

House Bill 5657

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 2529, 2950, and 2950a (MCL 600.2529,
600.2950, and 600.2950a), section 2529 as amended by 1994 PA 403
and sections 2950 and 2950a as amended by 1997 PA 115.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2529. (1) In the circuit court, the following fees
2 shall be paid to the clerk of the court:

3 (a) Before a civil action other than an action brought
4 exclusively under section 2950 or 2950a is commenced, or before
5 the filing of an application for superintending control or for an
6 extraordinary writ, except the writ of habeas corpus, the party
7 bringing the action or filing the application shall pay the sum
8 of \$62.00. The clerk at the end of each month shall transmit for
9 each fee collected under this subdivision within the month,

1 \$18.75 to the executive secretary of the Michigan judges
2 retirement system created by the judges retirement act of 1992,
3 ~~Act No. 234 of the Public Acts of 1992, being sections 38.2101~~
4 ~~to 38.2608 of the Michigan Compiled Laws~~ 1992 PA 234, MCL
5 38.2101 TO 38.2670; \$5.00 to the secretary of the Michigan legis-
6 lative retirement system for deposit with the state treasurer in
7 the retirement fund created by the Michigan legislative retire-
8 ment system act, ~~Act No. 261 of the Public Acts of 1957, as~~
9 ~~amended, being sections 38.1001 to 38.1060 of the Michigan~~
10 ~~Compiled Laws~~ 1957 PA 261, MCL 38.1001 TO 38.1060; \$5.25 to the
11 state treasurer for deposit in the general fund; \$2.00 to the
12 state treasurer to be credited to the community dispute resolu-
13 tion fund created by the community dispute resolution act, ~~Act~~
14 ~~No. 260 of the Public Acts of 1988, being sections 691.1551 to~~
15 ~~691.1564 of the Michigan Compiled Laws~~ 1988 PA 260, MCL 691.1551
16 TO 691.1564; \$11.00 to the county treasurer; and the balance of
17 the filing fee to the state treasurer for deposit in the state
18 court fund created by section 151a. Beginning October 1, 1994
19 and until October 1, 1995, the fee required under this subdivi-
20 sion is \$72.00. Beginning October 1, 1995 and until October 1,
21 1996, the fee required under this subdivision is \$80.00.
22 Beginning October 1, 1996 and until October 1, 1997, the fee
23 required under this subdivision is \$90.00. Beginning October 1,
24 1997, the fee required under this subdivision is \$100.00.
25 (b) Before the filing of a claim of appeal or motion for
26 leave to appeal from the district court, probate court, a
27 municipal court, or an administrative tribunal or agency, the sum

1 of \$60.00. For each fee collected under this subdivision, the
2 clerk shall transmit \$15.00 to the state treasurer for deposit in
3 the state court fund created by section 151a. Beginning
4 October 1, 1994 and until October 1, 1995, the fee required under
5 this subdivision is \$70.00. Beginning October 1, 1995 and until
6 October 1, 1996, the fee required under this subdivision is
7 \$80.00. Beginning October 1, 1996 and until October 1, 1997, the
8 fee required under this subdivision is \$90.00. Beginning
9 October 1, 1997, the fee required under this subdivision is
10 \$100.00.

11 (c) If a trial by jury is demanded, the party making the
12 demand at the time shall pay the sum of \$60.00. Failure to pay
13 the fee within the time provided in the court rules constitutes a
14 waiver of the right to a jury trial. The sum shall be taxed in
15 favor of the party paying the fee, in case the party recovers a
16 judgment for costs.

17 (d) Before entry of a final judgment in an action for
18 divorce or separate maintenance in which minor children are
19 involved, or the entry of a final judgment in a child custody
20 dispute submitted to the circuit court as an original action, 1
21 of the following sums, which shall be deposited by the county
22 treasurer as provided in section 2530:

23 (i) If the matter was contested or uncontested and was not
24 submitted to domestic relations mediation or investigation by the
25 friend of the court, \$30.00.

