

Report on Public Policy Position

Name of section:

Family Law Section

Contact person:

Kent Weichmann

E-mail:

weichmann@earthlink.net

Bill Number:

Substitute for [HB 6281](#) (Ebli) Family law; personal protection orders; victims of criminal sexual conduct; allow to petition for personal protection orders. Amends sec. 2950a of [1961 PA 236](#) (MCL [600.2950a](#)).

Date position was adopted:

November 1, 2008

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:

14 Voted for position

2 Voted against position

0 Abstained from vote

5 Did not vote

Position:

Support with amendments

Explanation of the position, including any recommended amendments:

HB 6281 (substitute) allows petitioners who have been victims of or threatened with sexual assault to obtain personal protection orders. This class of petitioners had not necessarily been covered by PPO laws because they were not in a domestic relationship with the respondent, and there may not yet have been a course of conduct that would qualify as stalking. The bill allows a PPO to enter if the respondent has been convicted of assault on the petitioner, or if the court finds that the petitioner has been subjected to, threatened with, or placed in reasonable apprehension of sexual assault by the respondent. The Family Law Section thought that this was a class of petitioners that should be able to obtain PPO protection. We were concerned with the elimination of "family division" on line 6 of page 1 of the bill. PPO petitions require the experience and expertise that is developed by family division judges, and the petition should remain in the family division of the circuit court.

The Family Law Section supports this bill, provided that the personal protection orders remain within the family division of the circuit court.

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

<http://legislature.mi.gov/doc.aspx?2008-HB-6281>

See below for substitute bill.

**SUBSTITUTE FOR
HOUSE BILL NO. 6281**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2950a (MCL 600.2950a), as amended by 2001 PA
201.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2950a. (1) Except as provided in subsections ~~(25) and~~
2 ~~(26)~~ **(28) AND (31)**, by commencing an independent action to obtain
3 relief under this section, by joining a claim to an action, or by
4 filing a motion in an action in which the petitioner and the
5 individual to be restrained or enjoined are parties, an individual
6 may petition the ~~family division of~~ circuit court to enter a
7 personal protection order to restrain or enjoin an individual from
8 engaging in conduct that is prohibited under section 411h, ~~or~~ 411i,



1 OR 411S of the Michigan penal code, 1931 PA 328, MCL 750.411h, and
2 750.411i, AND 750.411S. Relief UNDER THIS SUBSECTION shall not be
3 granted unless the petition alleges facts that constitute stalking
4 as defined in section 411h or 411i, OR POSTING A MESSAGE AS DEFINED
5 IN SECTION 411S, of the Michigan penal code, 1931 PA 328, MCL
6 750.411h, and 750.411i, AND 750.411S. Relief may be sought and
7 granted under this ~~section~~ SUBSECTION whether or not the individual
8 to be restrained or enjoined has been charged or convicted under
9 section 411h, ~~or~~ 411i, OR 411S of the Michigan penal code, 1931 PA
10 328, MCL 750.411h, and 750.411i, AND 750.411S, for the alleged
11 violation.

12 (2) EXCEPT AS PROVIDED IN SUBSECTIONS (28) AND (31), BY
13 COMMENCING AN INDEPENDENT ACTION TO OBTAIN RELIEF UNDER THIS
14 SECTION, BY JOINING A CLAIM TO AN ACTION, OR BY FILING A MOTION IN
15 AN ACTION IN WHICH THE PETITIONER AND THE INDIVIDUAL TO BE
16 RESTRAINED OR ENJOINED ARE PARTIES, AN INDIVIDUAL MAY PETITION THE
17 CIRCUIT COURT TO ENTER A PERSONAL PROTECTION ORDER TO RESTRAIN OR
18 ENJOIN AN INDIVIDUAL FROM ENGAGING IN ANY OF THE FOLLOWING:

19 (A) ONE OR MORE OF THE ACTS LISTED IN SUBSECTION (3), IF THE
20 PETITIONER IS THE VICTIM OF A SEXUAL ASSAULT FOR WHICH THE
21 RESPONDENT HAS BEEN CONVICTED. RELIEF UNDER THIS SUBDIVISION SHALL
22 BE GRANTED IF THE COURT DETERMINES THAT THE RESPONDENT HAS BEEN
23 CONVICTED OF A SEXUAL ASSAULT AND THAT THE PETITIONER WAS THE
24 VICTIM OF THAT SEXUAL ASSAULT.

