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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4101

02/22/2024 Authored by Urdahl and Moller
The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to orders for protection; requiring that a custodian of a petitioner's minor
1.3 children receive notice of any order for protection, hearing on an order for
1.4 protection, and cancellation or modification of an order for protection; amending
1.5 Minnesota Statutes 2022, section 518B.01, subdivisions 2, 3b, 4, 5, 6a, 7, 8, 8a,
1.6 9a, 11, by adding a subdivision.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2022, section 518B.01, subdivision 2, is amended to read:

1.9 Subd. 2. Definitions. As used in this section, the following terms shall have the meanings
1.10 given them:

1.11 (a) "Domestic abuse" means the following, if committed against a family or household
1.12 member by a family or household member:

- 1.13 (1) physical harm, bodily injury, or assault;
1.14 (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or
1.15 (3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal
1.16 sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or
1.17 609.3451; sexual extortion within the meaning of section 609.3458; or interference with an
1.18 emergency call within the meaning of section 609.78, subdivision 2.

1.19 (b) "Family or household members" means:

- 1.20 (1) spouses and former spouses;
1.21 (2) parents and children;
1.22 (3) persons related by blood;

2.1 (4) persons who are presently residing together or who have resided together in the past;

2.2 (5) persons who have a child in common regardless of whether they have been married
2.3 or have lived together at any time;

2.4 (6) a man and woman if the woman is pregnant and the man is alleged to be the father,
2.5 regardless of whether they have been married or have lived together at any time; and

2.6 (7) persons involved in a significant romantic or sexual relationship.

2.7 Issuance of an order for protection on the ground in clause (6) does not affect a
2.8 determination of paternity under sections 257.51 to 257.74. In determining whether persons
2.9 are or have been involved in a significant romantic or sexual relationship under clause (7),
2.10 the court shall consider the length of time of the relationship; type of relationship; frequency
2.11 of interaction between the parties; and, if the relationship has terminated, length of time
2.12 since the termination.

2.13 (c) "Qualified domestic violence-related offense" has the meaning given in section
2.14 609.02, subdivision 16.

2.15 (d) "Custodian" means any person other than the petitioner or respondent who is under
2.16 a legal obligation to provide care and support for a minor child of a petitioner or who is in
2.17 fact providing care and support for a minor child of a petitioner. Custodian does not include
2.18 any person caring for a minor child if the petitioner's parental rights have been terminated.

2.19 Sec. 2. Minnesota Statutes 2022, section 518B.01, subdivision 3b, is amended to read:

2.20 Subd. 3b. **Information on petitioner's location or residence.** (a) Upon the petitioner's
2.21 request, information maintained by the court regarding the petitioner's location or residence
2.22 is not accessible to the public and may be disclosed only to court personnel or law
2.23 enforcement for purposes of service of process, conducting an investigation, or enforcing
2.24 an order.

2.25 (b) Upon request of the petitioner or a custodian of petitioner's minor children,
2.26 information maintained by the court regarding the location or residence of the petitioner's
2.27 minor children is not accessible to the public and may be disclosed only to court personnel
2.28 or law enforcement for purposes of service of process, conducting an investigation, or
2.29 enforcing an order.

3.1 Sec. 3. Minnesota Statutes 2022, section 518B.01, subdivision 4, is amended to read:

3.2 Subd. 4. **Order for protection.** There shall exist an action known as a petition for an
3.3 order for protection in cases of domestic abuse.

3.4 (a) A petition for relief under this section may be made by any family or household
3.5 member personally or by a family or household member, a guardian as defined in section
3.6 524.1-201, clause (27), or, if the court finds that it is in the best interests of the minor, by
3.7 a reputable adult age 25 or older on behalf of minor family or household members. A minor
3.8 age 16 or older may make a petition on the minor's own behalf against a spouse or former
3.9 spouse, or a person with whom the minor has a child in common, if the court determines
3.10 that the minor has sufficient maturity and judgment and that it is in the best interests of the
3.11 minor.