26 (ii) If the matter was contested or uncontested and was
27 submitted to domestic relations mediation, \$50.00.

1 (iii) If the matter was contested or uncontested and the
2 office of the friend of the court conducted an investigation and
3 made a recommendation to the court, \$70.00.

4 (e) Except as otherwise provided in this section, upon the
5 filing of a motion OTHER THAN A MOTION TO MODIFY OR TERMINATE A
6 PERSONAL PROTECTION ORDER ISSUED UNDER SECTION 2950 OR 2950A, the
7 sum of \$20.00. For each fee collected under this subdivision,
8 the clerk shall transmit \$10.00 to the state treasurer for
9 deposit in the state court fund created by section 151a.

10 (f) For services under the direction of the court that are
11 not specifically provided for in this section relative to the
12 receipt, safekeeping, or expending of money, or the purchasing,
13 taking, or transferring of a security, or the collecting of
14 interest on a security, the clerk shall receive the allowance and
15 compensation from the parties as the court may consider just and
16 shall direct by court order, after notice to the parties to be
17 charged.

18 (g) Upon appeal to the court of appeals or the supreme
19 court, the sum of \$25.00.

20 (h) The sum of \$15.00 as a service fee for each writ of gar-
21 nishment, attachment, execution, or judgment debtor discovery
22 subpoena issued.

23 (2) The sums paid as provided in this section shall be held
24 to be in full for all clerk, entry, and judgment fees in an
25 action from the commencement of the action to and including the
26 issuance and return of the execution or other final process, and
27 are taxable as costs.

HB5657, As Passed House, May 6, 1998

H.B. 5657 as amended May 5, 1998

5

1 (3) Except as otherwise provided in this section, the fees
2 shall be paid over to the county treasurer as required by law.

3 (4) The court shall order any of the fees prescribed in this
4 section waived or suspended, in whole or in part, upon a showing
5 by affidavit of indigency or inability to pay.

6 (5) The clerk of the circuit court shall prepare and submit
7 a court filing fee report to the executive secretary of the
8 Michigan judges retirement system created by ~~Act No. 234 of the~~
9 ~~Public Acts of 1992~~ THE JUDGES RETIREMENT ACT OF 1992, 1992 PA
10 234, MCL 38.2101 TO 38.2670, at the same time the clerk of the
11 circuit court transmits the portion of the fees collected under
12 this section to the executive secretary.

13 Sec. 2950. (1) ~~By~~ EXCEPT AS PROVIDED IN [SUBSECTIONS(27) AND
14 (28)],

15 BY commencing an independent action to obtain relief under this
16 section, by joining a claim to an action, or by filing a motion
17 in an action in which the petitioner and the individual to be
18 restrained or enjoined are parties, an individual may petition
19 the [FAMILY DIVISION OF] circuit court to enter a personal
20 protection order to

21 restrain or enjoin a spouse, a former spouse, an individual with
22 whom he or she has had a child in common, an individual with whom
23 he or she has or has had a dating relationship, or an individual
24 residing or having resided in the same household as the victim
25 from doing 1 or more of the following:

26 (a) Entering onto premises.

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

1 (c) Threatening to kill or physically injure a named
2 individual.

3 (d) Removing minor children from the individual having legal
4 custody of the children, except as otherwise authorized by a cus-
5 tody or parenting time order issued by a court of competent
6 jurisdiction.

7 (e) ~~Beginning April 1, 1996, purchasing~~ PURCHASING or pos-
8 sassing a firearm.

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

13 (g) Interfering with petitioner at petitioner's place of
14 employment or engaging in conduct that impairs petitioner's
15 employment relationship or environment.

16 (H) HAVING ACCESS TO INFORMATION IN RECORDS CONCERNING A
17 MINOR CHILD OF BOTH PETITIONER AND RESPONDENT THAT WILL INFORM
18 RESPONDENT ABOUT THE ADDRESS OR TELEPHONE NUMBER OF PETITIONER
19 AND PETITIONER'S MINOR CHILD OR ABOUT PETITIONER'S EMPLOYMENT
20 ADDRESS.

