

SENATE BILL No. 868

March 24, 2016, Introduced by Senators JONES and SCHUITMAKER 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),
section 2950 as amended by 2001 PA 200 and section 2950a as amended
by 2010 PA 19.

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

1 individual with whom he or she has or has had a dating
2 relationship, or an individual residing or having resided in the
3 same household as the petitioner from doing 1 or more of the
4 following:

5 (a) Entering onto premises.

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

8 (c) Threatening to kill or physically injure a named
9 individual.

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

14 (e) Purchasing or possessing a firearm.

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

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

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

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

1 750.411i.

2 (j) Any other specific act or conduct that imposes upon or
3 interferes with personal liberty or that causes a reasonable
4 apprehension of violence.

5 (2) If the respondent is a person who is issued a license to
6 carry a concealed weapon and is required to carry a weapon as a
7 condition of his or her employment, a police officer **LICENSED OR**
8 certified by the **MICHIGAN** commission on law enforcement standards
9 act, 1965 PA 203, MCL 28.601 to ~~28.616~~, **28.615**, a sheriff, a deputy
10 sheriff or a member of the Michigan department of state police, a
11 local corrections officer, department of corrections employee, or a
12 federal law enforcement officer who carries a firearm during the
13 normal course of his or her employment, the petitioner shall notify
14 the court of the respondent's occupation prior to the issuance of
15 the personal protection order. This subsection does not apply to a
16 petitioner who does not know the respondent's occupation.

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

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

27 (a) Testimony, documents, or other evidence offered in support

1 of the request for a personal protection order.

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

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

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

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

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

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

17 (a) A police report.

18 (b) A medical report.

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

20 (d) Physical signs of abuse or violence.

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

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

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

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

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

13 (11) A personal protection order shall include all of the
14 following, and to the extent practicable the following shall be
15 contained in a single form:

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

20 (i) If the respondent is 17 years of age or more, immediate
21 arrest and the civil and criminal contempt powers of the court, and
22 that if he or she is found guilty of criminal contempt, he or she
23 shall be imprisoned for not more than 93 days and may be fined not
24 more than \$500.00.

25 (ii) If the respondent is less than 17 years of age, immediate
26 apprehension or being taken into custody, and subject to the
27 dispositional alternatives listed in section 18 of chapter XIIA of

1 the probate code of 1939, 1939 PA 288, MCL 712A.18.

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

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

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

13 (d) An expiration date stated clearly on the face of the
14 order.

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

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

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

26 (12) An ex parte personal protection order shall be issued and
27 effective without written or oral notice to the individual

1 restrained or enjoined or his or her attorney if it clearly appears
2 from specific facts shown by verified complaint, written motion, or
3 affidavit that immediate and irreparable injury, loss, or damage
4 will result from the delay required to effectuate notice or that
5 the notice will itself precipitate adverse action before a personal
6 protection order can be issued.

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

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

25 (15) The clerk of the court that issues a personal protection
26 order shall do all of the following immediately upon issuance and
27 without requiring a proof of service on the individual restrained

1 or enjoined:

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

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

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

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

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

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

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

1 network.

2 (17) The law enforcement agency that receives a true copy of
3 the 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 ~~L.E.I.N.-C.J.I.S.~~ policy council act, ~~of~~
7 ~~1974,~~ 1974 PA 163, MCL 28.211 to ~~28.216-~~28.215.

8 (18) A personal protection order issued under this section
9 shall 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 provided in 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 about 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 that individual shall 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 of the individual restrained
26 or enjoined. A proof of service or proof of oral notice shall be
27 filed with the clerk of the court issuing the personal protection

1 order. This subsection does not prohibit the immediate
2 effectiveness of a personal protection order or its immediate
3 enforcement under subsections (21) and (22).

