

HOUSE BILL No. 4478

April 21, 2015, Introduced by Reps. Kosowski, Kivela, Heise, Glardon, Faris, Hughes, Glenn, Price, Lyons, Cox and Geiss and referred to the Committee on Criminal Justice.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2950 (MCL 600.2950), as amended by 2001 PA 200.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2950. (1) Except as provided in subsections (27) and
2 (28), by commencing an independent action to obtain relief under
3 this section, by joining a claim to an action, or by filing a
4 motion in an action in which the petitioner and the individual to
5 be restrained or enjoined are parties, an individual may petition
6 the family division of circuit court to enter a personal protection
7 order to restrain or enjoin a spouse, a former spouse, an
8 individual with whom he or she has had a child in common, an
9 individual with whom he or she has or has had a dating
10 relationship, or an individual residing or having resided in the

1 same household as the petitioner from doing 1 or more of the
2 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
10 custody or parenting time order issued by a court of competent
11 jurisdiction.

12 (e) Purchasing or possessing a firearm.

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

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

20 (h) Having access to information in records concerning a minor
21 child of both petitioner and respondent that will inform respondent
22 about the address or telephone number of petitioner and
23 petitioner's minor child or about petitioner's employment address.

24 (i) Engaging in conduct that is prohibited under section 411h
25 or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and
26 750.411i.

27 **(J) ANY OF THE FOLLOWING WITH RESPECT TO AN ANIMAL IN WHICH**

1 THE PETITIONER HAS AN OWNERSHIP INTEREST:

2 (i) INJURING, KILLING, TORTURING, NEGLECTING, OR THREATENING TO
3 INJURE, KILL, TORTURE, OR NEGLECT THE ANIMAL.

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

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

6 (K) ~~(j)~~—Any other specific act or conduct that imposes upon or
7 interferes with personal liberty or that causes a reasonable
8 apprehension of violence.

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

21 (3) A petitioner may omit his or her address of residence from
22 documents filed with the court under this section. If a petitioner
23 omits his or her address of residence, the petitioner shall provide
24 the court with a mailing address.

25 (4) The court shall issue a personal protection order under
26 this section if the court determines that there is reasonable cause
27 to believe that the individual to be restrained or enjoined may

1 commit 1 or more of the acts listed in subsection (1). In
2 determining whether reasonable cause exists, the court shall
3 consider all of the following:

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

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

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

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

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

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

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

21 (a) A police report.

22 (b) A medical report.

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

24 (d) Physical signs of abuse or violence.

25 (7) If the court refuses to grant a personal protection order,
26 it shall state immediately in writing the specific reasons it
27 refused to issue a personal protection order. If a hearing is held,

1 the court shall also immediately state on the record the specific
2 reasons it refuses to issue a personal protection order.

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

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

12 (10) The court shall designate the law enforcement agency that
13 is responsible for entering the personal protection order into the
14 law enforcement information network as provided by the ~~L.E.I.N.~~
15 **C.J.I.S.** policy council act, ~~of 1974,~~ 1974 PA 163, MCL 28.211 to
16 ~~28.216-28.215.~~

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

20 (a) A statement that the personal protection order has been
21 entered to restrain or enjoin conduct listed in the order and that
22 violation of the personal protection order will subject the
23 individual restrained or enjoined to 1 or more of the following:

24 (i) If the respondent is 17 years of age or more, immediate
25 arrest and the civil and criminal contempt powers of the court, and
26 that if he or she is found guilty of criminal contempt, he or she
27 shall be imprisoned for not more than 93 days and may be fined not

1 more than \$500.00.

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

6 (iii) If the respondent violates the personal protection order
7 in a jurisdiction other than this state, the respondent is subject
8 to the enforcement procedures and penalties of the state, Indian
9 tribe, or United States territory under whose jurisdiction the
10 violation occurred.

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

16 (c) A statement listing the type or types of conduct 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 has

1 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~~ **A COURT SHALL ISSUE AN** ex parte personal protection
4 order ~~shall be issued and effective~~ without written or oral notice
5 to the individual restrained or enjoined or his or her attorney if
6 it clearly appears from specific facts shown by verified complaint,
7 written motion, or affidavit that immediate and irreparable injury,
8 loss, 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 restrained or
13 enjoined may file a motion to modify or rescind the personal
14 protection order and request a hearing under the Michigan court
15 rules. The motion to modify or rescind the personal protection
16 order ~~shall~~ **MUST** be filed within 14 days after the order is served
17 or after the individual restrained or enjoined has received actual
18 notice of the personal protection order unless good cause is shown
19 for filing the motion after the 14 days have elapsed.

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

1 the filing of the motion to modify or rescind.

