforcement agency or officer responding to a call  
3 alleging a violation of a personal protection order shall serve the  
4 individual restrained or enjoined with a true copy of the order or  
5 advise the individual restrained or enjoined about the existence of  
6 the personal protection order, the specific conduct enjoined, the  
7 penalties for violating the order, and where the individual  
8 restrained or enjoined may obtain a copy of the order. The law  
9 enforcement officer shall enforce the personal protection order and  
10 immediately enter or cause to be entered into the law enforcement  
11 information network that the individual restrained or enjoined has  
12 actual notice of the personal protection order. The law enforcement  
13 officer also shall file a proof of service or proof of oral notice  
14 with the clerk of the court issuing the personal protection order.  
15 If the individual restrained or enjoined has not received notice of  
16 the personal protection order, the individual restrained or  
17 enjoined shall be given an opportunity to comply with the personal  
18 protection order before the law enforcement officer makes a  
19 custodial arrest for violation of the personal protection order.  
20 The failure to immediately comply with the personal protection  
21 order ~~shall be~~ **IS** grounds for an immediate custodial arrest. This  
22 subsection does not preclude an arrest under section 15 or 15a of  
23 chapter IV of the code of criminal procedure, 1927 PA 175, MCL  
24 764.15 and 764.15a, or a proceeding under section 14 of chapter  
25 XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.14.

26           (23) An individual who is 17 years of age or more and who  
27 refuses or fails to comply with a personal protection order under

1 this section is subject to the criminal contempt powers of the  
2 court and, if found guilty, shall be imprisoned for not more than  
3 93 days and may be fined not more than \$500.00. An individual who  
4 is less than 17 years of age and who refuses or fails to comply  
5 with a personal protection order issued under this section is  
6 subject to the dispositional alternatives listed in section 18 of  
7 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.  
8 The criminal penalty provided for under this section may be imposed  
9 in addition to a penalty that may be imposed for another criminal  
10 offense arising from the same conduct.

11 (24) An individual who knowingly and intentionally makes a  
12 false statement to the court in support of his or her petition for  
13 a personal protection order is subject to the contempt powers of  
14 the court.

15 (25) A personal protection order issued under this section is  
16 also enforceable under chapter XIIIA of the probate code of 1939,  
17 1939 PA 288, MCL 712A.1 to 712A.32, and section 15b of chapter IV  
18 of the code of criminal procedure, 1927 PA 175, MCL 764.15b.

19 (26) A personal protection order issued under this section is  
20 also enforceable under chapter 17.

21 (27) A court shall not issue a personal protection order that  
22 restrains or enjoins conduct described in subsection (1) if any of  
23 the following apply:

24 (a) The respondent is the unemancipated minor child of the  
25 petitioner.

26 (b) The petitioner is the unemancipated minor child of the  
27 respondent.

1 (c) The respondent is a minor child less than 10 years of age.

2 (28) If the respondent is less than 18 years of age, issuance  
3 of a personal protection order under this section is subject to  
4 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1  
5 to 712A.32.

6 (29) A personal protection order that is issued ~~prior to the~~  
7 ~~effective date of the amendatory act that added this subsection~~  
8 **BEFORE MARCH 1, 1999** is not invalid on the ground that it does not  
9 comply with 1 or more of the requirements added by ~~this amendatory~~  
10 ~~act.~~ **1998 PA 477.**

11 (30) **FOR PURPOSES OF SUBSECTION (1)(J), A PETITIONER HAS AN**  
12 **OWNERSHIP INTEREST IN AN ANIMAL IF 1 OR MORE OF THE FOLLOWING ARE**  
13 **APPLICABLE:**

14 (A) **THE PETITIONER HAS A RIGHT OF PROPERTY IN THE ANIMAL.**

15 (B) **THE PETITIONER KEEPS OR HARBORS THE ANIMAL.**

16 (C) **THE ANIMAL IS IN THE PETITIONER'S CARE.**

17 (D) **THE PETITIONER PERMITS THE ANIMAL TO REMAIN ON OR ABOUT**  
18 **PREMISES OCCUPIED BY THE PETITIONER.**

19 (31) ~~(30)~~ As used in this section:

20 (a) "Dating relationship" means frequent, intimate  
21 associations primarily characterized by the expectation of  
22 affectional involvement. This term does not include a casual  
23 relationship or an ordinary fraternization between 2 individuals in  
24 a business or social context.

25 (b) "Federal law enforcement officer" means an officer or  
26 agent employed by a law enforcement agency of the United States  
27 government whose primary responsibility is the enforcement of laws

1 of the United States.

2 (C) "NEGLECT" MEANS THAT TERM AS DEFINED IN SECTION 50 OF THE  
3 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.50.

4 (D) ~~(e)~~—"Personal protection order" means an injunctive order  
5 issued by the circuit court or the family division of circuit court  
6 restraining or enjoining activity and individuals listed in  
7 subsection (1).