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Personal Protection Matters

A personal protection action involves seeking an order from the court to protect you from harassment, assault, beating, molesting, wounding or stalking by another person. The order can also prohibit a person from entering your premises and from removing minor children, unless the removal is part of court-ordered parenting time. The person filing the petition for personal protection is called the petitioner. The person that the petitioner is requesting be restrained by the personal protection order is called the respondent.

Types of Personal Protection Actions

There are two types of personal protection actions: domestic and non domestic. A **domestic personal protection order** can be obtained if you have or had an established relationship with the other party, for example: that person is your spouse or former spouse, someone with whom you have a child in common, someone you are dating or dated in the past, or, someone who lives now, or has lived in the same household with you. You must show the court that this person is interfering with your personal freedom or has threatened or committed violence against you.

A **non domestic personal protection order** can be obtained if you want to prevent threatening or violent behavior by someone with whom you have not had any form of domestic relationship. You may seek a non domestic PPO to protect you from anyone else who has committed a pattern of two or more acts, without your consent, that make you feel threatened, harassed, frightened or molested. This type of order is also referred to as an order against stalking.

How Personal Protection Orders are Issued

There are two ways personal protection orders can be issued. The court can issue an order after the respondent has been notified that the petitioner has filed for a personal protection order and after the court has held a hearing. The court may also issue a personal protection order without notifying the respondent and without a hearing. This is called an ex parte order. If, an ex parte order is entered, respondent has 14 days in which to object and seek a hearing on the matter.

Stalking

Although it is a crime in Michigan for someone to assault or threaten another person, Michigan law provides additional protection to persons who have a domestic relationship, or those who are being harassed or stalked by another person, by allowing

them to seek a personal protection order.

Stalking involves harassment that causes you to feel terrorized, threatened, intimidated, frightened or molested. This could include following you, making unwanted calls or mailings, or showing up repeatedly at your home or work without your consent. A petitioner filing for a PPO relative to stalking should demonstrate that he or she requested the respondent to stop the behavior.

Statutes and Court Rules

Statutes and court rules associated with personal protection proceedings are MCL 600.2950, 600.2950a and 600.2950b through 600.2950m and MCR 3.701 through 3.709.

Using Court Forms

Court forms are available for use in personal protection proceedings. These forms follow the procedures stated in the Michigan Compiled Laws and Michigan Court Rules and can be used without the assistance of an attorney.

When using forms, you are required to provide the total number of copies for use by the court, the parties, and any other person or organization that must receive the form. See the upper right hand corner of each form to determine the mandatory number of copies and who must receive those copies. If you do not provide the court with the correct number of copies, the court might reject the form for noncomformance under the authority of Michigan Court Rule 8.119(C). Unless specifically required by court rule or statute, the court is not responsible for making copies of forms for you.

Depending on your situation, there are different petition and order forms. **You may obtain these forms from your county clerk's office.** The instructions with the forms will help you decide what forms you need. Instructions for completing and processing a form are provided with each form and can be read online. Make sure you read all the instructions and follow them carefully. Although forms are available for use in personal protection proceedings against a minor (someone under age 18), only the forms for use in proceedings against adults are included in this e-mail.

- Instructions for Personal Protection Orders, P-02 (booklet)
- Petition for Personal Protection Order (Domestic Relationship), CC 375
- Personal Protection Order (Domestic Relationship), CC 376
- Petition for Personal Protection Order Against Stalking (Nondomestic), CC 377
- Personal Protection Order Against Stalking (Nondomestic), CC 380
- Notice of Hearing on Petition for Personal Protection Order, CC 381
- Motion to Modify, Extend or Terminate Personal Protection Order, CC 379
- Motion and Order to Dismiss Action for Personal Protection Order, CC 378
- Motion and Order to Show Cause for Violating Personal Protection Order, CC 382

How to Begin a Personal Protection Action

To start the action, you (the petitioner) must file a “petition form” with the county clerk of the circuit court. You can go to any county clerk’s office and ask for a personal protection order packet. Instructions for completing the forms are provided. If you are in immediate danger, make sure you ask the court for an “ex parte” order by checking the “ex parte” box on the form. Then fill out the “order form”. “Ex parte” means the order is entered without a hearing and without prior notice to the other person.