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

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

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

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

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

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

1 the personal protection order, the specific conduct enjoined, the
2 penalties for violating the order, and where the individual
3 restrained or enjoined may obtain a copy of the order. The law
4 enforcement officer shall enforce the personal protection order and
5 immediately enter or cause to be entered into the law enforcement
6 information network that the individual restrained or enjoined has
7 actual notice of the personal protection order. The law enforcement
8 officer also shall file a proof of service or proof of oral notice
9 with the clerk of the court issuing the personal protection order.
10 If the individual restrained or enjoined has not received notice of
11 the personal protection order, the individual restrained or
12 enjoined shall be given an opportunity to comply with the personal
13 protection order before the law enforcement officer makes a
14 custodial arrest for violation of the personal protection order.
15 The failure to immediately comply with the personal protection
16 order shall be grounds for an immediate custodial arrest. This
17 subsection 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, or a proceeding under section 14 of chapter
20 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.14.

21 (23) An individual who is 17 years of age or more and who
22 refuses or fails to comply with a personal protection order under
23 this section is subject to the criminal contempt powers of the
24 court and, if found guilty, shall be imprisoned for not more than
25 93 days and may be fined not more than \$500.00. An individual who
26 is less than 17 years of age and who refuses or fails to comply
27 with a personal protection order issued under this section is

1 subject to the dispositional alternatives listed in section 18 of
2 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.
3 The criminal penalty provided for under this section may be imposed
4 in addition to a penalty that may be imposed for another criminal
5 offense arising from the same conduct.

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

10 (25) A personal protection order issued under this section is
11 also enforceable under chapter XIIIA of the probate code of 1939,
12 1939 PA 288, MCL 712A.1 to 712A.32, and section 15b of chapter IV
13 of the code of criminal procedure, 1927 PA 175, MCL 764.15b.

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

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

19 (a) The respondent is the unemancipated minor child of the
20 petitioner.

21 (b) The petitioner is the unemancipated minor child of the
22 respondent.

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

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

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

6 (30) As used in this section:

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

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

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

20 Sec. 2950a. (1) Except as provided in subsections (28), (29),
21 and (31), by commencing an independent action to obtain relief
22 under this section, by joining a claim to an action, or by filing a
23 motion in an action in which the petitioner and the individual to
24 be restrained or enjoined are parties, an individual may petition
25 the family division of circuit court to enter a personal protection
26 order to restrain or enjoin an individual from engaging in conduct
27 that is prohibited under section 411h, 411i, or 411s of the

1 Michigan penal code, 1931 PA 328, MCL 750.411h, 750.411i, and
2 750.411s. Relief under this subsection shall not be granted unless
3 the petition alleges facts that constitute stalking as defined in
4 section 411h or 411i, or conduct that is prohibited under section
5 411s, of the Michigan penal code, 1931 PA 328, MCL 750.411h,
6 750.411i, and 750.411s. Relief may be sought and granted under this
7 subsection whether or not the individual to be restrained or
8 enjoined has been charged or convicted under section 411h, 411i, or
9 411s of the Michigan penal code, 1931 PA 328, MCL 750.411h,
10 750.411i, and 750.411s, for the alleged violation.

11 (2) Except as provided in subsections (28), (29), and (31), by
12 commencing an independent action to obtain relief under this
13 section, by joining a claim to an action, or by filing a motion in
14 an action in which the petitioner and the individual to be
15 restrained or enjoined are parties, an individual may petition the
16 family division of circuit court to enter a personal protection
17 order to restrain or enjoin an individual from engaging in any of
18 the following:

19 (a) One or more of the acts listed in subsection (3), if the
20 respondent has been convicted of a sexual assault of the
21 petitioner, or the respondent has been convicted of furnishing
22 obscene material to the petitioner under section 142 of the
23 Michigan penal code, 1931 PA 328, MCL 750.142, or a substantially
24 similar law of the United States, another state, or a foreign
25 country or tribal or military law. Relief under this subdivision
26 shall be granted if the court determines that the respondent has
27 been convicted of a sexual assault of the petitioner or that the

1 respondent was convicted of furnishing obscene material to the
2 petitioner under section 142 of the Michigan penal code, 1931 PA
3 328, MCL 750.142, or a substantially similar law of the United
4 States, another state, or a foreign country or tribal or military
5 law.