25 (B) ONE OR MORE OF THE ACTS LISTED IN SUBSECTION (3), IF THE
26 PETITIONER HAS BEEN SUBJECTED TO, THREATENED WITH, OR PLACED IN
27 REASONABLE APPREHENSION OF SEXUAL ASSAULT BY THE INDIVIDUAL TO BE

1 ENJOINED. RELIEF UNDER THIS SUBDIVISION SHALL NOT BE GRANTED UNLESS
2 THE PETITION ALLEGES FACTS THAT DEMONSTRATE THAT THE RESPONDENT HAS
3 PERPETRATED OR THREATENED SEXUAL ASSAULT AGAINST THE PETITIONER OR
4 HAS ENGAGED IN CONDUCT THAT HAS CREATED IN THE PETITIONER THE
5 REASONABLE APPREHENSION OF SEXUAL ASSAULT. RELIEF MAY BE SOUGHT AND
6 GRANTED UNDER THIS SUBDIVISION REGARDLESS OF WHETHER THE INDIVIDUAL
7 TO BE RESTRAINED OR ENJOINED HAS BEEN CHARGED WITH OR CONVICTED OF
8 SEXUAL ASSAULT.

9 (3) THE COURT MAY RESTRAIN OR ENJOIN AN INDIVIDUAL AGAINST
10 WHOM A PROTECTION ORDER IS SOUGHT UNDER SUBSECTION (2) FROM 1 OR
11 MORE OF THE FOLLOWING:

12 (A) ENTERING ONTO PREMISES.

13 (B) THREATENING TO SEXUALLY ASSAULT, KILL, OR PHYSICALLY
14 INJURE PETITIONER OR A NAMED INDIVIDUAL.

15 (C) PURCHASING OR POSSESSING A FIREARM.

16 (D) INTERFERING WITH THE PETITIONER'S EFFORTS TO REMOVE THE
17 PETITIONER'S CHILDREN OR PERSONAL PROPERTY FROM PREMISES THAT ARE
18 SOLELY OWNED OR LEASED BY THE INDIVIDUAL TO BE RESTRAINED OR
19 ENJOINED.

20 (E) INTERFERING WITH THE PETITIONER AT THE PETITIONER'S PLACE
21 OF EMPLOYMENT OR EDUCATION OR ENGAGING IN CONDUCT THAT IMPAIRS THE
22 PETITIONER'S EMPLOYMENT OR EDUCATIONAL RELATIONSHIP OR ENVIRONMENT.

23 (F) FOLLOWING OR APPEARING WITHIN THE SIGHT OF THE PETITIONER.

24 (G) APPROACHING OR CONFRONTING THE PETITIONER IN A PUBLIC
25 PLACE OR ON PRIVATE PROPERTY.

26 (H) APPEARING AT THE PETITIONER'S WORKPLACE OR RESIDENCE.

27 (I) ENTERING ONTO OR REMAINING ON PROPERTY OWNED, LEASED, OR



1 OCCUPIED BY THE PETITIONER.

2 (J) CONTACTING THE PETITIONER BY TELEPHONE.

3 (K) SENDING MAIL OR ELECTRONIC COMMUNICATIONS TO THE
4 PETITIONER.

5 (L) PLACING AN OBJECT ON, OR DELIVERING AN OBJECT TO, PROPERTY
6 OWNED, LEASED, OR OCCUPIED BY THE PETITIONER.

