

HOUSE BILL NO. 4785

May 04, 2021, Introduced by Rep. Brann 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 2018 PA 146.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2950. (1) Except as otherwise provided in subsections
2 (26) and (27), by commencing an independent action to obtain relief
3 under 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

1 the family division of circuit court to enter a personal protection
2 order to restrain or enjoin a spouse, a former spouse, an
3 individual with whom he or she has had a child in common, an
4 individual with whom he or she has or has had a dating
5 relationship, or an individual residing or having resided in the
6 same household as the petitioner from doing 1 or more of the
7 following:

8 (a) Entering onto premises.

9 (b) Assaulting, attacking, beating, molesting, or wounding a
10 named individual.

11 (c) Threatening to kill or physically injure a named
12 individual.

13 (d) Removing minor children from the individual having legal
14 custody of the children, except as otherwise authorized by a
15 custody or parenting time order issued by a court of competent
16 jurisdiction.

17 (e) Purchasing or possessing a firearm.

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

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

25 (h) If the petitioner is a minor who has been the victim of
26 sexual assault, as that term is defined in section 2950a, by the
27 respondent and if the petitioner is enrolled in a public or
28 nonpublic school that operates any of grades K to 12, attending
29 school in the same building as the petitioner.

1 (i) Having access to information in records concerning a minor
2 child of both petitioner and respondent that will inform respondent
3 about the address or telephone number of petitioner and
4 petitioner's minor child or about petitioner's employment address.

5 (j) Engaging in conduct that is prohibited under section 411h
6 or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and
7 750.411i.

8 (k) Any of the following with the intent to cause the
9 petitioner mental distress or to exert control over the petitioner
10 with respect to an animal in which the petitioner has an ownership
11 interest:

12 (i) Injuring, killing, torturing, neglecting, or threatening to
13 injure, kill, torture, or neglect the animal. A restraining order
14 that enjoins conduct under this subparagraph does not prohibit the
15 lawful killing or other use of the animal as described in section
16 ~~50(11)~~**50(12)** of the Michigan penal code, 1931 PA 328, MCL 750.50.

17 (ii) Removing the animal from the petitioner's possession.

18 (iii) Retaining or obtaining possession of the animal.

19 (l) Any other specific act or conduct that imposes upon or
20 interferes with personal liberty or that causes a reasonable
21 apprehension of violence.

22 (2) If the respondent is a person who is issued a license to
23 carry a concealed weapon and is required to carry a weapon as a
24 condition of his or her employment, a police officer licensed or
25 certified by the Michigan commission on law enforcement standards
26 act, 1965 PA 203, MCL 28.601 to 28.615, a sheriff, a deputy sheriff
27 or a member of the ~~Michigan~~ department of state police, a local
28 corrections officer, department of corrections employee, or a
29 federal law enforcement officer who carries a firearm during the

1 normal course of his or her employment, the petitioner shall notify
2 the court of the respondent's occupation before issuance of the
3 personal protection order. This subsection does not apply to a
4 petitioner who does not know the respondent's occupation.

5 (3) A petitioner may omit his or her address of residence from
6 documents filed with the court under this section. If a petitioner
7 omits his or her address of residence, the petitioner shall provide
8 the court with a mailing address.

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

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

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

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

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

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

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

1 (6) A court shall not refuse to issue a personal protection
2 order solely because of the absence of any of the following:

3 (a) A police report.

4 (b) A medical report.

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

6 (d) Physical signs of abuse or violence.

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

12 (8) A court shall not issue a mutual personal protection
13 order. Correlative separate personal protection orders are
14 prohibited unless both parties have properly petitioned the court
15 under subsection (1).

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

21 (10) The issuing court shall designate a law enforcement
22 agency that is responsible for entering a personal protection order
23 into the law enforcement information network as provided by the
24 C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

25 (11) A personal protection order must include all of the
26 following, to the extent practicable in a single form:

27 (a) A statement that the personal protection order has been
28 entered to restrain or enjoin conduct listed in the order and that
29 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 older, immediate
3 arrest and the civil and criminal contempt powers of the court and,
4 if he or she is found guilty of criminal contempt, imprisonment for
5 not more than 93 days and a fine of not more than \$500.00.

