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I previously submitted comments to the Senate **Civil Rights, Judiciary, and Public Safety** Committee on SENATE BILL No. 83. Comparing these comments to HOUSE BILL NO. 4145 it appears, as I previously understood that the latter tracks the former. Therefore, I now provide the following comments on HOUSE BILL NO. 4145.

While I will be commenting upon specific sections thereof, you could also look at my Blog entry at
<https://www.philosophical-vistas.net/michigan-extreme-risk-protection-order-bills/>
and the entry referred to therein for a background of my position regarding ERPO legislation.

Specifically, I note serious, if not fatal, deficiencies in the proposed legislation as presently drafted. The sections which concern me and the reasons therefor are as follows:

1 &
3(d) &
5(3) &
7(5) &
17 : As is not uncommon with ERPO legislation there exists a misnomer that is a fatal inconsistency. Whereas the legislation purports to protect against **extreme** risks, only proof of a **significant** risk is required. An extreme risk should be the requirement. This deficiency persists throughout the legislation, such as 5(3) and 7(1), and I rely upon this comment as my objection to each time it appears.

3(b) &
5(2)(d) : No proof of a **current** relationship is required and, in fact, the latter section only requires an element of "*has had*". This would allow an action by a person potentially in the distant past who has no current knowledge concerning the Defendant.

3(e) &
5(2)(f) : The categories seem too extensive as some of the persons included therein also may well have no current knowledge concerning the Defendant.

5(2)(b) &
(c) : These categories also allow an action by a person potentially in the distant past who has no current knowledge concerning the Defendant.

5(2)(g) &
(h) : These categories are not *ipso facto* objectionable but, unlike some State ERPO statutes, this legislation does not require an independent investigation by them into the merits of the claim of the purported risk as a predicate to entry of an ERPO.

5(7)(b) : (a) should be the venue, as (b) could potentially impose significant hardship upon the Defendant.

6(2) : This authority exacerbates the problem noted with respect to 5(7)(b).

7(1) &
17 : The standard of **Preponderance of Evidence** is too low a standard for proof and should instead be the **Clear and Convincing** standard.

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7(1)(a) :	"*Use, attempted use, or threatened use of physical force*" could include a broad panoply of situations, many permissible, such as for example the assertion by the Defendant of his/her intention to intervene in the defense of a third party. Moreover, the force exerted might be minor, such as shoving aside a person blocking the Defendant's path. The fact that those potentially-justifiable situations don't require the involvement of a firearm make them even more onerous. Significant revision of this section is necessary.
7(1)(f) :	Not having taken the time to review those statutes, I am uncertain whether they are, or are not, justifiable. I defer to the House on this issue.
7(1)(i) :	Standing alone this seems of insufficient evidentiary value. Many reasons, and justifications, could exist therefor.
7(4) :	I perceive the object of limiting motions is to prevent potential harassment of the Plaintiff. But, if the Plaintiff is harassing the Defendant by commencement of the action, perhaps more than 1 motion is justified.
9(1)(i) :	One year seems too lengthy, especially with the one motion limitation.
10(1)(a)& (b) & (2):	The 24 hour period requirement seems to be another undue burden upon the Defendant, with which the legislation is rife, it transposing the usual burdens from the Plaintiff to the Defendant.
10(5) :	For this authorized action, only the standard of **Probable Cause** is required, the second lowest of the five standards of proof; this is insufficient. Moreover, there is no requirement of a hearing but rather action by the Court on an *ex parte* application.
15(4) :	Since Section 7(2) is incorporated in Section 5, the requirement of "**immediate compl[ance]**" by the Defendant interjects the potential of disastrous consequences. As it may have been an *ex parte* order the Defendant may have been unaware thereof and would naturally be surprised and initially reluctant; this could well lead to the exertion of substantial, possibly deadly, force, by one or the other. If this provision is to remain it should be conditioned on previous actual knowledge by the Defendant.

Finally, there is no provision for at least one of the following: a court-appointed attorney for the Defendant (where financial circumstances warrant it); the taxing of costs and attorney fees against the Plaintiff for an unjustified action; and a right to a civil action by the Defendant against the Plaintiff for an unjustified action.

While I encourage serious consideration and enactment of ERPO legislation, amendment of the current Bill to eliminate these deficiencies is necessary.

Cordially,
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