21 (I) ENGAGING IN CONDUCT THAT IS PROHIBITED UNDER SECTION
22 411H OR 411I OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
23 750.411H AND 750.411I.

24 (J) ~~(h)~~ Any other specific act or conduct that imposes
25 upon or interferes with personal liberty or that causes a reason-
26 able apprehension of violence.

1 (2) If the respondent is a person who is issued a license to
2 carry a concealed weapon and is required to carry a weapon as a
3 condition of his or her employment, a police officer certified by
4 the Michigan law enforcement training council act of 1965, 1965
5 PA 203, MCL 28.601 to 28.616, a sheriff, a deputy sheriff or a
6 member of the Michigan department of state police, a local cor-
7 rections officer, department of corrections employee, or a fed-
8 eral law enforcement officer who carries a firearm during the
9 normal course of his or her employment, the petitioner shall
10 notify the court of the respondent's occupation prior to the
11 issuance of the personal protection order. This subsection does
12 not apply to a petitioner who does not know the respondent's
13 occupation.

14 (3) A petitioner may omit his or her address of residence
15 from documents filed with the court under this section. If a
16 petitioner omits his or her address of residence, the petitioner
17 shall provide the court with a mailing address.

18 (4) The court shall issue a personal protection order under
19 this section if the court determines that there is reasonable
20 cause to believe that the individual to be restrained or enjoined
21 may commit 1 or more of the acts listed in subsection (1). In
22 determining whether reasonable cause exists, the court shall con-
23 sider all of the following:

24 (a) Testimony, documents, or other evidence offered in sup-
25 port of the request for a personal protection order.

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

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

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

9 (b) The individual to be restrained or enjoined has a prop-
10 erty interest in the premises.

11 (c) The moving party has no property interest in the
12 premises.

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

15 (a) A police report.

16 (b) A medical report.

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

18 (d) Physical signs of abuse or violence.

19 (7) If the court refuses to grant a personal protection
20 order, it shall state immediately in writing the specific reasons
21 it refused to issue a personal protection order. If a hearing is
22 held, the court shall also immediately state on the record the
23 specific reasons it refuses to issue a personal protection
24 order.

25 (8) A personal protection order shall not be made mutual.
26 Correlative separate personal protection orders are prohibited

1 unless both parties have properly petitioned the court pursuant
2 to subsection (1).

3 (9) A personal protection order is effective when signed by
4 a judge.

5 (10) The court shall designate the law enforcement agency
6 that is responsible for entering the personal protection order
7 into the law enforcement information network as provided by the
8 L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to
9 28.216.

10 (11) A personal protection order shall include all of the
11 following:

12 (a) A statement that the personal protection order has been
13 entered to restrain or enjoin conduct listed in the order and
14 that violation of the personal protection order will subject the
15 individual restrained or enjoined to immediate arrest and the
16 civil and criminal contempt powers of the court, and that if he
17 or she is found guilty of criminal contempt, he or she shall be
18 imprisoned for not more than 93 days and may be fined not more
19 than \$500.00.

20 (b) A statement that the personal protection order is effec-
21 tive when signed by a judge and is immediately enforceable.

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

24 (d) An expiration date stated clearly on the face of the
25 order.

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

1 (f) The law enforcement agency designated by the court to
2 enter the personal protection order into the law enforcement
3 information network.

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

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

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

1 (14) Except as otherwise provided in this subsection, the
2 court shall schedule a hearing on the motion to modify or rescind
3 the ex parte personal protection order within 14 days after the
4 filing of the motion to modify or rescind. If the respondent is
5 a person described in subsection (2) and the personal protection
6 order prohibits him or her from purchasing or possessing a fire-
7 arm, the court shall schedule a hearing on the motion to modify
8 or rescind the ex parte personal protection order within 5 days
9 after the filing of the motion to modify or rescind.