3.12 (b) A petition for relief shall allege the existence of domestic abuse, and shall be
3.13 accompanied by an affidavit made under oath stating the specific facts and circumstances
3.14 from which relief is sought.

3.15 (c) A petition for relief must state whether the petitioner has ever had an order for
3.16 protection in effect against the respondent.

3.17 (d) A petition for relief must state whether there is an existing order for protection in
3.18 effect under this chapter governing both the parties and whether there is a pending lawsuit,
3.19 complaint, petition or other action between the parties under chapter 257, 518, 518A, 518B,
3.20 or 518C. The court administrator shall verify the terms of any existing order governing the
3.21 parties. The court may not delay granting relief because of the existence of a pending action
3.22 between the parties or the necessity of verifying the terms of an existing order. A subsequent
3.23 order in a separate action under this chapter may modify only the provision of an existing
3.24 order that grants relief authorized under subdivision 6, paragraph (a), clause (1). A petition
3.25 for relief may be granted, regardless of whether there is a pending action between the parties.

3.26 (e) A petition for relief must state whether the petitioner has any minor children and, if
3.27 so, must provide the name of any custodian of the minor children and must identify the
3.28 location or residence of the custodian. A petition must not be rejected or denied for failure
3.29 to identify any custodian.

3.30 ~~(e)~~ (f) The court shall provide simplified forms and clerical assistance to help with the
3.31 writing and filing of a petition under this section.

4.1 ~~(f)~~ (g) The court shall advise a petitioner under paragraph ~~(e)~~ (f) of the right to file a
4.2 motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist
4.3 with the writing and filing of the motion and affidavit.

4.4 ~~(g)~~ (h) The court shall advise a petitioner under paragraph ~~(e)~~ (f) of the right to serve
4.5 the respondent by published notice under subdivision 5, paragraph (b), if the respondent is
4.6 avoiding personal service by concealment or otherwise, and shall assist with the writing
4.7 and filing of the affidavit.

4.8 ~~(h)~~ (i) The court shall advise the petitioner of the right to seek restitution under the
4.9 petition for relief.

4.10 ~~(i)~~ (j) The court shall advise the petitioner of the right to request a hearing under
4.11 subdivision 7, paragraph (c). If the petitioner does not request a hearing, the court shall
4.12 advise the petitioner that the respondent may request a hearing and that notice of the hearing
4.13 date and time will be provided to the petitioner and the custodian of any of petitioner's minor
4.14 children by mail at least five days before the hearing.

4.15 ~~(j)~~ (k) The court shall advise the petitioner of the right to request supervised parenting
4.16 time, as provided in section 518.175, subdivision 1a.

4.17 Sec. 4. Minnesota Statutes 2022, section 518B.01, subdivision 5, is amended to read:

4.18 Subd. 5. **Hearing on application; notice.** (a) Upon receipt of the petition, the court
4.19 shall order a hearing which shall be held not later than 14 days from the date of the order
4.20 for hearing unless an ex parte order is issued.

4.21 (b) If an ex parte order has been issued under subdivision 7 and the petitioner seeks only
4.22 the relief under subdivision 7, paragraph (a), a hearing is not required unless:

4.23 (1) the court declines to order the requested relief; or

4.24 (2) one of the parties requests a hearing.

4.25 (c) If an ex parte order has been issued under subdivision 7 and the petitioner seeks relief
4.26 beyond that specified in subdivision 7, paragraph (a), or if the court declines to order relief
4.27 requested by the petitioner, a hearing must be held within seven days. Personal service of
4.28 the ex parte order may be made upon the respondent and any custodian at any time up to
4.29 12 hours prior to the time set for the hearing, provided that the respondent at the hearing
4.30 may request a continuance of up to five days if served fewer than five days prior to the
4.31 hearing which continuance shall be granted unless there are compelling reasons not to.

