

Summary of Domestic Violence Legislation Passed in 2001

Prepared by the *Michigan Domestic Violence Prevention & Treatment Board*

This document summarizes the comprehensive package of domestic violence legislation enacted during the 2001 session.

The full text of each Public Act can be found by visiting the Michigan Legislature’s web site at www.michiganlegislature.org.

Bill/PA Number and Eff. Date	Affected MCL §§	Subject Matter
<p>HB 4855 2001 PA 195 Eff. 4/1/02</p>	<p>MCL 600.651 – 600.673 are repealed and replaced by this Act.</p>	<p><i>Interstate enforcement of child custody orders.</i> This Act repeals the Uniform Child Custody Jurisdiction Act and adopts the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”). The UCCJEA governs the procedures for resolving child custody disputes when one or both parents reside outside of Michigan. It also governs enforcement of out-of-state custody decrees in Michigan, and sets forth the circumstances when modification of a foreign court order is permitted. Highlights of the UCCJEA of particular interest to survivors of domestic violence are as follows:</p> <ul style="list-style-type: none"> • A Michigan court may take temporary, emergency jurisdiction of a child custody matter if the child is present here and has been abandoned, or if it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse. • A Michigan court may decline to exercise jurisdiction over a child custody matter if it decides that Michigan is an inconvenient forum. One of the factors the court shall consider in making this determination is whether domestic violence has occurred and is likely to continue in the future, and which state could best protect the parties and the child. • In its first pleading in a child custody case (or in an attached sworn statement), and in its petition for enforcement of a child custody determination, each party must state whether it knows of a proceeding that could affect the child custody case or enforcement proceeding, including a proceeding relating to domestic violence, a protective order, termination of parental rights, or adoption. If there is such a proceeding the party must identify the court, case number, and nature of the proceeding. • If a party alleges in a sworn statement or pleading under oath that a party’s or child’s health, safety, or liberty would be put at risk by the disclosure of identifying information, the court shall not disclose that information to the other party or the public unless it orders disclosure after a hearing in which it considers the party’s or the child’s health, safety, and liberty and determines that disclosure is in the interest of justice. • If a court finds that a child is likely to suffer serious imminent physical harm or be imminently removed from this state, it may issue a warrant to take physical custody of the child. <p>A prosecutor or the attorney general may take any lawful action to locate a child, obtain the return of a child, or enforce a child custody determination if there is one or more of the following circumstances: 1) an existing child custody determination; 2) a request from a court in a pending custody proceeding; 3) a reasonable belief that a criminal statute has been violated; 4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects or International Child Abduction. The prosecutor or attorney general acts in this capacity on behalf of the court, and not as a representative of a party to the case.</p>

