

HOUSE BILL No. 5809

April 29, 1998, Introduced by Rep. Callahan and referred to the Committee on Judiciary.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2950. (1) ~~By~~ EXCEPT AS PROVIDED IN SUBSECTION (27),
2 BY commencing an independent action to obtain relief under this
3 section, by joining a claim to an action, or by filing a motion
4 in an action in which the petitioner and the individual to be
5 restrained or enjoined are parties, an individual may petition
6 the circuit court to enter a personal protection order to
7 restrain or enjoin a spouse, a former spouse, an individual with
8 whom he or she has had a child in common, an individual with whom
9 he or she has or has had a dating relationship, or an individual

1 residing or having resided in the same household as the victim
2 from doing 1 or more of the following:

3 (a) Entering onto premises.

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

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

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

12 (e) ~~Beginning April 1, 1996 purchasing~~ PURCHASING or pos-
13 sessed a firearm.

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

18 (g) Interfering with petitioner at petitioner's place of
19 employment or engaging in conduct that impairs petitioner's
20 employment relationship or environment.

21 (h) Any other specific act or conduct that imposes upon or
22 interferes with personal liberty or that causes a reasonable
23 apprehension of violence.

24 (2) If the respondent is a person who is issued a license to
25 carry a concealed weapon and is required to carry a weapon as a
26 condition of his or her employment, a police officer certified
27 ~~by~~ UNDER the Michigan law enforcement OFFICERS training council

1 act of 1965, 1965 PA 203, MCL 28.601 to 28.616, a sheriff, a
2 deputy sheriff or a member of the Michigan department of state
3 police, a local corrections officer, department of corrections
4 employee, or a federal law enforcement officer who carries a
5 firearm during the normal course of his or her employment, the
6 petitioner shall notify the court of the respondent's occupation
7 prior to the issuance of the personal protection order. This
8 subsection does not apply to a petitioner who does not know the
9 respondent's occupation.

10 (3) A petitioner may omit his or her address of residence
11 from documents filed with the court under this section. If a
12 petitioner omits his or her address of residence, the petitioner
13 shall provide the court with a mailing address.

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

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

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

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

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

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

5 (c) The moving party has no property interest in the
6 premises.

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

9 (a) A police report.

10 (b) A medical report.

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

12 (d) Physical signs of abuse or violence.

13 (7) If the court refuses to grant a personal protection
14 order, it shall state immediately in writing the specific reasons
15 it refused to issue a personal protection order. If a hearing is
16 held, the court shall also immediately state on the record the
17 specific reasons it refuses to issue a personal protection
18 order.

19 (8) A personal protection order shall not be made mutual.
20 Correlative separate personal protection orders are prohibited
21 unless both parties have properly petitioned the court pursuant
22 to subsection (1).

23 (9) A personal protection order is effective when signed by
24 a judge.

25 (10) The court shall designate the law enforcement agency
26 that is responsible for entering the personal protection order
27 into the law enforcement information network as provided by the

1 L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to
2 28.216.

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

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

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

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

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

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

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

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

1 has received actual notice of the order and that motion forms and
2 filing instructions are available from the clerk of the court.

3 (12) An ex parte personal protection order shall be issued
4 and effective without written or oral notice to the individual
5 restrained or enjoined or his or her attorney if 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 (13) A personal protection order issued under subsection
12 (12) is valid for not less than 182 days. The individual
13 restrained or enjoined may file a motion to modify or rescind the
14 personal protection order and request a hearing under the
15 Michigan court rules. The motion to modify or rescind the per-
16 sonal protection order shall be filed within 14 days after the
17 order is served or after the individual restrained or enjoined
18 has received actual notice of the personal protection order
19 unless good cause is shown for filing the motion after the 14
20 days have elapsed.