10 (15) The clerk of the court that issues a personal protec-
11 tion order shall do ~~both~~ ALL of the following immediately upon
12 issuance and without requiring a proof of service on the individ-
13 ual restrained or enjoined:

14 (a) File a true copy of the personal protection order with
15 the law enforcement agency designated by the court in the per-
16 sonal protection order.

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

19 (C) IF RESPONDENT IS IDENTIFIED IN THE PLEADINGS AS A LAW
20 ENFORCEMENT OFFICER, NOTIFY THE OFFICER'S EMPLOYING LAW ENFORCE-
21 MENT AGENCY, IF KNOWN, ABOUT THE EXISTENCE OF THE PERSONAL PRO-
22 TECTION ORDER.

23 (D) IF THE PERSONAL PROTECTION ORDER PROHIBITS RESPONDENT
24 FROM PURCHASING OR POSSESSING A FIREARM, NOTIFY THE CONCEALED
25 WEAPON LICENSING BOARD IN RESPONDENT'S COUNTY OF RESIDENCE ABOUT
26 THE EXISTENCE AND CONTENTS OF THE PERSONAL PROTECTION ORDER.

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

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

12 (18) A personal protection order issued under this section
13 shall be served personally or by registered or certified mail,
14 return receipt requested, delivery restricted to the addressee at
15 the last known address or addresses of the individual restrained
16 or enjoined or by any other manner provided in the Michigan court
17 rules. A LAW ENFORCEMENT OFFICER OR CLERK OF THE COURT WHO KNOWS
18 THAT A PERSONAL PROTECTION ORDER EXISTS MAY, AT ANY TIME, SERVE
19 THE INDIVIDUAL RESTRAINED OR ENJOINED BUT NOT YET SERVED WITH A
20 TRUE COPY OF THE ORDER OR ADVISE THE INDIVIDUAL RESTRAINED OR
21 ENJOINED ABOUT THE EXISTENCE OF THE PERSONAL PROTECTION ORDER,
22 THE SPECIFIC CONDUCT ENJOINED, THE PENALTIES FOR VIOLATING THE
23 ORDER, AND WHERE THE INDIVIDUAL RESTRAINED OR ENJOINED MAY OBTAIN
24 A COPY OF THE ORDER. A proof of service OR PROOF OF ORAL NOTICE
25 shall be filed with the clerk of the court issuing the personal
26 protection order. This subsection does not prohibit the

1 immediate effectiveness of a personal protection order or its
2 immediate enforcement under subsections (21) and (22).

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

6 (a) The clerk of the court has received proof that the indi-
7 vidual restrained or enjoined has been served.

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

10 (20) The law enforcement agency that receives information
11 under subsection (19) shall enter the information or cause the
12 information to be entered into the law enforcement information
13 network as provided by the L.E.I.N. policy council act of 1974,
14 1974 PA 163, MCL 28.211 to 28.216.

15 (21) Subject to subsection (22), a personal protection order
16 is immediately enforceable anywhere in this state by any law
17 enforcement agency that has received a true copy of the order, is
18 shown a copy of it, or has verified its existence on the law
19 enforcement information network as provided by the
20 L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to
21 28.216.

22 (22) If the individual restrained or enjoined has not been
23 served, the law enforcement agency or officer responding to a
24 ~~domestic violence~~ call alleging a violation of a personal pro-
25 tection order shall serve the individual restrained or enjoined
26 with a true copy of the order or advise the individual restrained
27 or enjoined of the existence ~~of~~ ABOUT the personal protection