SB 736 2001 PA 193 Eff. 10/1/02	Amends MCL 552.519	<i>State Friend of the Court Bureau to provide domestic violence training.</i> Requires the State Friend of the Court Bureau to provide training in the dynamics of domestic violence and in handling domestic relations matters with a history of domestic violence. Training is to be provided to the friend of the court, domestic relations mediators, and employees of the friend of the court office.
SB 725 2001 PA 205 Eff. 4/1/02	Adds MCL 600.2972 to the Revised Judicature Act	<i>Courts must consider safety of domestic violence victims in ruling on motions to seal court records.</i> In a civil or criminal case, when considering a motion to seal court records that contains allegations of domestic violence, the court must consider the safety of any alleged victim or potential victim in deciding whether “good cause” has been shown for sealing the record.
HB 5271 2001 PA 191 Eff. 10/1/02	Amends MCL 28.257	<i>Reporting domestic violence incidents to the Department of State Police.</i> This Act will facilitate the collection of accurate and reliable statistics on incidents of domestic violence in Michigan. The current statute (which requires local police agencies to report domestic <i>assault</i> to the Department of State Police) is broadened to require reporting of the number of domestic violence <i>crimes</i> , and other statistics on the incidence of domestic violence as deemed necessary by the Department of State Police. Domestic violence crimes are defined as any crimes where the alleged perpetrator has one of the following relationships with the victim: spouse or former spouse, child in common, past or present dating relationship, past or present residence in the same household. “Dating relationship” is defined as in the PPO statute, MCL 600.2950. (See HB 5281 for a substantially similar definition.)
SB 731/754 2001 PA 207/210 Eff. 4/1/01	Amends MCL 764.15c	<i>Introduction of a standard domestic violence incident report form to assist investigators, domestic violence service providers and victims.</i> This Act requires the Department of State Police to develop a standard domestic violence incident report form by 6/1/02. This form, or a substantially similar one, must be used by law enforcement officers responding to domestic violence incidents effective 10/1/02. Amends the statutory definition of “domestic violence incident” to include crimes committed against a person with whom the perpetrator has a past or present dating relationship. “Dating relationship” is defined as in the PPO statute, MCL 600.2950. (See HB 5281 for a substantially similar definition.) SB 754 additionally amends the definition of “domestic violence incident” to include violations of protection orders issued in jurisdictions outside Michigan.
HB 5304 2001 PA 194 Eff. 4/1/02	Amends MCL 776.22	<i>Development of police policies for domestic violence calls.</i> The questions to be addressed in police policies are expanded to include protocols for enforcing a valid protection order issued in a jurisdiction outside Michigan.
HB 5276 2001 PA 198 Eff. 4/1/02	Amends MCL 780.582a	<i>Restrictions on interim bond for persons arrested for assault or aggravated assault in a domestic relationship.</i> Persons arrested without a warrant under MCL 764.15a (arrest authority for assault/aggravated assault in a domestic relationship) or with a warrant for assault/aggravated assault in a domestic relationship (as defined in MCL 750.81 – 750.81a) shall no longer be released automatically after 20 hours of detention without bond on a pre-determined interim. Instead, arrestees must be held until they can be arraigned or have interim bond set by a judge or district court magistrate. In setting interim bond, the judge/magistrate must consider and may impose the condition that the person released shall not have or attempt to have contact of any kind with the victim, pending formal arraignment. Any court-ordered bond conditions shall immediately be entered into the LEIN network. The interim bond statute is also amended to reflect the fact that the domestic relationships encompassed in the assault and aggravated assault statutes (MCL 750.81 – 750.81a) have been expanded to include persons in dating relationships. See HB 5281 for definition of “dating relationship.”

<p>HB 5281/SB 723 2001 PA 189/190 Eff.4/1/02</p>	<p>Amends MCL 750.81 – 750.81a</p>	<p><i>Assault and aggravated assault when alleged assailant has dating relationship with victim.</i> This Act amends the law to include current or former dating relationships as the basis for a warrantless arrest for assault or aggravated assault in a domestic relationship. “Dating relationship” means “frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.”</p> <p><i>Assault penalty provisions amended.</i> This Act increases the penalty for non-domestic assault or battery from 90 to 93 days, thereby triggering warrantless arrest authority. (Thus, if there is evidence of an assault or battery, the police do not have to determine whether the alleged perpetrator and victim are or have been in a dating relationship or fall within one of the other domestic relationship categories to make a warrantless arrest.) This Act also permits charging and sentencing enhancements based on prior convictions of assault crimes committed against domestic or former domestic partners in other states.</p>
<p>SB 478/721 2001 PA187/203 Eff. 10/1/02 (SB 721) and 4/1/02 (SB 478)</p>	<p>SB 478 amends MCL 28.241, 28.241a, 28.242, 28.243, and 28.243a, and adds MCL 28.248. SB 721 amends MCL 28.242 and 243.</p>	<p><i>Criminal history record information to be collected for persons convicted of criminal contempt for protection order violations.</i> This Act requires the Department of State Police to maintain fingerprinting and criminal history records on persons convicted of <i>criminal contempt</i> of court for violating the terms of a Michigan PPO or a foreign protection order. This law does not apply to findings of civil contempt. The definition of “juvenile offenses” for purposes of collecting juvenile history record information and fingerprints is expanded in SB 478 to include felonies, misdemeanors, and criminal contempt convictions for violations of Michigan personal protection orders or valid protection orders issued in other jurisdictions.</p> <p><i>Fingerprints must be forwarded to the Department of State Police upon arrest for criminal contempt for violating a protection order.</i> Arresting law enforcement agencies must forward fingerprints to Department of State Police within 72 hours after arrest of a person for criminal contempt for violating a Michigan PPO or a valid protection order issued in another jurisdiction.</p> <p><i>Destruction of fingerprints and arrest card.</i> Various provisions for the return of the arrest card and fingerprints to the accused individual under current law are amended to require the destruction of these materials.</p> <p><i>Penalties for refusal to allow taking of fingerprints.</i> Refusal to allow or resistance to taking fingerprints is a misdemeanor punishable by imprisonment for up to 90 days and/or a maximum \$500 fine.</p> <p><i>Use of fingerprints.</i> Fingerprints obtained under the law for non-criminal identification purposes may be used for criminal identification purposes unless prohibited by law.</p>
<p>SB 722 2001 PA 204 Eff. 10/1/02</p>	<p>Amends MCL 769.16a</p>	<p><i>Clerk of the court to notify Department of State Police of disposition of criminal contempt charges for protection order violation.</i> Clerk of court must immediately report to Department of State Police upon final disposition of charges of criminal contempt for violation of a Michigan PPO or a valid protection order issued in another jurisdiction.</p>