7 (M) ENGAGING IN CONDUCT THAT IS PROHIBITED UNDER SECTION 411S
8 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.411S.

9 (N) ANY OTHER SPECIFIC ACT OR CONDUCT THAT IMPOSES UPON OR
10 INTERFERES WITH PERSONAL LIBERTY OR THAT CAUSES A REASONABLE
11 APPREHENSION OF VIOLENCE OR SEXUAL ASSAULT.

12 (4) SECTION 520J OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
13 750.520J, APPLIES IN ANY HEARING ON A PETITION FOR, A MOTION TO
14 MODIFY OR TERMINATE, OR AN ALLEGED VIOLATION OF A PERSONAL
15 PROTECTION ORDER REQUESTED OR ISSUED UNDER SUBSECTION (2), EXCEPT
16 AS FOLLOWS:

17 (A) THE WRITTEN MOTION AND OFFER OF PROOF SHALL BE FILED AT
18 LEAST 24 HOURS BEFORE A HEARING ON A PETITION TO ISSUE A PERSONAL
19 PROTECTION ORDER OR ON AN ALLEGED VIOLATION OF A PERSONAL
20 PROTECTION ORDER.

21 (B) THE WRITTEN MOTION AND OFFER OF PROOF SHALL BE FILED AT
22 THE SAME TIME THAT A MOTION TO MODIFY OR TERMINATE A PERSONAL
23 PROTECTION ORDER IS FILED.

24 (5) ~~(2)~~—If the respondent TO A PETITION UNDER THIS SECTION is
25 a person who is issued a license to carry a concealed weapon and is
26 required to carry a weapon as a condition of his or her employment,
27 a police officer certified by the commission on law enforcement



1 standards act, 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, a 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~~ **BEFORE** the personal protection order **IS**
8 **ISSUED**. This subsection does not apply to a petitioner who does not
9 know the respondent's occupation.

10 (6) ~~(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 a mailing address.

14 (7) ~~(4)~~—If a court **ISSUES OR** refuses to ~~grant~~ **ISSUE** a personal
15 protection order, the court shall immediately state in writing the
16 specific reasons for issuing or refusing to issue a ~~THE~~ personal
17 protection order. If a hearing is held, the court shall also
18 immediately state on the record the specific reasons for issuing or
19 refusing to issue a personal protection order.

20 (8) ~~(5)~~—A personal protection order shall not be made mutual.
21 Correlative separate personal protection orders are prohibited
22 unless both parties have properly petitioned the court ~~according to~~
23 **UNDER** subsection (1) **OR** (2).

24 (9) ~~(6)~~—A personal protection order is effective and
25 immediately enforceable anywhere in this state when signed by a
26 judge. Upon service, a personal protection order also may be
27 enforced by another state, an Indian tribe, or a territory of the



1 United States.

2 (10) ~~(7)~~—The court shall designate the law enforcement agency
3 that is responsible for entering the personal protection order into
4 the L.E.I.N.

5 (11) ~~(8)~~—A personal protection order issued under this section
6 shall include all of the following, ~~and~~ to the extent practicable
7 ~~contained~~ in a single form:

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

12 (i) If the respondent is 17 years of age or ~~more~~ **OLDER**,
13 immediate arrest and the civil and criminal contempt powers of the
14 court, and ~~that~~ if he or she is found guilty of criminal contempt,
15 ~~he or she shall be imprisoned~~ **IMPRISONMENT** for not more than 93
16 days and ~~may be fined~~ **A FINE OF** not more than \$500.00.

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

21 (iii) If the respondent violates the personal protection order
22 in a jurisdiction other than this state, ~~the respondent is subject~~
23 ~~to~~ the enforcement procedures and penalties of the state, Indian
24 tribe, or United States territory under whose jurisdiction the
25 violation occurred.

26 (b) A statement that the personal protection order is
27 effective and immediately enforceable anywhere in this state when



1 signed by a judge, and that upon service, a personal protection
2 order also may be enforced by another state, an Indian tribe, or a
3 territory of the United States.