1 order, the specific conduct enjoined, the penalties for violating
2 the order, and where the individual restrained or enjoined may
3 obtain a copy of the order. The law enforcement officer shall
4 enforce the personal protection order and immediately enter or
5 cause to be entered into the law enforcement information network
6 that the individual restrained or enjoined has actual notice of
7 the personal protection order. THE LAW ENFORCEMENT OFFICER ALSO
8 SHALL FILE A PROOF OF SERVICE OR PROOF OF ORAL NOTICE WITH THE
9 CLERK OF THE COURT ISSUING THE PERSONAL PROTECTION ORDER. If the
10 individual restrained or enjoined has not received notice of the
11 personal protection order, the individual restrained or enjoined
12 shall be given an opportunity to comply with the personal protec-
13 tion order before the law enforcement officer makes a custodial
14 arrest for violation of the personal protection order. The fail-
15 ure to immediately comply with the personal protection order
16 shall be grounds for an immediate custodial arrest. This subsec-
17 tion does not preclude an arrest under section 15 or 15a of
18 chapter IV of the code of criminal procedure, 1927 PA 175, MCL
19 764.15 and 764.15a.

20 (23) An individual who refuses or fails to comply with a
21 personal protection order ISSUED UNDER THIS SECTION is subject to
22 the criminal contempt powers of the court and, if found guilty,
23 shall be imprisoned for not more than 93 days and may be fined
24 not more than \$500.00. The criminal penalty provided for under
25 this section may be imposed in addition to a penalty that may be
26 imposed for another criminal offense arising from the same
27 conduct.

HB5657, As Passed House, May 6, 1998

H.B. 5657 as amended May 5, 1998

15

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

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

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

10 (27) THE COURT SHALL NOT ISSUE A PERSONAL PROTECTION ORDER
11 IF [EITHER OF THE FOLLOWING APPLIES:

12 (A) THE RESPONDENT IS THE UNEMANCIPATED MINOR CHILD OF THE
13 PETITIONER.

(B) THE PETITIONER IS THE UNEMANCIPATED MINOR CHILD OF THE
RESPONDENT.

(28)] IF THE RESPONDENT IS LESS THAN 18
14 YEARS OF AGE, A COURT SHALL NOT ISSUE A PERSONAL PROTECTION ORDER
15 UNDER THIS SECTION; THE COURT SHALL PROCEED UNDER SECTION 2 OF
16 CHAPTER XIIIA OF 1939 PA 288, MCL 712A.2.

[(29) THE STATE COURT ADMINISTRATOR SHALL DO EITHER OF THE
FOLLOWING:

(A) PROVIDE TO THE CLERK OF EACH COURT THE SELF-DUPLICATING
CARBONLESS FORMS CAPABLE OF SIMULTANEOUSLY PRODUCING THE NUMBER OF
COPIES OF A PETITION NECESSARY FOR A PETITIONER TO COMMENCE AN ACTION
UNDER THIS SECTION.

(B) REIMBURSE EACH COUNTY FOR THE ACTUAL COST OF THE FORMS
DESCRIBED IN SUBDIVISION (A) PROVIDED BY THE CLERK OF THE COURT TO
PETITIONERS FOR COMMENCING AN ACTION UNDER THIS SECTION AND FILED IN A
COURT LOCATED IN THAT COUNTY.]

17 [(30)] ~~-(27)-~~ As used in this section:

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

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

00148'97 **

H.B. 5657 as amended May 5, 1998

16

1 (c) "Personal protection order" means an injunctive order

HB5657, As Passed House, May 6, 1998

2 issued by the [] circuit court [OR FAMILY DIVISION
OF CIRCUIT COURT] restraining or
3 enjoining activity and individuals listed in subsection (1).
4 Sec. 2950a. (1) ~~By~~ EXCEPT AS PROVIDED IN [SUBSECTIONS (25)
AND (26)],
5 BY commencing an independent action to obtain relief under this
6 section, by joining a claim to an action, or by filing a motion
7 in an action in which the petitioner and the individual to be
8 restrained or enjoined are parties, an individual may petition
9 the [FAMILY DIVISION OF] circuit court to enter a personal
protection order to
10 restrain or enjoin an individual from engaging in conduct that is
11 prohibited under section 411h or 411i of the Michigan penal code,
12 1931 PA 328, MCL 750.411h and 750.411i. RELIEF SHALL NOT BE
13 GRANTED UNLESS THE PETITION ALLEGES FACTS THAT CONSTITUTE STALK-
14 ING AS DEFINED IN SECTION 411H OR 411I OF THE MICHIGAN PENAL
15 CODE, 1931 PA 328, MCL 750.411H AND 750.411I. Relief may be
16 sought and granted under this section whether or not the individ-
17 ual to be restrained or enjoined has been charged or convicted
18 under section 411h or 411i of the Michigan penal code, 1931 PA
19 328, MCL 750.411h and 750.411i for the alleged violation.
20 (2) If the respondent is a person who is issued a license to
21 carry a concealed weapon and is required to carry a weapon as a
22 condition of his or her employment, a police officer certified by
23 the Michigan law enforcement training council act of 1965, 1965
24 PA 203, MCL 28.601 to 28.616, a sheriff, a deputy sheriff or a
25 member of the Michigan department of state police, a local cor-
26 rections officer, a department of corrections employee, or a
27 federal law enforcement officer who carries a firearm during the

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

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

10 (4) If the court refuses to grant a personal protection
11 order, it shall IMMEDIATELY state in writing the specific reasons
12 it refused to issue a personal protection order. If a hearing is
13 held, the court shall also immediately state on the record the
14 specific reasons it refuses to issue a personal protection
15 order.

16 (5) A personal protection order shall not be made mutual.
17 Correlative separate personal protection orders are prohibited
18 unless both parties have properly petitioned the court pursuant
19 to subsection (1).

20 (6) A personal protection order is effective when signed by
21 a judge.

22 (7) The court shall designate the law enforcement agency
23 that is responsible for entering the personal protection order
24 into the law enforcement information network as provided by the
25 L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to
26 28.216.

1 (8) A personal protection order issued under this section
2 shall include all of the following:

3 (a) A statement that the personal protection order has been
4 entered to enjoin or restrain conduct listed in the order and
5 that violation of the personal protection order will subject the
6 individual restrained or enjoined to immediate arrest and the
7 civil and criminal contempt powers of the court, and that if he
8 or she is found guilty of criminal contempt, he or she shall be
9 imprisoned for not more than 93 days and may be fined not more
10 than \$500.00.

11 (b) A statement that the personal protection order is effec-
12 tive when signed by a judge and is immediately enforceable.

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

15 (d) An expiration date stated clearly on the face of the
16 order.

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

19 (f) The law enforcement agency designated by the court to
20 enter the personal protection order into the law enforcement
21 information network.

22 (g) For ex parte orders, a statement that the individual
23 restrained or enjoined may file a motion to modify or rescind the
24 personal protection order and request a hearing within 14 days
25 after the individual restrained or enjoined has been served or
26 has received actual notice of the personal protection order and

1 that motion forms and filing instructions are available from the
2 clerk of the court.

3 (9) An ex parte personal protection order shall NOT be
4 issued and effective without written or oral notice to the indi-
5 vidual enjoined or his or her attorney ~~if~~ UNLESS it clearly
6 appears from specific facts shown by verified complaint, written
7 motion, or affidavit that immediate and irreparable injury, loss,
8 or damage will result from the delay required to effectuate
9 notice or that the notice will itself precipitate adverse action
10 before a personal protection order can be issued.

11 (10) A personal protection order issued under subsection (9)
12 is valid for not less than 182 days. The individual restrained
13 or enjoined may file a motion to modify or rescind the personal
14 protection order and request a hearing pursuant to the Michigan
15 court rules. The motion to modify or rescind the personal pro-
16 tection order shall be filed within 14 days after the order is
17 served or after the individual restrained or enjoined has
18 received actual notice of the personal protection order unless
19 good cause is shown for filing the motion after the 14 days have
20 elapsed.