<p>SB 758 2001 PA 212 Eff. 4/1/02</p>	<p>Amends MCL 764.15</p>	<p><i>Warrantless arrest of person violating criminal court order.</i> This amendment permits police to make a warrantless arrest upon reasonable cause to believe a person has violated a condition in a conditional release or probation order imposed by a court in Michigan, in another state, in a U.S. territory or by an Indian tribe.</p>
<p>SB 735 2001 PA 208 Eff. 4/1/02</p>	<p>Amends MCL 764.9c, 764.15a, 769.1f, 769.4a, and 770.9a.</p>	<p><i>No appearance ticket for person arrested for assault against a domestic partner.</i> The provisions in MCL 764.9c(3) prohibiting appearance tickets for persons arrested for assault/aggravated assault against a domestic partner are amended to reflect the fact that the domestic relationships encompassed in the assault and aggravated assault statutes (MCL 750.81 – 750.81a) have been expanded to include persons in dating relationships. See HB 5281 for definition of “dating relationship.”</p> <p><i>Warrantless arrest for assault against a domestic partner.</i> The provisions of MCL 764.15a providing for warrantless arrest for assault/aggravated assault against a domestic partner are amended to reflect the fact that the domestic relationships encompassed in the assault and aggravated assault statutes (MCL 750.81 – 750.81a) have been expanded to include persons in dating relationships. See HB 5281 for definition of “dating relationship.”</p> <p><i>Reimbursement for expenses of emergency response and prosecution.</i> The provisions of MCL 769.1f permit the court to order that a person convicted of certain listed crimes reimburse the state or a local unit of government for expenses incurred as a result of the crime, including emergency response expenses and the expenses of prosecution. The list of offenses is amended to include criminal contempt for violating a PPO issued by a Michigan court or a protection order issued by a court of another jurisdiction.</p> <p><i>Deferred proceedings for assault against a domestic partner.</i> MCL 769.4a is amended to reflect the fact that the domestic relationships encompassed in the assault and aggravated assault statutes (MCL 750.81 – 750.81a) have been expanded to include persons in dating relationships. See HB 5281 for definition of “dating relationship.”</p> <p><i>Post-conviction bail for persons convicted of assaultive crimes.</i> The list of assaultive crimes for which post-conviction bail is restricted in MCL 770.9a is amended to include aggravated stalking under MCL 750.41 i.</p>
<p>HB 5280 2001 PA 192 Eff. 10/1/02</p>	<p>Adds MCL 400.1511</p>	<p><i>Domestic violence fatality review teams.</i> Amends the act creating the Domestic Violence Prevention and Treatment Board to authorize the state and a county or counties to establish inter-agency domestic violence fatality review teams. Teams may review fatal and near-fatal domestic violence incidents, including suicides. The Act sets forth membership and reporting requirements for teams. Information obtained or created by teams is confidential and not subject to civil discovery or the Freedom of Information Act. Documents created by teams are not subject to subpoena; however, if a document is otherwise available from another source, its disclosure to a team does not shield it from subpoena, discovery, or introduction into evidence. Information relevant to the investigation of a crime may be disclosed by a team only to the prosecuting attorney or to a law enforcement agency. Information required to be reported under the Child Protection Law shall be disclosed to the Family Independence Agency. The Act limits liability for team members and persons providing information to the team. State teams are to be convened by the Domestic Violence Prevention and Treatment Board. The Board may develop a protocol for use by teams, and may develop and provide training concerning fatality review teams.</p>