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

5 (d) An expiration date stated clearly on the face of the
6 order.

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

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

11 (g) For an ex parte order, a statement that the individual
12 restrained or enjoined may file a motion to modify or rescind the
13 personal protection order and request a hearing within 14 days
14 after the individual restrained or enjoined ~~has been served or has~~
15 ~~received~~ **IS SERVED OR RECEIVES** actual notice of the personal
16 protection order and that motion forms and filing instructions are
17 available from the clerk of the court.

18 (12) ~~(9)~~—An ex parte personal protection order shall not be
19 issued and effective without written or oral notice to the
20 individual enjoined or his or her attorney unless it clearly
21 appears from specific facts shown by verified complaint, written
22 motion, or affidavit that immediate and irreparable injury, loss,
23 or damage will result from the delay required to effectuate notice
24 or that the notice will precipitate adverse action before a
25 personal protection order can be issued.

26 (13) ~~(10)~~—A personal protection order issued under subsection
27 ~~(9)~~ ~~(12)~~ is valid for not less than 182 days. The individual



1 restrained or enjoined may file a motion to modify or rescind the
 2 personal protection order and request a hearing under the Michigan
 3 court rules. The motion to modify or rescind the personal
 4 protection order shall be filed within 14 days after the order is
 5 served or after the individual restrained or enjoined ~~has received~~
 6 **RECEIVES** actual notice of the personal protection order unless good
 7 cause is shown for filing the motion after 14 days have elapsed.

8 (14) ~~(11)~~ Except as otherwise provided in this subsection, the
 9 court shall schedule a hearing on the motion to modify or rescind
 10 the ex parte personal protection order within 14 days after ~~the~~
 11 ~~filing of the~~ motion to modify or rescind **IS FILED**. If the
 12 respondent is a person described in subsection ~~(2)~~ **(5)** and the
 13 personal protection order prohibits him or her from purchasing or
 14 possessing a firearm, the court shall schedule a hearing on the
 15 motion to modify or rescind the ex parte personal protection order
 16 within 5 days after the ~~filing of the~~ motion to modify or rescind
 17 **IS FILED**.

18 (15) ~~(12)~~ The clerk of the court that issues a personal
 19 protection order shall do all of the following immediately upon
 20 issuance without requiring proof of service on the individual
 21 restrained or enjoined:

22 (a) File a true copy of the personal protection order with the
 23 law enforcement agency designated by the court in the personal
 24 protection order.

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

27 (c) If ~~respondent~~ **THE INDIVIDUAL RESTRAINED OR ENJOINED** is



1 identified in the pleadings as a law enforcement officer, notify
 2 the officer's employing law enforcement agency ~~about~~ **OF** the
 3 existence of the personal protection order.

4 (d) If the personal protection order prohibits the ~~respondent~~
 5 **INDIVIDUAL RESTRAINED OR ENJOINED** from purchasing or possessing a
 6 firearm, notify the concealed weapon licensing board in
 7 ~~respondent's~~ **THE INDIVIDUAL'S** county of residence ~~about~~ **OF** the
 8 existence and content of the personal protection order.

9 (e) If the ~~respondent~~ **INDIVIDUAL RESTRAINED OR ENJOINED** is
 10 identified in the pleadings as a department of corrections
 11 employee, notify the ~~state~~ department of corrections ~~about~~ **OF** the
 12 existence of the personal protection order.

13 (f) If the ~~respondent~~ **INDIVIDUAL RESTRAINED OR ENJOINED** is
 14 identified in the pleadings as ~~being~~ a person who may have access
 15 to information concerning the petitioner or a child of the
 16 petitioner or ~~respondent~~ **INDIVIDUAL** and that information is
 17 contained in friend of the court records, notify the friend of the
 18 court for the county in which the information is located ~~about~~ **OF**
 19 the existence of the personal protection order.