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

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

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

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

20 (d) An expiration date stated clearly on the face of the
21 order.

22 (e) A statement that the personal protection order is
23 enforceable anywhere in this state by any law enforcement agency.

24 (f) The name of the law enforcement agency designated by the
25 court to enter the personal protection order into the law
26 enforcement information network.

27 (g) For ex parte orders, a statement that the individual
28 restrained or enjoined may file a motion to modify or rescind the
29 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) A court shall issue an ex parte personal protection order
5 without written or oral notice to the individual restrained or
6 enjoined or his or her attorney if it clearly appears from specific
7 facts shown by a verified complaint, written motion, or affidavit
8 that immediate and irreparable injury, loss, or damage will result
9 from the delay required to effectuate notice or that the notice
10 will itself precipitate adverse action before a personal protection
11 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. A motion to modify or rescind the personal protection order
17 must be filed within 14 days after the order is served or after the
18 individual restrained or enjoined has received actual notice of the
19 personal protection order unless good cause is shown for filing the
20 motion after the 14 days have elapsed.

21 (14) Except as otherwise provided in this subsection, the
22 court shall schedule a hearing on a motion to modify or rescind the
23 ex parte personal protection order within 14 days after the motion
24 is filed. If the respondent is a person described in subsection (2)
25 and the personal protection order prohibits him or her from
26 purchasing or possessing a firearm, the court shall schedule a
27 hearing on the motion to modify or rescind the ex parte personal
28 protection order within 5 days after the motion is filed.

29 (15) The clerk of the court that issues a personal protection

1 order shall do all of the following immediately upon issuance and
2 without requiring a proof of service on the individual restrained
3 or enjoined:

4 (a) File a true copy of the personal protection order with the
5 law enforcement agency designated by the court in the personal
6 protection order.

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

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

13 (d) If the personal protection order prohibits the respondent
14 from purchasing or possessing a firearm, notify the county clerk of
15 the respondent's county of residence about the existence and
16 contents of the personal protection order.

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

20 (f) If the respondent is identified in the pleadings as being
21 a person who may have access to information concerning the
22 petitioner or a child of the petitioner or respondent and that
23 information is contained in friend of the court records, notify the
24 friend of the court for the county in which the information is
25 located about the existence of the personal protection order.

26 (16) The clerk of the court shall inform the petitioner that
27 he or she may take a true copy of the personal protection order to
28 the law enforcement agency designated by the court under subsection
29 (10) to be immediately entered into the law enforcement information

1 network.

2 (17) The law enforcement agency that receives a true copy of a
3 personal protection order under subsection (15) or (16) shall
4 immediately and without requiring proof of service enter the
5 personal protection order into the law enforcement information
6 network as provided by the C.J.I.S. policy council act, 1974 PA
7 163, MCL 28.211 to 28.215.

8 (18) A personal protection order issued under this section
9 must be served personally or by registered or certified mail,
10 return receipt requested, delivery restricted to the addressee at
11 the last known address or addresses of the individual restrained or
12 enjoined or by any other manner allowed by the Michigan court
13 rules. If the individual restrained or enjoined has not been
14 served, a law enforcement officer or clerk of the court who knows
15 that a personal protection order exists may, at any time, serve the
16 individual restrained or enjoined with a true copy of the order or
17 advise the individual restrained or enjoined of the existence of
18 the personal protection order, the specific conduct enjoined, the
19 penalties for violating the order, and where the individual
20 restrained or enjoined may obtain a copy of the order. If the
21 respondent is less than 18 years of age, the parent, guardian, or
22 custodian of the individual must also be served personally or by
23 registered or certified mail, return receipt requested, delivery
24 restricted to the addressee at the last known address or addresses
25 of the parent, guardian, or custodian. A proof of service or proof
26 of oral notice must be filed with the clerk of the court issuing
27 the personal protection order. This subsection does not prohibit
28 the immediate effectiveness of a personal protection order or its
29 immediate enforcement under subsections (21) and (22).

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

5 (a) The clerk of the court receives proof that the individual
6 restrained or enjoined has been served.