5.1 (d) If an ex parte order has been issued only granting relief under subdivision 7, paragraph
5.2 (a), and the respondent requests a hearing, the hearing shall be held within ten days of the
5.3 court's receipt of the respondent's request. Service of the notice of hearing must be made
5.4 upon the petitioner and any custodian not less than five days prior to the hearing. The court
5.5 shall serve the notice of hearing upon the petitioner and any custodian by mail in the manner
5.6 provided in the Rules of Civil Procedure for pleadings subsequent to a complaint and motions
5.7 and shall also mail notice of the date and time of the hearing to the respondent. In the event
5.8 that service cannot be completed in time to give the respondent ~~or~~ petitioner, or any custodian
5.9 the minimum notice required under this subdivision, the court may set a new hearing date
5.10 no more than five days later.

5.11 (e) If for good cause shown either party is unable to proceed at the initial hearing and
5.12 requests a continuance and the court finds that a continuance is appropriate, the hearing
5.13 may be continued. Unless otherwise agreed by the parties and approved by the court, the
5.14 continuance shall be for no more than five days. If the court grants the requested continuance,
5.15 the court shall also issue a written order continuing all provisions of the ex parte order
5.16 pending the issuance of an order after the hearing.

5.17 (f) Notwithstanding the preceding provisions of this subdivision, service on the respondent
5.18 may be made by one week published notice, as provided under section 645.11, provided
5.19 the petitioner files with the court an affidavit stating that an attempt at personal service
5.20 made by a sheriff or other law enforcement or corrections officer was unsuccessful because
5.21 the respondent is avoiding service by concealment or otherwise, and that a copy of the
5.22 petition and notice of hearing has been mailed to the respondent at the respondent's residence
5.23 or that the residence is not known to the petitioner. Service under this paragraph is complete
5.24 seven days after publication. The court shall set a new hearing date if necessary to allow
5.25 the respondent the five-day minimum notice required under paragraph (d).

5.26 Sec. 5. Minnesota Statutes 2022, section 518B.01, subdivision 6a, is amended to read:

5.27 Subd. 6a. **Subsequent orders and extensions.** (a) Upon application, notice to all parties,
5.28 notice to any custodian, and hearing, the court may extend the relief granted in an existing
5.29 order for protection or, if a petitioner's order for protection is no longer in effect when an
5.30 application for subsequent relief is made, grant a new order. If the petitioner seeks only the
5.31 relief under subdivision 7, paragraph (a), a hearing is not required unless the court declines
5.32 to order the requested relief or the respondent requests a hearing. If a hearing is required,
5.33 subdivisions 5 and 7 apply to service of the application, notice to the parties and any
5.34 custodian, and time for the hearing.

6.1 (b) The court may extend the terms of an existing order or, if an order is no longer in
6.2 effect, grant a new order upon a showing that:

6.3 (1) the respondent has violated a prior or existing order for protection;

6.4 (2) the petitioner is reasonably in fear of physical harm from the respondent;

6.5 (3) the respondent has engaged in the act of harassment within the meaning of section
6.6 609.749, subdivision 2; or

6.7 (4) the respondent is incarcerated and about to be released, or has recently been released
6.8 from incarceration.

6.9 A petitioner does not need to show that physical harm is imminent to obtain an extension
6.10 or a subsequent order under this subdivision.

6.11 (c) Relief granted by the order for protection may be for a period of up to 50 years, if
6.12 the court finds:

6.13 (1) the respondent has violated a prior or existing order for protection on two or more
6.14 occasions; or

6.15 (2) the petitioner has had two or more orders for protection in effect against the same
6.16 respondent.

6.17 An order issued under this paragraph may restrain the abusing party from committing
6.18 acts of domestic abuse; or prohibit the abusing party from having any contact with the
6.19 petitioner, whether in person, by telephone, mail or electronic mail or messaging, through
6.20 electronic devices, through a third party, or by any other means.