20 (16) ~~(13)~~ The clerk of ~~the~~ **A** court **THAT ISSUES A PERSONAL**
 21 **PROTECTION ORDER** shall inform the petitioner that he or she may
 22 take a true copy of the personal protection order to the law
 23 enforcement agency designated by the court ~~in~~ **UNDER** subsection ~~(7)~~
 24 **(10)** to be immediately entered into the L.E.I.N.

25 (17) ~~(14)~~ The law enforcement agency that receives a true copy
 26 of ~~the~~ **A** personal protection order under subsection ~~(12)~~ ~~or~~ ~~(13)~~
 27 **(15) OR (16)** shall immediately, without requiring proof of service,

1 enter the personal protection order into the L.E.I.N.

2 (18) ~~(15)~~ A personal protection order issued under this
3 section shall be served personally, ~~or~~ by registered or certified
4 mail, return receipt requested, delivery restricted to the
5 addressee at the last known address or addresses of the individual
6 restrained or enjoined or by any other ~~manner provided in~~ **METHOD**
7 **ALLOWED BY** the Michigan court rules. If the individual restrained
8 or enjoined has not been served, a law enforcement officer or clerk
9 of the court who knows that a personal protection order exists may,
10 at any time, serve the individual restrained or enjoined with a
11 true copy of the order or advise the individual restrained or
12 enjoined ~~about~~ **OF** the existence of the personal protection order,
13 the specific conduct enjoined, the penalties for violating the
14 order, and where the individual restrained or enjoined may obtain a
15 copy of the order. If the ~~respondent~~ **INDIVIDUAL RESTRAINED OR**
16 **ENJOINED** is less than 18 years of age, the parent, guardian, or
17 custodian of ~~that~~ **THE** individual shall also be served personally or
18 by registered or certified mail, return receipt requested, delivery
19 restricted to the addressee at the last known address or addresses
20 of the parent, guardian, or custodian. ~~of the individual restrained~~
21 ~~or enjoined.~~ A proof of service or proof of oral notice shall be
22 filed with the clerk of the court issuing the personal protection
23 order. This subsection does not prohibit the immediate
24 effectiveness of a personal protection order or immediate
25 enforcement under subsection ~~(18) or (19)~~ **(21) OR (22)**.

26 (19) ~~(16)~~ The clerk of the court **THAT ISSUED A PERSONAL**
27 **PROTECTION ORDER** shall immediately notify the law enforcement

1 agency that received the personal protection order under subsection
 2 ~~(12)~~**(15)** or ~~(13)~~**(16)** if either **OR BOTH** of the following ~~occur~~
 3 **OCCUR**:

4 (a) The clerk of the court ~~has received~~**RECEIVES** proof that
 5 the individual restrained or enjoined has been served.

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

8 **(20)** ~~(17)~~The law enforcement agency that receives information
 9 under subsection ~~(16)~~**(19)** shall enter the information or cause the
 10 information to be entered into the L.E.I.N.

11 **(21)** ~~(18)~~Subject to subsection ~~(19)~~**(22)**, a personal
 12 protection order is immediately enforceable anywhere in this state
 13 by any law enforcement agency that has received a true copy of the
 14 order, is shown a copy of it, or has verified its existence on the
 15 L.E.I.N.

16 **(22)** ~~(19)~~If the individual restrained or enjoined **BY A**
 17 **PERSONAL PROTECTION ORDER** has not been served, ~~the~~**A** law
 18 enforcement agency or officer responding to a call alleging a
 19 violation of ~~a~~**THE** personal protection order shall serve the
 20 individual restrained or enjoined with a true copy of the order or
 21 advise the individual restrained or enjoined ~~about~~**OF** the existence
 22 of the personal protection order, the specific conduct enjoined,
 23 the penalties for violating the order, and where the individual
 24 restrained or enjoined may obtain a copy of the order. The law
 25 enforcement officer shall enforce the personal protection order and
 26 immediately enter or cause to be entered into the L.E.I.N. that the
 27 individual restrained or enjoined has actual notice of the personal

