

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4478**

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) ANY OF THE FOLLOWING WITH THE INTENT TO CAUSE THE**
27 **PETITIONER MENTAL DISTRESS OR TO EXERT CONTROL OVER THE PETITIONER**

1 WITH RESPECT TO AN ANIMAL IN WHICH THE PETITIONER HAS AN OWNERSHIP
2 INTEREST:

3 (i) INJURING, KILLING, TORTURING, NEGLECTING, OR THREATENING
4 TO INJURE, KILL, TORTURE, OR NEGLECT THE ANIMAL. A RESTRAINING
5 ORDER THAT ENJOINS CONDUCT UNDER THIS SUBPARAGRAPH DOES NOT
6 PROHIBIT THE LAWFUL KILLING OR OTHER USE OF THE ANIMAL AS DESCRIBED
7 IN SECTION 50(11) OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
8 750.50.

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

10 (iii) RETAINING OR OBTAINING POSSESSION OF THE ANIMAL.

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

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

26 (3) A petitioner may omit his or her address of residence from
27 documents filed with the court under this section. If a petitioner

1 omits his or her address of residence, the petitioner shall provide
2 the court with a mailing address.

3 (4) The court shall issue a personal protection order under
4 this section if the court determines that there is reasonable cause
5 to believe that the individual to be restrained or enjoined may
6 commit 1 or more of the acts listed in subsection (1). In
7 determining whether reasonable cause exists, the court shall
8 consider all of the following:

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

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

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

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

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

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

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

26 (a) A police report.

27 (b) A medical report.

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

2 (d) Physical signs of abuse or violence.

3 (7) If the court refuses to grant a personal protection order,
4 it shall state immediately in writing the specific reasons it
5 refused to issue a personal protection order. If a hearing is held,
6 the court shall also immediately state on the record the specific
7 reasons it refuses to issue a personal protection order.

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

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

17 (10) The court shall designate the law enforcement agency that
18 is responsible for entering the personal protection order into the
19 law enforcement information network as provided by the ~~L.E.I.N.~~
20 **C.J.I.S.** policy council act, ~~of 1974,~~ 1974 PA 163, MCL 28.211 to
21 ~~28.216-28.215.~~

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

25 (a) A statement that the personal protection order has been
26 entered to restrain or enjoin conduct listed in the order and that
27 violation of the personal protection order will subject the

1 individual restrained or enjoined to 1 or more of the following:

2 (i) If the respondent is 17 years of age or more, immediate
3 arrest and the civil and criminal contempt powers of the court, and
4 that if he or she is found guilty of criminal contempt, he or she
5 shall be imprisoned for not more than 93 days and may be fined not
6 more than \$500.00.

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

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

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

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

22 (d) An expiration date stated clearly on the face of the
23 order.

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

26 (f) The law enforcement agency designated by the court to
27 enter the personal protection order into the law enforcement

1 information network.

2 (g) For ex parte orders, a statement that the individual
3 restrained or enjoined may file a motion to modify or rescind the
4 personal protection order and request a hearing within 14 days
5 after the individual restrained or enjoined has been served or has
6 received actual notice of the order and that motion forms and
7 filing instructions are available from the clerk of the court.

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

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

25 (14) Except as otherwise provided in this subsection, the
26 court shall schedule a hearing on the motion to modify or rescind
27 the ex parte personal protection order within 14 days after the

1 filing of the motion to modify or rescind. If the respondent is a
2 person described in subsection (2) and the personal protection
3 order prohibits him or her from purchasing or possessing a firearm,
4 the court shall schedule a hearing on the motion to modify or
5 rescind the ex parte personal protection order within 5 days after
6 the filing of the motion to modify or rescind.

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

11 (a) File a true copy of the personal protection order with the
12 law enforcement agency designated by the court in the personal
13 protection order.

14 (b) Provide the petitioner with ~~not less than 2~~ **OR MORE** true
15 copies of the personal protection order.

16 (c) If respondent is identified in the pleadings as a law
17 enforcement officer, notify the officer's employing law enforcement
18 agency, if known, about the existence of the personal protection
19 order.