Your petition (and the order if you ask for an “ex parte” order) can be filed in the circuit court of any county in Michigan. There is no cost for filing the petition; however, there will be a cost for serving the petition and order (postage or process service fees) (See “Serving the Petition and Order” later in these instructions) on the person you want restrained (respondent). Ask the court for this information and be sure to bring this amount with you when you file your petition.

Some of the things you may need before you fill out the petition include: a copy of your complaint for divorce, annulment or separate maintenance; copies of custody orders if there are any; and the cost of serving papers on the restrained person. It is important for the court to know about other court cases involving you and the respondent and whether or not they are still open. These cases may be anywhere in Michigan or another state. It is especially important to indicate where there is a court order about child custody or a criminal case against the respondent.

If you have notarized written statements from witnesses and copies of supporting documents or materials from police, doctors or social agencies, bring a copy of each with you when you file your petition with the court. This information may be important to the judge in making a decision but is not necessary for the judge to enter an order.

You must have basic information about the respondent (the person to be restrained), such as name, address, place of employment, date of birth, physical description, etc., or the court cannot issue an order. At a minimum, you must have the name, race, sex, and date of birth of the respondent. In the petition seeking a PPO, the petitioners must state facts about what has occurred that lead petitioner to seek a PPO.

When a Hearing is Required

A hearing is required on your petition for personal protection if you do not request an “ex parte” order, or if the judge will not sign an “ex parte” order. If a hearing is required, you must complete the Notice of Hearing, CC 381. Ask the county clerk for a hearing date and follow the instructions on the form.

When an Order is Signed

If you asked for an “ex parte” order, the county clerk will tell you what you need to do to get the order signed and where and when to pick up the signed order. If a hearing is required, you will be provided with the signed order after the hearing.

The personal protection order will go into effect as soon as the judge signs it. The county clerk’s office is responsible for providing a copy of the order to the local police agency so that it can immediately be entered into the Law Enforcement Information Network (LEIN). The county clerk will also give you copies to take to your local law enforcement agency if you want to do so.

Serving the Petition and Order

By law, you must serve the petition and order on the respondent, even though the order is effective without service as soon as it is signed. Follow the instructions on the form to make sure you serve the court papers in the required way. Service options include the following: By a process server-you will have to pay the process server a fee; By an adult other than you; By registered or certified mail, return receipt requested, delivery restricted to the addressee. After service, you must file a “proof of service” with the county clerk. If you do not serve the respondent with a copy of the order, you may have trouble getting local law enforcement to enforce the order by arresting the respondent.

If You are Served with or Notified of an Order

If you are served with or notified of a personal protection order against you, you must obey the order. If you don’t obey the order, you can be arrested for violating the order, or the petitioner can file a motion to order you into court to explain why you shouldn’t be held in contempt for violating the order. If you are found guilty of violating a personal protection order in Michigan, you may be sentenced to spend up to 93 days in jail and may be fined up to \$500.00.

Enforcing the Order

For help and support with the PPO service, proof of service and developing a safety plan, you may call your local domestic violence program listed in the telephone directory Or call the National Domestic Violence Hotline at 1-800-799-7233.

A personal protection order is enforceable anywhere in Michigan by any law enforcement agency as soon as the judge signs it. It can also be enforced by another state, Indian tribe, or territory of the United States once it is served on the respondent.

If the respondent violates a personal protection order anywhere in Michigan and the respondent has been notified of the order, either orally or by formal service, you can call

local law enforcement who then can arrest the respondent, or you can file a motion for a court hearing concerning a violation of the order.

If the respondent is arrested, the court will set a date, time and place for a hearing on the charges against the respondent to be held within 72 hours after the arrest. The court or prosecutor is responsible for giving you notice of this hearing. If you are not notified within 24 hours of the arrest, contact the court. If a hearing is not held within 72 hours, the respondent may be released from jail after posting bond until the hearing is held.

If the respondent is not arrested and you believe the respondent violated the order, you can file a motion to show cause, form CC 382. Follow the instructions on the form. You cannot file a motion to show cause for violating a personal protection order until you have proof that the respondent was served with or notified of the order.

If the respondent violates a personal protection order in some place other than Michigan, the respondent is subject to the enforcement remedies and penalties of that other state, Indian tribe, or territory.

Modifying, Extending, or Terminating the Order

A PPO is valid until the expiration date stated in the Court's order.

You have the right to file a motion to modify, extend or terminate the order, form CC 379. A court hearing is required to modify or terminate the order. Ask the county clerk for a hearing date and follow the instructions on the form.