<p>HB 5299 2001 PA 200 Eff. 4/1/02</p>	<p>Amends MCL 600.2950</p>	<p><i>Interstate enforcement of domestic relationship PPO.</i> Codifies the federal full faith and credit requirement (18 USC 2265-2266) that a Michigan PPO must be enforced by another state, an Indian tribe, or a U.S. territory, as long as jurisdictional and due process standards are met. PPO provisions must include statements to this effect.</p> <p><i>A domestic relationship PPO may not be issued against a child under age 10.</i> This restriction applies regardless of the relationship between the petitioner and respondent.</p>
<p>HB 5273/5300 2001 PA 196/201 Eff. 4/1/02</p>	<p>Amends MCL 600.2950a</p>	<p><i>Court's reasoning for action on non-domestic stalking PPO petition.</i> Requires court to immediately state in writing the specific reasons for issuing a non-domestic stalking PPO. This is a departure from current law, which only requires a judge to record the reasons for <i>refusing</i> to issue such an order. If a hearing is held, the court must also state on the record the specific reasons for issuing or refusing to issue a non-domestic stalking PPO.</p> <p><i>Interstate enforcement of non-domestic stalking PPO.</i> Codifies the federal full faith and credit requirement (18 USC 2265-2266) that a Michigan PPO must be enforced by another state, an Indian tribe, or a U.S. territory, as long as jurisdictional and due process standards are met. PPO provisions must include statements to this effect.</p> <p><i>A non-domestic stalking PPO may not be issued against a child under age 10.</i> This restriction applies regardless of the relationship between the petitioner and respondent.</p>
<p>HB 5278 2001 PA 199 Eff. 4/1/02</p>	<p>Amends MCL 28.422b</p>	<p><i>Timing of firearms restriction notice after entry of PPO.</i> The written firearms restriction notice required by this statute after entry of a PPO shall not be sent by the Department of State Police until the Department receives notice that the respondent has been served with or received notice of the PPO.</p>
<p>SB 729 2001 PA 206 Eff. 4/1/02</p>	<p>Adds MCL 600.2950h – 600.2950k to the Revised Judicature Act</p>	<p><i>Full faith and credit for protection orders issued in other jurisdictions.</i> Valid foreign protection orders are to be accorded full faith and credit by Michigan courts, and are subject to the same enforcement procedures and penalties as if they were issued in Michigan. “Foreign protection order” is an order issued by a court of another state, an Indian tribe, or a U.S. Territory that prevents a person’s violent or threatening acts against, harassment of, contact with, communication with, or physical proximity to another person. Orders issued under state divorce and child custody laws are not governed by these provisions; however custody and support provisions contained in valid foreign protection orders are entitled to full faith and credit under these provisions. A foreign protection order is valid if: 1) the issuing court had jurisdiction over the parties and subject matter under its own laws, and 2) the restrained party had notice and opportunity to be heard sufficient to protect due process rights. Invalidity of the order may be raised as an affirmative defense in an enforcement proceeding.</p> <p><i>Conditions restricting enforcement of mutual orders against petitioning party.</i> If a foreign protection order has been issued against both the person seeking it and that person’s spouse or intimate partner, the order is not enforceable against the petitioning party unless that party’s spouse or intimate partner also filed a separate written pleading seeking relief and the issuing court made specific findings against each party supporting a determination that each party was entitled to relief. “Spouse or intimate partner” in this context encompasses these relationships: spouse, former spouse, child in common, past or present resident of same household, past or present dating relationship as defined in the domestic violence PPO statute.</p>