1 protection order. The law enforcement officer also shall file a
2 proof of service or proof of oral notice with the clerk of the
3 court ~~issuing~~ **THAT ISSUED** the personal protection order. If the
4 individual restrained or enjoined has not received notice of the
5 personal protection order, the individual restrained or enjoined
6 shall be given an opportunity to comply with the personal
7 protection order before the law enforcement officer makes a
8 custodial arrest for violation of the personal protection order.
9 Failure to immediately comply with the personal protection order is
10 grounds for an immediate custodial arrest. This subsection does not
11 preclude an arrest under section 15 or 15a of chapter IV of the
12 code of criminal procedure, 1927 PA 175, MCL 764.15 and 764.15a, or
13 a proceeding under section 14 of chapter XIIIA of the probate code
14 of 1939, 1939 PA 288, MCL 712A.14.

15 (23) ~~(20)~~—An individual 17 years of age or ~~more~~ **OLDER** who
16 refuses or fails to comply with a personal protection order issued
17 under this section is subject to the criminal contempt powers of
18 the court and, if found guilty of criminal contempt, shall be
19 imprisoned for not more than 93 days and may be fined not more than
20 \$500.00. An individual less than 17 years of age who refuses or
21 fails to comply with a personal protection order issued under this
22 section is subject to the dispositional alternatives listed in
23 section 18 of chapter XIIIA of the probate code of 1939, 1939 PA
24 288, MCL 712A.18. The criminal penalty ~~provided for~~ under this
25 section may be imposed in addition to any penalty that may be
26 imposed for any other criminal offense arising from the same
27 conduct.



1 (24) ~~(21)~~—An individual who knowingly and intentionally makes
2 a false statement to ~~the~~ **A** 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) ~~(22)~~—A personal protection order issued under this
6 section is also enforceable under chapter XIIIA of the probate code
7 of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, and section 15b of
8 chapter IV of the code of criminal procedure, 1927 PA 175, MCL
9 764.15b.

10 (26) ~~(23)~~—A personal protection order issued under this
11 section may enjoin or restrain an individual from purchasing or
12 possessing a firearm.

13 (27) ~~(24)~~—A personal protection order issued under this
14 section is also enforceable under chapter 17.

15 (28) ~~(25)~~—A court shall not issue a personal protection order
16 that restrains or enjoins conduct described in subsection (1) if
17 ~~any~~ **THE RESPONDENT IS A MINOR CHILD LESS THAN 10 YEARS OLD. A COURT**
18 **SHALL NOT ISSUE A PERSONAL PROTECTION ORDER THAT RESTRAINS CONDUCT**
19 **DESCRIBED IN SUBSECTION (1) OR (3) IF EITHER** of the following
20 apply:

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

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

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

26 (29) ~~(26)~~—If the respondent is less than 18 years ~~of age~~ **OLD**,
27 issuance of a personal protection order under this section is

1 subject to chapter XIIIA of the probate code of 1939, 1939 PA 288,
2 MCL 712A.1 to 712A.32.

3 (30) ~~(27)~~—A personal protection order ~~that is~~ issued before
4 March 1, 1999 is not invalid on the ground that it does not comply
5 with 1 or more of the requirements added by 1998 PA 476.