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

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

27 (f) If the respondent is identified in the pleadings as being

1 a person who may have access to information concerning the
2 petitioner or a child of the petitioner or respondent and that
3 information is contained in friend of the court records, notify the
4 friend of the court for the county in which the information is
5 located about the existence of the personal protection order.

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

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

17 (18) A personal protection order issued under this section
18 ~~shall~~**MUST** be served personally or by registered or certified mail,
19 return receipt requested, delivery restricted to the addressee at
20 the last known address or addresses of the individual restrained or
21 enjoined or by any other manner provided in the Michigan court
22 rules. If the individual restrained or enjoined has not been
23 served, a law enforcement officer or clerk of the court who knows
24 that a personal protection order exists may, at any time, serve the
25 individual restrained or enjoined with a true copy of the order or
26 advise the individual restrained or enjoined about the existence of
27 the personal protection order, the specific conduct enjoined, the

1 penalties for violating the order, and where the individual
2 restrained or enjoined may obtain a copy of the order. If the
3 respondent is less than 18 years of age, the parent, guardian, or
4 custodian of that individual ~~shall~~**MUST** also be served personally
5 or by registered or certified mail, return receipt requested,
6 delivery restricted to the addressee at the last known address or
7 addresses of the parent, guardian, or custodian of the individual
8 restrained or enjoined. A proof of service or proof of oral notice
9 ~~shall~~**MUST** be filed with the clerk of the court issuing the
10 personal protection order. This subsection does not prohibit the
11 immediate effectiveness of a personal protection order or its
12 immediate enforcement under subsections (21) and (22).

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

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

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

20 (20) The law enforcement agency that receives information
21 under subsection (19) shall enter the information or cause the
22 information to be entered into the law enforcement information
23 network as provided by the ~~L.E.I.N.-C.J.I.S.~~ policy council act, ~~of~~
24 ~~1974,~~ 1974 PA 163, MCL 28.211 to ~~28.216~~**28.215**.

25 (21) Subject to subsection (22), a personal protection order
26 is immediately enforceable anywhere in this state by any law
27 enforcement agency that has received a true copy of the order, is

1 shown a copy of it, or has verified its existence on the law
2 enforcement information network as provided by the ~~L.E.I.N.~~
3 **C.J.I.S.** policy council act, ~~of 1974,~~ 1974 PA 163, MCL 28.211 to
4 ~~28.216-28.215.~~

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

1 764.15 and 764.15a, or a proceeding under section 14 of chapter
2 XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.14.

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

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

19 (25) A personal protection order issued under this section is
20 also enforceable under chapter XIIA of the probate code of 1939,
21 1939 PA 288, MCL 712A.1 to 712A.32, and section 15b of chapter IV
22 of the code of criminal procedure, 1927 PA 175, MCL 764.15b.

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

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

1 (a) The respondent is the unemancipated minor child of the
2 petitioner.

3 (b) The petitioner is the unemancipated minor child of the
4 respondent.

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

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

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

15 (30) FOR PURPOSES OF SUBSECTION (1)(J), A PETITIONER HAS AN
16 OWNERSHIP INTEREST IN AN ANIMAL IF 1 OR MORE OF THE FOLLOWING ARE
17 APPLICABLE:

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

19 (B) THE PETITIONER KEEPS OR HARBORS THE ANIMAL.

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

21 (D) THE PETITIONER PERMITS THE ANIMAL TO REMAIN ON OR ABOUT
22 PREMISES OCCUPIED BY THE PETITIONER.

23 (31) ~~(30)~~ As used in this section:

24 (a) "Dating relationship" means frequent, intimate
25 associations primarily characterized by the expectation of
26 affectional involvement. ~~This term~~ **DATING RELATIONSHIP** does not
27 include a casual relationship or an ordinary fraternization between

1 2 individuals in a business or social context.

2 (b) "Federal law enforcement officer" means an officer or
3 agent employed by a law enforcement agency of the United States
4 government whose primary responsibility is the enforcement of laws
5 of the United States.

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

8 (D) ~~(e)~~ "Personal protection order" means an injunctive order
9 issued by the circuit court or the family division of circuit court
10 restraining or enjoining activity and individuals listed in
11 subsection (1).

12 Enacting section 1. This amendatory act takes effect 90 days
13 after the date it is enacted into law.