21 (14) Except as otherwise provided in this subsection, the
22 court shall schedule a hearing on the motion to modify or rescind
23 the ex parte personal protection order within 14 days after the
24 filing of the motion to modify or rescind. If the respondent is
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 (15) The clerk of the court that issues a personal protec-
4 tion order shall do both of the following immediately upon issu-
5 ance and without requiring a proof of service on the individual
6 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 the petitioner with not less than 2 true copies
11 of the personal protection order.

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

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

23 (18) A personal protection order issued under this section
24 shall be served personally or by registered or certified mail,
25 return receipt requested, delivery restricted to the addressee at
26 the last known address or addresses of the individual restrained
27 or enjoined or by any other manner provided in the Michigan court

1 rules. A proof of service shall be filed with the clerk of the
2 court issuing the personal protection order. This subsection
3 does not prohibit the immediate effectiveness of a personal pro-
4 tection order or its immediate enforcement under subsections (21)
5 and (22).

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

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

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

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

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

25 (22) If the individual restrained or enjoined has not been
26 served, the law enforcement agency or officer responding to a
27 domestic violence call alleging a violation of a personal

1 protection order shall serve the individual restrained or
2 enjoined with a true copy of the order or advise the individual
3 restrained or enjoined of the existence of the personal protec-
4 tion order, the specific conduct enjoined, the penalties for vio-
5 lating the order, and where the individual restrained or enjoined
6 may obtain a copy of the order. The law enforcement officer
7 shall enforce the personal protection order and immediately enter
8 or cause to be entered into the law enforcement information net-
9 work that the individual restrained or enjoined has actual notice
10 of the personal protection order. If the individual restrained
11 or enjoined has not received notice of the personal protection
12 order, the individual restrained or enjoined shall be given an
13 opportunity to comply with the personal protection order before
14 the law enforcement officer makes a custodial arrest for viola-
15 tion of the personal protection order. The failure to immedi-
16 ately comply with the personal protection order shall be grounds
17 for an immediate custodial arrest. This subsection does not pre-
18 clude an arrest under section 15 or 15a of chapter IV of the code
19 of criminal procedure, 1927 PA 175, MCL 764.15 and 764.15a.

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

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) A COURT SHALL NOT ISSUE A PERSONAL PROTECTION ORDER
11 UNDER THIS SECTION IF BOTH THE PETITIONER AND THE RESPONDENT ARE
12 LESS THAN 18 YEARS OF AGE.

13 (28) ~~-(27)-~~ As used in this section:

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

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

23 (c) "Personal protection order" means an injunctive order
24 issued by the circuit court restraining or enjoining activity and
25 individuals listed in subsection (1).

26 Sec. 2950a. (1) ~~By~~ EXCEPT AS PROVIDED IN SUBSECTION (25),
27 BY commencing an independent action to obtain relief under this

1 section, by joining a claim to an action, or by filing a motion
2 in an action in which the petitioner and the individual to be
3 restrained or enjoined are parties, an individual may petition
4 the circuit court to enter a personal protection order to
5 restrain or enjoin an individual from engaging in conduct that is
6 prohibited under section 411h or 411i of the Michigan penal code,
7 1931 PA 328, MCL 750.411h and 750.411i. Relief may be sought and
8 granted under this section whether or not the individual to be
9 restrained or enjoined has been charged or convicted under sec-
10 tion 411h or 411i of the Michigan penal code, 1931 PA 328, MCL
11 750.411h and 750.411i for the alleged violation.

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

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

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

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

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

12 (6) A personal protection order is effective when signed by
13 a judge.

14 (7) The court shall designate the law enforcement agency
15 that is responsible for entering the personal protection order
16 into the law enforcement information network as provided by the
17 L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to
18 28.216.

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

21 (a) A statement that the personal protection order has been
22 entered to enjoin or restrain conduct listed in the order and
23 that violation of the personal protection order will subject the
24 individual restrained or enjoined to immediate arrest and the
25 civil and criminal contempt powers of the court, and that if he
26 or she is found guilty of criminal contempt, he or she shall be

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

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

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

7 (d) An expiration date stated clearly on the face of the
8 order.