6 (b) One or more of the acts listed in subsection (3), if the
7 petitioner has been subjected to, threatened with, or placed in
8 reasonable apprehension of sexual assault by the individual to be
9 enjoined. Relief under this subdivision shall not be granted unless
10 the petition alleges facts that demonstrate that the respondent has
11 perpetrated or threatened sexual assault against the petitioner.
12 Evidence that a respondent has furnished obscene material to a
13 minor petitioner ~~shall constitute~~ **CONSTITUTES** evidence that the
14 respondent has threatened sexual assault against the petitioner.
15 Relief may be sought and granted under this subdivision regardless
16 of whether the individual to be restrained or enjoined has been
17 charged with or convicted of sexual assault or an offense under
18 section 142 of the Michigan penal code, 1931 PA 328, MCL 750.142,
19 or a substantially similar law of the United States, another state,
20 or a foreign country or tribal or military law.

21 (3) The court may restrain or enjoin an individual against
22 whom a protection order is sought under subsection (2) from 1 or
23 more of the following:

24 (a) Entering onto premises.

25 (b) Threatening to sexually assault, kill, or physically
26 injure petitioner or a named individual.

27 (c) Purchasing or possessing a firearm.

1 (d) Interfering with the petitioner's efforts to remove the
2 petitioner's children or personal property from premises that are
3 solely owned or leased by the individual to be restrained or
4 enjoined.

5 (e) Interfering with the petitioner at the petitioner's place
6 of employment or education or engaging in conduct that impairs the
7 petitioner's employment or educational relationship or environment.

8 (f) Following or appearing within the sight of the petitioner.

9 (g) Approaching or confronting the petitioner in a public
10 place or on private property.

11 (h) Appearing at the petitioner's workplace or residence.

12 (i) Entering onto or remaining on property owned, leased, or
13 occupied by the petitioner.

14 (j) Contacting the petitioner by telephone.

15 (k) Sending mail or electronic communications to the
16 petitioner.

17 (l) Placing an object on, or delivering an object to, property
18 owned, leased, or occupied by the petitioner.

19 (m) Engaging in conduct that is prohibited under section 411s
20 of the Michigan penal code, 1931 PA 328, MCL 750.411s.

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

24 (4) Section 520j of the Michigan penal code, 1931 PA 328, MCL
25 750.520j, applies in any hearing on a petition for, a motion to
26 modify or terminate, or an alleged violation of a personal
27 protection order requested or issued under subsection (2), except

1 as follows:

2 (a) The written motion and offer of proof shall be filed at
3 least 24 hours before a hearing on a petition to issue a personal
4 protection order or on an alleged violation of a personal
5 protection order.

6 (b) The written motion and offer of proof shall be filed at
7 the same time that a motion to modify or terminate a personal
8 protection order is filed.

9 (5) If the respondent to a petition under this section is a
10 person who is issued a license to carry a concealed weapon and is
11 required to carry a weapon as a condition of his or her employment,
12 a police officer **LICENSED OR** certified by the **MICHIGAN** commission
13 on law enforcement standards act, 1965 PA 203, MCL 28.601 to
14 ~~28.616,~~ **28.615**, a sheriff, a deputy sheriff or a member of the
15 Michigan department of state police, a local corrections officer, a
16 department of corrections employee, or a federal law enforcement
17 officer who carries a firearm during the normal course of his or
18 her employment, the petitioner shall notify the court of the
19 respondent's occupation before the personal protection order is
20 issued. This subsection does not apply to a petitioner who does not
21 know the respondent's occupation.

