

HOUSE BILL No. 6087

December 1, 2016, Introduced by Rep. Kosowski 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 2016 PA 296.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2950. (1) Except as provided in subsections **(26) AND**
2 (27), ~~and (28)~~, by commencing an independent action to obtain
3 relief under this section, by joining a claim to an action, or by
4 filing a motion in an action in which the petitioner and the
5 individual to be restrained or enjoined are parties, an individual
6 may petition the family division of circuit court to enter a
7 personal protection order to restrain or enjoin a spouse, a former
8 spouse, an individual with whom he or she has had a child in
9 common, an 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) 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 licensed or
17 certified by the Michigan commission on law enforcement standards
18 act, 1965 PA 203, MCL 28.601 to 28.615, a sheriff, a deputy sheriff
19 or a member of the Michigan department of state police, a local
20 corrections officer, department of corrections employee, or a
21 federal law enforcement officer who carries a firearm during the
22 normal course of his or her employment, the petitioner shall notify
23 the court of the respondent's occupation ~~prior to~~ **BEFORE** the
24 issuance of the personal protection order. This subsection does not
25 apply to a petitioner who does not know the respondent's
26 occupation.

27 (3) A petitioner may omit his or her address of residence from

1 documents filed with the court under this section. If a petitioner
2 omits his or her address of residence, the petitioner shall provide
3 the court with a mailing address.

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

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

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

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

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

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

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

25 (6) A court shall not refuse to issue a personal protection
26 order solely ~~due to~~ **BECAUSE OF** the absence of any of the following:

27 (a) A police report.

1 (b) A medical report.

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

3 (d) Physical signs of abuse or violence.

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

9 (8) A **COURT SHALL NOT ISSUE A MUTUAL** personal protection
10 order. ~~may not be made mutual.~~ Correlative separate personal
11 protection orders are prohibited unless both parties have properly
12 petitioned the court under subsection (1).

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

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

22 (11) A personal protection order 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,~~ **OLDER,**
3 immediate arrest and the civil and criminal contempt powers of the
4 court ~~and, that if he or she is found guilty of criminal~~
5 contempt, ~~he or she shall be imprisoned~~ **IMPRISONMENT** for not more
6 than 93 days and ~~may be fined~~ **A FINE OF** not 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 **AFTER BEING** signed by a judge~~,~~ and that, upon service, a personal
19 protection order also may be enforced by another state, an Indian
20 tribe, or a 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~~ **THIS STATE** by any law enforcement
26 agency.

27 (f) The **NAME OF THE** law enforcement agency designated by the

1 court to enter the personal protection order into the law
2 enforcement information network.

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

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

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

26 (14) Except as otherwise provided in this subsection, the
27 court shall schedule a hearing on ~~the~~ **A** motion to modify or rescind

1 ~~the~~ **AN** ex parte personal protection order within 14 days after ~~the~~
2 ~~filing of the motion to modify or rescind.~~ **IS FILED.** If the
3 respondent is a person described in subsection (2) and the personal
4 protection order prohibits him or her from purchasing or possessing
5 a firearm, the court shall schedule a hearing on the motion to
6 modify or rescind the ex parte personal protection order within 5
7 days after ~~the filing of the motion to modify or rescind.~~ **IS FILED.**

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

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

15 (b) Provide the petitioner with 2 or more true copies of the
16 personal protection order.

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

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

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

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

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

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

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

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

14 (19) The clerk of the court **THAT ISSUED THE PERSONAL**
15 **PROTECTION ORDER** shall immediately notify the law enforcement
16 agency that received the personal protection order under subsection
17 (15) or (16) if either of the following occurs:

18 (a) The clerk of the court ~~has received~~ **RECEIVES** proof that
19 the individual restrained or enjoined has been served.

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

22 (20) The law enforcement agency that receives information
23 under subsection (19) shall enter the information or cause the
24 information to be entered into the law enforcement information
25 network. ~~as provided by the C.J.I.S. policy council act, 1974 PA~~
26 ~~163, MCL 28.211 to 28.215.~~

27 (21) Subject to subsection (22), a personal protection order

1 is immediately enforceable anywhere in this state by any law
2 enforcement agency that has received a true copy of the order, is
3 shown a copy of it, or has verified its existence on the law
4 enforcement information network. ~~as provided by the C.J.I.S. policy~~
5 ~~council act, 1974 PA 163, MCL 28.211 to 28.215.~~

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

1 15 or 15a of chapter IV of the code of criminal procedure, 1927 PA
2 175, MCL 764.15 and 764.15a, or a proceeding under section 14 of
3 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.14.

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

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

20 (25) A personal protection order issued under this section is
21 also enforceable under ~~chapter XIIIA of the probate code of 1939,~~
22 ~~1939 PA 288, MCL 712A.1 to 712A.32, and section 15b of chapter IV~~
23 ~~of the code of criminal procedure, 1927 PA 175, MCL 764.15b, AND~~
24 **UNDER CHAPTER 17.**

25 ~~— (26) A personal protection order issued under this section is~~
26 ~~also enforceable under chapter 17.~~

27 **(26)** ~~(27)~~ A court shall not issue a personal protection order

1 that restrains or enjoins conduct described in subsection (1) if
2 any of the following apply:

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

5 (b) The petitioner is the unemancipated minor child of the
6 respondent.

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

8 **(27)** ~~(28)~~—If the respondent is less than 18 years of age,
9 issuance of a personal protection order under this section is
10 subject to chapter XIIIA of the probate code of 1939, 1939 PA 288,
11 MCL 712A.1 to 712A.32.

12 **(28)** ~~(29)~~—A personal protection order that is issued before
13 March 1, 1999 is not invalid on the ground that it does not comply
14 with 1 or more of the requirements added by 1998 PA 477.

15 **(29)** ~~(30)~~—For purposes of subsection (1)(j), a petitioner has
16 an ownership interest in an animal if 1 or more of the following
17 are 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 **(30) IN A PERSONAL PROTECTION ORDER ENTERED UNDER THIS**
24 **SECTION, THE COURT MAY INCLUDE ANY OF THE FOLLOWING:**

25 **(A) PROVISIONS REGARDING CUSTODY OF A CHILD OF EITHER PARTY**
26 **UNDER THE CHILD CUSTODY ACT OF 1970, 1970 PA 91, MCL 722.21 TO**
27 **722.31.**

**(B) PROVISIONS REGARDING SPOUSAL SUPPORT FOR THE PETITIONER OR
CHILD SUPPORT FOR A CHILD OF WHOM THE PETITIONER HAS CUSTODY.**

(31) As used in this section:

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

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

(c) "Neglect" means that term as defined in section 50 of the Michigan penal code, 1931 PA 328, MCL 750.50.

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