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

11 (f) The law enforcement agency designated by the court to
12 enter the personal protection order into the law enforcement
13 information network.

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

21 (9) An ex parte personal protection order shall be issued
22 and effective without written or oral notice to the individual
23 enjoined or his or her attorney if it clearly appears from spe-
24 cific facts shown by verified complaint, written motion, or affi-
25 davit that immediate and irreparable injury, loss, or damage will
26 result from the delay required to effectuate notice or that the

1 notice will itself precipitate adverse action before a personal
2 protection order can be issued.

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

13 (11) Except as otherwise provided in this subsection, the
14 court shall schedule a hearing on the motion to modify or rescind
15 the ex parte personal protection order within 14 days after the
16 filing of the motion to modify or rescind. If the respondent is
17 a person described in subsection (2) and the personal protection
18 order prohibits him or her from purchasing or possessing a fire-
19 arm, the court shall schedule a hearing on the motion to modify
20 or rescind the ex parte personal protection order within 5 days
21 after the filing of the motion to modify or rescind.

22 (12) The clerk of the court that issues a personal protec-
23 tion order shall do both of the following immediately upon issu-
24 ance and without requiring a proof of service on the individual
25 restrained or enjoined:

1 (a) File a true copy of the personal protection order with
2 the law enforcement agency designated by the court in the
3 personal protection order.

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

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

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

17 (15) A personal protection order issued under this section
18 shall 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
21 or enjoined or by any other manner provided in the Michigan court
22 rules. A proof of service shall be filed with the clerk of the
23 court issuing the personal protection order. This subsection
24 does not prohibit the immediate effectiveness of a personal pro-
25 tection order or its immediate enforcement under subsections (18)
26 and (19).

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

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

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

8 (17) The law enforcement agency that receives information
9 under subsection (16) shall enter the information or cause the
10 information to be entered into the law enforcement information
11 network as provided by the L.E.I.N. policy council act of 1974,
12 1974 PA 163, MCL 28.211 to 28.216.

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

20 (19) If the individual restrained or enjoined has not been
21 served, the law enforcement agency or officer responding to a
22 domestic violence call alleging a violation of a personal protec-
23 tion order shall serve the individual restrained or enjoined with
24 a true copy of the order or advise the individual restrained or
25 enjoined of the existence of the personal protection order, the
26 specific conduct enjoined, the penalties for violating the order,
27 and where the individual restrained or enjoined may obtain a copy

1 of the order. The law enforcement officer shall enforce the
2 personal protection order and immediately enter or cause to be
3 entered into the law enforcement information network that the
4 individual restrained or enjoined has actual notice of the per-
5 sonal protection order. If the individual restrained or enjoined
6 has not received notice of the personal protection order, the
7 individual restrained or enjoined shall be given an opportunity
8 to comply with the personal protection order before the law
9 enforcement officer makes a custodial arrest for violation of the
10 personal protection order. The failure to immediately comply
11 with the personal protection order shall be grounds for an imme-
12 diate custodial arrest. This subsection does not preclude an
13 arrest under section 15 or 15a of chapter IV of the code of crim-
14 inal procedure, 1927 PA 175, MCL 764.15 and 764.15a.

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

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

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

4 (23) ~~Beginning April 1, 1996, a~~ A personal protection
5 order issued under this section may enjoin or restrain an indi-
6 vidual from purchasing or possessing a firearm.

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

9 (25) A COURT SHALL NOT ISSUE A PERSONAL PROTECTION ORDER
10 UNDER THIS SECTION IF BOTH THE PETITIONER AND THE RESPONDENT ARE
11 LESS THAN 18 YEARS OF AGE.

12 (26) ~~(25)~~ As used in this section:

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

17 (b) "Personal protection order" means an injunctive order
18 issued by circuit court restraining or enjoining conduct prohib-
19 ited under section 411h or 411i of the Michigan penal code, 1931
20 PA 328, MCL 750.411h and 750.411i.