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

26 (7) If a court issues or refuses to issue a personal
27 protection order, the court shall immediately state in writing the

1 specific reasons for issuing or refusing to issue the personal
2 protection order. If a hearing is held, the court shall also
3 immediately state on the record the specific reasons for issuing or
4 refusing to issue a personal protection order.

5 (8) A personal protection order shall not be made mutual.
6 Correlative separate personal protection orders are prohibited
7 unless both parties have properly petitioned the court under
8 subsection (1) or (2).

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

14 (10) The court shall designate the law enforcement agency that
15 is responsible for entering the personal protection order into the
16 L.E.I.N.

17 (11) A personal protection order issued under this section
18 shall include all of the following, to the extent practicable in a
19 single form:

20 (a) A statement that the personal protection order has been
21 entered to enjoin or restrain 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 older, immediate
25 arrest and the civil and criminal contempt powers of the court. If
26 the respondent 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 the dispositional
4 alternatives listed in section 18 of chapter XIIIA of the probate
5 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 enforcement procedures
8 and penalties of the state, Indian tribe, or United States
9 territory under whose jurisdiction the violation occurred.

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

15 (c) A statement listing each type of conduct enjoined.

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

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

20 (f) The law enforcement agency designated by the court to
21 enter the personal protection order into the L.E.I.N.

22 (g) For an ex parte order, 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 is served or receives
26 actual notice of the personal protection order and that motion
27 forms and filing instructions are available from the clerk of the

1 court.

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

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

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

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

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

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

10 (c) If the individual restrained or enjoined is identified in
11 the pleadings as a law enforcement officer, notify the officer's
12 employing law enforcement agency of the existence of the personal
13 protection order.

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

19 (e) If the individual restrained or enjoined is identified in
20 the pleadings as a department of corrections employee, notify the
21 department of corrections of the existence of the personal
22 protection order.

23 (f) If the individual restrained or enjoined is identified in
24 the pleadings as a person who may have access to information
25 concerning the petitioner or a child of the petitioner or
26 individual and that information is contained in friend of the court
27 records, notify the friend of the court for the county in which the

1 information is located of the existence of the personal protection
2 order.

3 (16) The clerk of a court that issues a personal protection
4 order shall inform the petitioner that he or she may take a true
5 copy of the personal protection order to the law enforcement agency
6 designated by the court under subsection (10) to be immediately
7 entered into the L.E.I.N.

8 (17) The law enforcement agency that receives a true copy of a
9 personal protection order under subsection (15) or (16) shall
10 immediately, without requiring proof of service, enter the personal
11 protection order into the L.E.I.N.

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

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

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

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

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

16 (20) The law enforcement agency that receives information
17 under subsection (19) shall enter the information or cause the
18 information to be entered into the L.E.I.N.

19 (21) Subject to subsection (22), a personal protection order
20 is immediately enforceable anywhere in this state by any law
21 enforcement agency that has received a true copy of the order, is
22 shown a copy of it, or has verified its existence on the L.E.I.N.

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

1 or enjoined of the existence of the personal protection order, the
2 specific conduct enjoined, the penalties for violating the order,
3 and where the individual restrained or enjoined may obtain a copy
4 of the order. The law enforcement officer shall enforce the
5 personal protection order and immediately enter or cause to be
6 entered into the L.E.I.N. that the individual restrained or
7 enjoined has actual notice of the personal protection order. The
8 law enforcement officer also shall file a proof of service or proof
9 of oral notice with the clerk of the court that issued the personal
10 protection order. If the individual restrained or enjoined has not
11 received notice of the personal protection order, the individual
12 restrained or enjoined shall be given an opportunity to comply with
13 the personal protection order before the law enforcement officer
14 makes a custodial arrest for violation of the personal protection
15 order. Failure to immediately comply with the personal protection
16 order is grounds for an immediate custodial arrest. This subsection
17 does not preclude an arrest under section 15 or 15a of chapter IV
18 of the code of criminal procedure, 1927 PA 175, MCL 764.15 and
19 764.15a, or a proceeding under section 14 of chapter XIIA of the
20 probate code of 1939, 1939 PA 288, MCL 712A.14.