21 (11) 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
25 a person described in subsection (2) and the personal protection
26 order prohibits him or her from purchasing or possessing a
27 firearm, the court shall schedule a hearing on the motion to

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

3 (12) The clerk of the court that issues a personal protec-
4 tion order shall do ~~both~~ ALL of the following immediately upon
5 issuance and without requiring a proof of service on the individ-
6 ual restrained or enjoined:

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

10 (b) Provide 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 ENFORCE-
14 MENT AGENCY ABOUT THE EXISTENCE OF THE PERSONAL PROTECTION ORDER.

15 (d) IF THE PERSONAL PROTECTION ORDER PROHIBITS RESPONDENT
16 FROM PURCHASING OR POSSESSING A FIREARM, NOTIFY THE CONCEALED
17 WEAPON LICENSING BOARD IN RESPONDENT'S COUNTY OF RESIDENCE ABOUT
18 THE EXISTENCE AND CONTENTS OF THE PERSONAL PROTECTION ORDER.

19 (13) The clerk of the court shall inform the petitioner that
20 he or she may take a true copy of the personal protection order
21 to the law enforcement agency designated by the court in subsec-
22 tion (7) to be immediately entered into the law enforcement
23 information network.

24 (14) The law enforcement agency that receives a true copy of
25 the personal protection order under subsection (12) or (13) shall
26 immediately and without requiring proof of service enter the
27 personal protection order into the law enforcement information

1 network, as provided by the L.E.I.N. policy council act of 1974,
2 1974 PA 163, MCL 28.211 to 28.216.

3 (15) A personal protection order issued under this section
4 shall be served personally or by registered or certified mail,
5 return receipt requested, delivery restricted to the addressee at
6 the last known address or addresses of the individual restrained
7 or enjoined or by any other manner provided in the Michigan court
8 rules. A LAW ENFORCEMENT OFFICER OR CLERK OF THE COURT WHO KNOWS
9 THAT A PERSONAL PROTECTION ORDER EXISTS MAY, AT ANY TIME, SERVE
10 THE INDIVIDUAL RESTRAINED OR ENJOINED BUT NOT YET SERVED WITH A
11 TRUE COPY OF THE ORDER OR ADVISE THE INDIVIDUAL RESTRAINED OR
12 ENJOINED ABOUT THE EXISTENCE OF THE PERSONAL PROTECTION ORDER,
13 THE SPECIFIC CONDUCT ENJOINED, THE PENALTIES FOR VIOLATING THE
14 ORDER, AND WHERE THE INDIVIDUAL RESTRAINED OR ENJOINED MAY OBTAIN
15 A COPY OF THE ORDER. A proof of service OR PROOF OF ORAL NOTICE
16 shall be filed with the clerk of the court issuing the personal
17 protection order. This subsection does not prohibit the immedi-
18 ate effectiveness of a personal protection order or its immediate
19 enforcement under subsections (18) and (19).

20 (16) The clerk of the court shall immediately notify the law
21 enforcement agency that received the personal protection order
22 under subsection (12) or (13) if either of the following occurs:

23 (a) The clerk of the court has received proof that the indi-
24 vidual restrained or enjoined has been served.

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

1 (17) The law enforcement agency that receives information
2 under subsection (16) shall enter the information or cause the
3 information to be entered into the law enforcement information
4 network as provided by the L.E.I.N. policy council act of 1974,
5 1974 PA 163, MCL 28.211 to 28.216.

6 (18) Subject to subsection (19), a personal protection order
7 is immediately enforceable anywhere in this state by any law
8 enforcement agency that has received a true copy of the order, is
9 shown a copy of it, or has verified its existence on the law
10 enforcement information network as provided by the
11 L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to
12 28.216.