6 (31) ~~(28)~~ A court shall not issue a personal protection order
7 under this section if **IF** the petitioner **UNDER THIS SECTION** is a
8 prisoner, **THE COURT SHALL ONLY ISSUE A PERSONAL PROTECTION ORDER**
9 **UNDER THIS SECTION IF THE RESPONDENT HAS BEEN CONVICTED OF A SEXUAL**
10 **ASSAULT IN WHICH THE PETITIONER WAS THE VICTIM.** If a personal
11 protection order is issued in violation of this subsection, a court
12 shall rescind the personal protection order upon notification and
13 verification that the petitioner is a prisoner **AND THAT THE**
14 **RESPONDENT HAS NOT BEEN CONVICTED OF A SEXUAL ASSAULT IN WHICH THE**
15 **PETITIONER WAS THE VICTIM.**

16 (32) ~~(29)~~—As used in this section:

17 (A) "CONVICTED" MEANS 1 OF THE FOLLOWING:

18 (i) THE SUBJECT OF A JUDGMENT OF CONVICTION OR A PROBATION
19 ORDER ENTERED IN A COURT THAT HAS JURISDICTION OVER CRIMINAL
20 OFFENSES, INCLUDING A TRIBAL COURT OR A MILITARY COURT.

21 (ii) ASSIGNED TO YOUTHFUL TRAINEE STATUS UNDER SECTIONS 11 TO
22 15 OF CHAPTER II OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175,
23 MCL 762.11 TO 762.15, IF THE INDIVIDUAL'S STATUS OF YOUTHFUL
24 TRAINEE IS REVOKED AND AN ADJUDICATION OF GUILT IS ENTERED.

25 (iii) THE SUBJECT OF AN ORDER OF DISPOSITION ENTERED UNDER
26 SECTION 18 OF CHAPTER XIIIA OF THE PROBATE CODE OF 1939, 1939 PA
27 288, MCL 712A.18, THAT IS OPEN TO THE GENERAL PUBLIC UNDER SECTION



1 28 OF CHAPTER XIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL
2 712A.28.

3 (iv) THE SUBJECT OF AN ORDER OF DISPOSITION OR OTHER
4 ADJUDICATION IN A JUVENILE MATTER IN ANOTHER STATE OR COUNTRY.

5 (B) ~~(a)~~ "Federal law enforcement officer" means an officer or
6 agent employed by a law enforcement agency of the United States
7 government whose primary responsibility is the enforcement of laws
8 of the United States.

9 (C) ~~(b)~~ "L.E.I.N." means the law enforcement information
10 network administered under the ~~L.E.I.N.~~ C.J.I.S. policy council
11 act, ~~of 1974,~~ 1974 PA 163, MCL 28.211 to ~~28.216~~ 28.215.

12 (D) ~~(e)~~ "Personal protection order" means an injunctive order
13 issued by **THE** circuit court or the family division of circuit court
14 restraining or enjoining conduct prohibited under ~~section 411h or~~
15 ~~411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and~~
16 ~~750.411i~~ **SUBSECTION (1) OR (3).**

17 (E) ~~(d)~~ "Prisoner" means a person subject to incarceration,
18 detention, or admission to a prison who is accused of, convicted
19 of, sentenced for, or adjudicated delinquent for violations of
20 federal, state, or local law or the terms and conditions of parole,
21 probation, pretrial release, or a diversionary program.

22 (F) "SEXUAL ASSAULT" MEANS AN ACT, ATTEMPTED ACT, OR
23 CONSPIRACY TO ENGAGE IN AN ACT OF CRIMINAL CONDUCT AS DEFINED IN
24 SECTION 520B, 520C, 520D, 520E, OR 520G OF THE MICHIGAN PENAL CODE,
25 1931 PA 328, MCL 750.520B, 750.520C, 750.520D, 750.520E, AND
26 750.520G, OR THE FURNISHING OF OBSCENE MATERIALS TO A MINOR AS
27 DEFINED IN SECTION 142 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL



1 750.142, OR AN OFFENSE UNDER A LAW OF THE UNITED STATES, ANOTHER
2 STATE, OR TRIBAL OR MILITARY LAW THAT IS SUBSTANTIALLY SIMILAR TO
3 AN OFFENSE LISTED IN THIS SUBDIVISION.

4 Enacting section 1. This amendatory act does not take effect
5 unless Senate Bill No.____ or House Bill No.____ (request no.
6 03593'07 a) of the 94th Legislature is enacted into law.