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

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

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

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

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

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

22 (f) If the respondent is identified in the pleadings as being
23 a person who may have access to information concerning the
24 petitioner or a child of the petitioner or respondent and that
25 information is contained in friend of the court records, notify the
26 friend of the court for the county in which the information is
27 located about the existence 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 to
3 the law enforcement agency designated by the court ~~in~~**UNDER**
4 subsection (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
9 personal protection order into the law enforcement information
10 network as provided by the ~~L.E.I.N.-C.J.I.S.~~ policy council act, ~~of~~
11 ~~1974,~~ 1974 PA 163, MCL 28.211 to ~~28.216-28.215.~~

12 (18) A personal protection order issued under this section
13 ~~shall~~**MUST** 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 or
16 enjoined or by any other manner provided in the Michigan court
17 rules. If the individual restrained or enjoined has not been
18 served, a law enforcement officer or clerk of the court who knows
19 that a personal protection order exists may, at any time, serve the
20 individual restrained or enjoined with a true copy of the order or
21 advise the individual restrained or enjoined about the existence of
22 the personal protection order, the specific conduct enjoined, the
23 penalties for violating the order, and where the individual
24 restrained or enjoined may obtain a copy of the order. If the
25 respondent is less than 18 years of age, the parent, guardian, or
26 custodian of that individual ~~shall~~**MUST** also be served personally
27 or by registered or certified mail, return receipt requested,

1 delivery restricted to the addressee at the last known address or
2 addresses of the parent, guardian, or custodian of the individual
3 restrained or enjoined. A proof of service or proof of oral notice
4 ~~shall~~**MUST** be filed with the clerk of the court issuing the
5 personal protection order. This subsection does not prohibit the
6 immediate effectiveness of a personal protection order or its
7 immediate enforcement under subsections (21) and (22).

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

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

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

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

20 (21) Subject to subsection (22), a personal protection order
21 is immediately enforceable anywhere in this state by any law
22 enforcement agency that has received a true copy of the order, is
23 shown a copy of it, or has verified its existence on the law
24 enforcement information network as provided by the ~~L.E.I.N.-~~
25 ~~C.J.I.S.~~ policy council act, ~~of 1974, 1974 PA 163, MCL 28.211 to~~
26 ~~28.216-28.215.~~

27 (22) If the individual restrained or enjoined has not been

1 served, the law enforcement agency or officer responding to a call
2 alleging a violation of a personal protection order shall serve the
3 individual restrained or enjoined with a true copy of the order or
4 advise the individual restrained or enjoined about the existence of
5 the personal protection order, the specific conduct enjoined, the
6 penalties for violating the order, and where the individual
7 restrained or enjoined may obtain a copy of the order. The law
8 enforcement officer shall enforce the personal protection order and
9 immediately enter or cause to be entered into the law enforcement
10 information network that the individual restrained or enjoined has
11 actual notice of the personal protection order. The law enforcement
12 officer also shall file a proof of service or proof of oral notice
13 with the clerk of the court issuing the personal protection order.
14 If the individual restrained or enjoined has not received notice of
15 the personal protection order, the individual restrained or
16 enjoined shall be given an opportunity to comply with the personal
17 protection order before the law enforcement officer makes a
18 custodial arrest for violation of the personal protection order.
19 The failure to immediately comply with the personal protection
20 order ~~shall be~~ **IS** grounds for an immediate custodial arrest. This
21 subsection does not preclude an arrest under section 15 or 15a of
22 chapter IV of the code of criminal procedure, 1927 PA 175, MCL
23 764.15 and 764.15a, or a proceeding under section 14 of chapter
24 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.14.

25 (23) An individual who is 17 years of age or more and who
26 refuses or fails to comply with a personal protection order under
27 this section is subject to the criminal contempt powers of the

1 court and, if found guilty, shall be imprisoned for not more than
2 93 days and may be fined not more than \$500.00. An individual who
3 is less than 17 years of age and who refuses or fails to comply
4 with a personal protection order issued under this section is
5 subject to the dispositional alternatives listed in section 18 of
6 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.
7 The criminal penalty provided for under this section may be imposed
8 in addition to a penalty that may be imposed for another criminal
9 offense arising from the same conduct.

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

14 (25) A personal protection order issued under this section is
15 also enforceable under chapter XIIIA of the probate code of 1939,
16 1939 PA 288, MCL 712A.1 to 712A.32, and section 15b of chapter IV
17 of the code of criminal procedure, 1927 PA 175, MCL 764.15b.

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

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

23 (a) The respondent is the unemancipated minor child of the
24 petitioner.

25 (b) The petitioner is the unemancipated minor child of the
26 respondent.

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

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

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

10 (30) **FOR PURPOSES OF SUBSECTION (1)(J), A PETITIONER HAS AN**
11 **OWNERSHIP INTEREST IN AN ANIMAL IF 1 OR MORE OF THE FOLLOWING ARE**
12 **APPLICABLE:**

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

14 (B) **THE PETITIONER KEEPS OR HARBORS THE ANIMAL.**

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

16 (D) **THE PETITIONER PERMITS THE ANIMAL TO REMAIN ON OR ABOUT**
17 **PREMISES OCCUPIED BY THE PETITIONER.**

18 (31) ~~(30)~~ As used in this section:

19 (a) "Dating relationship" means frequent, intimate
20 associations primarily characterized by the expectation of
21 affectional involvement. ~~This term~~ **DATING RELATIONSHIP** does not
22 include a casual relationship or an ordinary fraternization between
23 2 individuals in a business or social context.

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

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

3 (D) ~~(e)~~—"Personal protection order" means an injunctive order
4 issued by the circuit court or the family division of circuit court
5 restraining or enjoining activity and individuals listed in
6 subsection (1).