13 (19) If the individual restrained or enjoined has not been
14 served, the law enforcement agency or officer responding to a
15 ~~domestic violence~~ call alleging a violation of a personal pro-
16 tection order shall serve the individual restrained or enjoined
17 with a true copy of the order or advise the individual restrained
18 or enjoined ~~of~~ ABOUT the existence of the personal protection
19 order, the specific conduct enjoined, the penalties for violating
20 the order, and where the individual restrained or enjoined may
21 obtain a copy of the order. The law enforcement officer shall
22 enforce the personal protection order and immediately enter or
23 cause to be entered into the law enforcement information network
24 that the individual restrained or enjoined has actual notice of
25 the personal protection order. THE LAW ENFORCEMENT OFFICER ALSO
26 SHALL FILE A PROOF OF SERVICE OR PROOF OF ORAL NOTICE WITH THE
27 CLERK OF THE COURT ISSUING THE PERSONAL PROTECTION ORDER. If the

1 individual restrained or enjoined has not received notice of the
2 personal protection order, the individual restrained or enjoined
3 shall be given an opportunity to comply with the personal protec-
4 tion order before the law enforcement officer makes a custodial
5 arrest for violation of the personal protection order. The fail-
6 ure to immediately comply with the personal protection order
7 shall be grounds for an immediate custodial arrest. This subsec-
8 tion does not preclude an arrest under section 15 or 15a of chap-
9 ter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15
10 and 764.15a.

11 (20) An individual who refuses or fails to comply with a
12 personal protection order issued under this section is subject to
13 the criminal contempt powers of the court and, if found guilty of
14 criminal contempt, shall be imprisoned for not more than 93 days
15 and may be fined not more than \$500.00. The criminal penalty
16 provided for under this section may be imposed in addition to any
17 penalty that may be imposed for any other criminal offense aris-
18 ing from the same conduct.

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

23 (22) A personal protection order issued under this section
24 is also enforceable under section 15b of chapter IV of the code
25 of criminal procedure, 1927 PA 175, MCL 764.15b.

HB5657, As Passed House, May 6, 1998

H.B. 5657 as amend May 5, 1998

24

1 (23) ~~Beginning April 1, 1996, a~~ A personal protection
2 order issued under this section may enjoin or restrain an
3 individual from purchasing or possessing a firearm.

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

6 (25) THE COURT SHALL NOT ISSUE A PERSONAL PROTECTION ORDER

7 IF [EITHER OF THE FOLLOWING APPLIES:

 (A) THE RESPONDENT IS THE UNEMANCIPATED MINOR CHILD OF THE
PETITIONER.

 (B) THE PETITIONER IS THE UNEMANCIPATED MINOR CHILD OF THE
RESPONDENT.

 (26)] IF THE RESPONDENT IS LESS THAN 18

10 YEARS OF AGE, A COURT SHALL NOT ISSUE A PERSONAL PROTECTION ORDER
11 UNDER THIS SECTION; THE COURT SHALL PROCEED UNDER SECTION 2 OF
12 CHAPTER XIIIA OF 1939 PA 288, MCL 712A.2.

 [(27) THE STATE COURT ADMINISTRATOR SHALL DO EITHER OF THE
FOLLOWING:

 (A) PROVIDE TO THE CLERK OF EACH COURT THE SELF-DUPLICATING
CARBONLESS FORMS CAPABLE OF SIMULTANEOUSLY PRODUCING THE NUMBER OF
COPIES OF A PETITION NECESSARY FOR A PETITIONER TO COMMENCE AN ACTION
UNDER THIS SECTION.

 (B) REIMBURSE EACH COUNTY FOR THE ACTUAL COST OF THE FORMS
DESCRIBED IN SUBDIVISION (A) PROVIDED BY THE CLERK OF THE COURT TO
PETITIONERS FOR COMMENCING AN ACTION UNDER THIS SECTION AND FILED IN A
COURT LOCATED IN THAT COUNTY.]

13 [(28)] ~~(25)~~ As used in this section:

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

18 (b) "Personal protection order" means an injunctive order
19 issued by THE circuit court [OR FAMILY DIVISION OF CIRCUIT COURT]
restraining or enjoining conduct pro-

20 hibited under section 411h or 411i of the Michigan penal code,
21 1931 PA 328, MCL 750.411h and 750.411i.

22 Enacting section 1. This amendatory act takes effect on
23 September 1, 1998.