21 (23) An individual 17 years of age or older who refuses or
22 fails to comply with a personal protection order issued under this
23 section is subject to the criminal contempt powers of the court
24 and, if found guilty of criminal contempt, shall be imprisoned for
25 not more than 93 days and may be fined not more than \$500.00. An
26 individual less than 17 years of age who refuses or fails to comply
27 with a personal protection order issued under this section is

1 subject to the dispositional alternatives listed in section 18 of
2 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.
3 The criminal penalty under this section may be imposed in addition
4 to any penalty that may be imposed for any other criminal offense
5 arising from the same conduct.

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

10 (25) A personal protection order issued under this section is
11 also enforceable under chapter XIIIA of the probate code of 1939,
12 1939 PA 288, MCL 712A.1 to 712A.32, and section 15b of chapter IV
13 of the code of criminal procedure, 1927 PA 175, MCL 764.15b.

14 (26) A personal protection order issued under this section may
15 enjoin or restrain an individual from purchasing or possessing a
16 firearm.

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

19 (28) A court shall not issue a personal protection order that
20 restrains or enjoins conduct described in subsection (1) or (3) if
21 any of the following apply:

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

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

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

27 (29) If the respondent is less than 18 years old, issuance of

1 a personal protection order under this section is subject to
2 chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1
3 to 712A.32.

4 (30) A personal protection order issued before March 1, 1999
5 is not invalid on the ground that it does not comply with 1 or more
6 of the requirements added by 1998 PA 476.

7 (31) A court shall not issue a personal protection order under
8 this section if the petitioner is a prisoner. If a personal
9 protection order is issued in violation of this subsection, a court
10 shall rescind the personal protection order upon notification and
11 verification that the petitioner is a prisoner.

12 (32) As used in this section:

13 (a) "Convicted" means 1 of the following:

14 (i) The subject of a judgment of conviction or a probation
15 order entered in a court that has jurisdiction over criminal
16 offenses, including a tribal court or a military court.

17 (ii) Assigned to youthful trainee status under sections 11 to
18 15 of chapter II of the code of criminal procedure, 1927 PA 175,
19 MCL 762.11 to 762.15, if the individual's status of youthful
20 trainee is revoked and an adjudication of guilt is entered.

21 (iii) The subject of an order of disposition entered under
22 section 18 of chapter XIIA of the probate code of 1939, 1939 PA
23 288, MCL 712A.18, that is open to the general public under section
24 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
25 712A.28.

26 (iv) The subject of an order of disposition or other
27 adjudication in a juvenile matter in another state or country.

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

5 (c) "L.E.I.N." means the law enforcement information network
6 administered under the C.J.I.S. policy council act, 1974 PA 163,
7 MCL 28.211 to 28.215.

8 (d) "Personal protection order" means an injunctive order
9 issued by the circuit court or the family division of circuit court
10 restraining or enjoining conduct prohibited under subsection (1) or
11 (3).

12 (e) "Prisoner" means a person subject to incarceration,
13 detention, or admission to a prison who is accused of, convicted
14 of, sentenced for, or adjudicated delinquent for violations of
15 federal, state, or local law or the terms and conditions of parole,
16 probation, pretrial release, or a diversionary program.

17 (f) "Sexual assault" means an act, attempted act, or
18 conspiracy to engage in an act of criminal conduct as defined in
19 section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code,
20 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and
21 750.520g, or an offense under a law of the United States, another
22 state, or a foreign country or tribal or military law that is
23 substantially similar to an offense listed in this subdivision.

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

26 Enacting section 2. This amendatory act does not take effect
27 unless Senate Bill No. 92 or House Bill No. _____ (bill request no.

1 00913'15 *) of the 98th Legislature is enacted into law.