<p>HB 5275 2001 PA 197 Eff 4/1/02</p>	<p>Adds MCL 600.2950l and 600.2950m to the Revised Judicature Act</p>	<p><i>Enforcement provisions for foreign protection orders.</i> Law enforcement officers, prosecutors, and courts are to enforce foreign protection orders (other than criminal court orders) in the same way they would enforce a Michigan PPO. Law enforcement officers may rely on a copy of any protection order that appears to be a foreign protection order and that is provided to them from any source if it appears to contain: the names of the parties; the date of issuance (which is prior to the date enforcement is sought); the terms/conditions against the restrained party; the name of the issuing court; the signature of/on behalf of a judicial officer; no obvious indication of invalidity (e.g., expiration date prior to date enforcement sought). Entry of order into LEIN or NCIC protection order file is not required for enforcement. Officers may rely on petitioner’s statement that the order is in effect and that the respondent has notice of it. If the person seeking enforcement does not have a copy of the protection order, officers may also enforce a foreign protection order based on verification of the above contents through LEIN, NCIC, administrative messaging, contact with the issuing court or law enforcement agency in the issuing jurisdiction, or any other reliable method. If the officer is not shown a copy of the order and cannot verify it as just described, the officer shall maintain the peace and take appropriate action against any violation of criminal law. If the officer verifies the existence of the foreign protection order, but the restrained party has not been notified of it, the officer may notify the restrained party according to the same procedures provided for Michigan PPOs. Law enforcement officers are immune from civil and criminal liability in any action arising from the enforcement of a foreign protection order.</p> <p><i>Enforcement provisions for criminal court orders issued in other jurisdictions.</i> Persons violating conditional release orders or probation orders issued in other jurisdictions are subject to misdemeanor penalties of imprisonment for up to 93 days and/or a \$500 fine. They are also subject to proceedings under the Uniform Criminal Extradition Act and the Uniform Rendition of Accused Persons Act.</p>
<p>SB 757 2001 PA 211 Eff 4/1/02</p>	<p>Amends MCL 712A.1, 712A.2, 712A.2c, and 712A.14</p>	<p><i>Foreign protection orders issued against persons under age 18.</i> Gives family division of circuit court jurisdiction over proceeding to enforce valid foreign protection order issued against a person under age 18. Gives law enforcement officers authority to take minors into custody with or without a court order for violations of such orders. Officers may take a minor into custody without a court order upon reasonable cause to believe the minor is violating or has violated a Michigan or foreign protection order.</p> <p><i>Prohibits issuance of PPO against a respondent less than age 10.</i></p>
<p>HB 5303 2001 PA 202 Eff. 4/1/02</p>	<p>Amends MCL 600.2529</p>	<p><i>Fees in actions involving protection orders.</i> No fee may be charged to commence an action to enforce a protection order issued in another jurisdiction, or to dismiss such an action.</p>
<p>SB 753 2001 PA 209 Eff. 4/1/02</p>	<p>Amends MCL 764.15b</p>	<p><i>Warrantless arrest authority for violation of protection order issued in another jurisdiction.</i> Authorizes police to arrest without a warrant on reasonable cause to believe an individual is violating a valid protection order issued in another jurisdiction. Subjects persons so arrested to the same procedures as for Michigan PPOs. Gives family division of circuit court in each county jurisdiction to conduct contempt proceedings based on violations of valid foreign protection orders, including orders issued against person under age 18. The arraigning court in Michigan must notify the issuing foreign court that it may request the return of the alleged violator at its own expense.</p>