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

9 (20) The law enforcement agency that receives information
10 under subsection (19) shall enter the information or cause the
11 information to be entered into the law enforcement information
12 network as provided by the C.J.I.S. policy council act, 1974 PA
13 163, MCL 28.211 to 28.215.

14 (21) Subject to subsection (22), a personal protection order
15 is immediately enforceable anywhere in this state by any law
16 enforcement agency that has received a true copy of the order, is
17 shown a copy of it, or has verified its existence on the law
18 enforcement information network as provided by the C.J.I.S. policy
19 council act, 1974 PA 163, MCL 28.211 to 28.215.

20 (22) If the individual restrained or enjoined has not been
21 served, a law enforcement agency or officer responding to a call
22 alleging a violation of a personal protection order shall serve the
23 individual restrained or enjoined with a true copy of the order or
24 advise the individual restrained or enjoined of the existence of
25 the personal protection order, the specific conduct enjoined, the
26 penalties for violating the order, and where the individual
27 restrained or enjoined may obtain a copy of the order. The law
28 enforcement officer shall enforce the personal protection order and
29 immediately enter or cause to be entered into the law enforcement

1 information network that the individual restrained or enjoined has
2 actual notice of the personal protection order. The law enforcement
3 officer also shall file a proof of service or proof of oral notice
4 with the clerk of the court issuing the personal protection order.
5 If the individual restrained or enjoined has not received notice of
6 the personal protection order, the individual restrained or
7 enjoined must be given an opportunity to comply with the personal
8 protection order before the law enforcement officer makes a
9 custodial arrest for violation of the personal protection order.
10 The failure to immediately comply with the personal protection
11 order is grounds for an immediate custodial arrest. This subsection
12 does not preclude an arrest under section 15 or 15a of chapter IV
13 of the code of criminal procedure, 1927 PA 175, MCL 764.15 and
14 764.15a, or a proceeding under section 14 of chapter XIIIA of the
15 probate code of 1939, 1939 PA 288, MCL 712A.14.

16 (23) An individual who is 17 years of age or older and who
17 refuses or fails to comply with a personal protection order under
18 this section is subject to the criminal contempt powers of the
19 court and, if found guilty, must be imprisoned for not more than 93
20 days and may be fined not more than \$500.00. An individual who is
21 less than 17 years of age and who refuses or fails to comply with a
22 personal protection order issued under this section is subject to
23 the dispositional alternatives listed in section 18 of chapter XIIIA
24 of the probate code of 1939, 1939 PA 288, MCL 712A.18. The criminal
25 penalty provided under this section may be imposed in addition to a
26 penalty that may be imposed for another criminal offense arising
27 from the same conduct.

28 (24) An individual who knowingly and intentionally makes a
29 false statement to the court in support of his or her petition for

1 a personal protection order is subject to the contempt powers of
2 the court.

3 (25) A personal protection order issued under this section is
4 also enforceable under section 15b of chapter IV of the code of
5 criminal procedure, 1927 PA 175, MCL 764.15b, and chapter 17.

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

9 (a) The respondent is the unemancipated minor child of the
10 petitioner.

11 (b) The petitioner is the unemancipated minor child of the
12 respondent.

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

14 (27) If the respondent is less than 18 years of age, issuance
15 of a personal protection order under this section is subject to
16 chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1
17 to 712A.32.

18 (28) A personal protection order that is issued before March
19 1, 1999 is not invalid on the ground that it does not comply with 1
20 or more of the requirements added by 1998 PA 477.

21 (29) For purposes of subsection (1)(k), a petitioner has an
22 ownership interest in an animal if 1 or more of the following are
23 applicable:

24 (a) The petitioner has a right of property in the animal.

25 (b) The petitioner keeps or harbors the animal.

26 (c) The animal is in the petitioner's care.

27 (d) The petitioner permits the animal to remain on or about
28 premises occupied by the petitioner.

29 (30) As used in this section:

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

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

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

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

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

17 Enacting section 2. This amendatory act does not take effect
18 unless Senate Bill No. ____ or House Bill No. 4784 (request no.
19 02218'21) of the 101st Legislature is enacted into law.