



Report on Public Policy Position

Name of section:

Family Law Section

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Bill Number:

[HB 5324](#) (Calley) Family law; personal protection orders; personal protection order to be made mutual; require. Amends secs. 2950 & 2950a of [1961 PA 236](#) (MCL [600.2950](#) & [600.2950a](#)).

Date position was adopted:

November 3, 2007

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

21

Number who voted in favor and opposed to the position:

13 Voted for position

Position:

Oppose

Explanation of the position, including any recommended amendments:

HB 5324 would amend MCL 600.2590 and MCL 600.2590a to require the court to make all Personal Protection Orders mutual. If a court determines that reasonable cause exists to believe that a respondent may assault, threaten, or harass a petitioner, the court must act as if the respondent is also a party in need of protection (even if no evidence is offered to show that the respondent needs protection.) The provisions would empower perpetrators of domestic violence, and place restrictions on their victims. For example, the bill would prohibit domestic violence victims from possessing firearms, from interfering with the respondent's efforts to remove their child from premises owned by the petitioner in order to exercise parenting time, and from interfering with respondent's efforts to remove respondent's personal property from the petitioner's premises.

The Family Law Council felt that the thrust of the bill was philosophically wrong. The Personal Protection Orders envisioned by this bill would treat victims of domestic violence as if they are equally at fault for the violence, and implement restrictions against them merely because they asked for protection. Many of the provisions would give abusers legal power to threaten, intimidate and abuse the victim, because the order gives the respondent the right to enter the petitioner's premises to remove the minor child and property. An abuser caught on the petitioner's property would merely have to allege they were retrieving their personal property or their child.

The mutuality of the order makes it impossible to determine which party the order was intended to protect, and would greatly inhibit the ability of the police to protect victims. In the event of an altercation, the police would

have no indication of who to arrest. This one of the reasons Michigan got rid of the practice of granting mutual restraining orders for domestic violence. Another reason was the federal Violence Against Women Act, 42 USCS § 3796hh:

(GRANTS TO ENCOURAGE ARREST POLICIES AND ENFORCEMENT OF PROTECTION ORDERS)

(c) Eligibility. *Eligible grantees are States, Indian tribal governments, State and local courts (including juvenile courts), or units of local government that--*

(1) certify that their laws or official policies--

(A) encourage or mandate arrests of domestic violence offenders based on probable cause that an offense has been committed; and

(B) encourage or mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

(2) demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

(3) *certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense;*

Our current law complies with federal law because the statute prohibits mutual orders but permits correlative separate orders if both parties have petitioned the court separately. MCL 600.2950(8), 2950a(5). If we enact mutual PPOs, MI will lose federal funding and MI PPOs will not be enforceable across state lines.

The Family Law Council opposes this bill in its entirety.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

[http://www.legislature.mi.gov/\(S\(0imphm55acmxol45i3wtwujg\)\)/mileg.aspx?page=getobject&objectname=2007-HB-5324](http://www.legislature.mi.gov/(S(0imphm55acmxol45i3wtwujg))/mileg.aspx?page=getobject&objectname=2007-HB-5324)