6.21 Sec. 6. Minnesota Statutes 2022, section 518B.01, subdivision 7, is amended to read:

6.22 Subd. 7. **Ex parte order.** (a) Where an application under this section alleges an immediate
6.23 and present danger of domestic abuse, the court may grant an ex parte order for protection
6.24 and granting relief as the court deems proper, including an order:

6.25 (1) restraining the abusing party from committing acts of domestic abuse;

6.26 (2) excluding any party from the dwelling they share or from the residence of the other,
6.27 including a reasonable area surrounding the dwelling or residence, which area shall be
6.28 described specifically in the order, except by further order of the court;

6.29 (3) excluding the abusing party from the place of employment of the petitioner or
6.30 otherwise limiting access to the petitioner by the abusing party at the petitioner's place of
6.31 employment;

7.1 (4) ordering the abusing party to have no contact with the petitioner whether in person,
7.2 by telephone, mail, email, through electronic devices, or through a third party;

7.3 (5) continuing all currently available insurance coverage without change in coverage or
7.4 beneficiary designation;

7.5 (6) directing the care, possession, or control of a pet or companion animal owned,
7.6 possessed, or kept by a party or a child of a party; and

7.7 (7) directing the respondent to refrain from physically abusing or injuring any pet or
7.8 companion animal, without legal justification, known to be owned, possessed, kept, or held
7.9 by either party or a minor child residing in the residence or household of either party as an
7.10 indirect means of intentionally threatening the safety of such person.

7.11 (b) A finding by the court that there is a basis for issuing an ex parte order for protection
7.12 constitutes a finding that sufficient reasons exist not to require notice under applicable court
7.13 rules governing applications for ex parte relief.

7.14 (c) Subject to paragraph (d), an ex parte order for protection shall be effective for a fixed
7.15 period set by the court, as provided in subdivision 6, paragraph (b), or until modified or
7.16 vacated by the court pursuant to a hearing. When signed by a referee, the ex parte order
7.17 becomes effective upon the referee's signature. Upon request, a hearing, as provided by this
7.18 section, shall be set. Except as provided in paragraph (d), the respondent shall be personally
7.19 served forthwith a copy of the ex parte order along with a copy of the petition and, if
7.20 requested by the petitioner, notice of the date set for the hearing. Any custodian must be
7.21 served with a copy of the ex parte order. Service on a custodian may be made by personal
7.22 service or by certified mail. If the petitioner does not request a hearing, an order served on
7.23 a respondent under this subdivision must include a notice advising the respondent of the
7.24 right to request a hearing, must be accompanied by a form that can be used by the respondent
7.25 to request a hearing and must include a conspicuous notice that a hearing will not be held
7.26 unless requested by the respondent within five days of service of the order.

7.27 (d) Service of the ex parte order on the respondent may be made by published notice,
7.28 as provided under subdivision 5, provided that the petitioner files the affidavit required
7.29 under that subdivision. If personal service is not made or the affidavit is not filed within 14
7.30 days of issuance of the ex parte order, the order expires. If the petitioner does not request
7.31 a hearing, the petition mailed to the respondent's residence, if known, must be accompanied
7.32 by the form for requesting a hearing and notice described in paragraph (c). Unless personal
7.33 service is completed, if service by published notice is not completed within 28 days of

8.1 issuance of the ex parte order, the order expires. Notice that an order has expired under this
8.2 paragraph must be sent to any custodian.

8.3 (e) If the petitioner seeks relief under subdivision 6 other than the relief described in
8.4 paragraph (a), the petitioner must request a hearing to obtain the additional relief.

8.5 (f) Nothing in this subdivision affects the right of a party to seek modification of an
8.6 order under subdivision 11.

8.7 Sec. 7. Minnesota Statutes 2022, section 518B.01, subdivision 8, is amended to read:

8.8 Subd. 8. **Service; alternate service; publication; notice.** (a) The petition and any order
8.9 issued under this section other than orders for dismissal shall be served on the respondent
8.10 personally. Orders for dismissal may be served on the respondent personally or by certified
8.11 mail. In lieu of personal service of an order for protection, a law enforcement officer may
8.12 serve a ~~person~~ respondent with a short-form notification as provided in subdivision 8a. The
8.13 petition and any order issued under this section may be served on any custodian personally
8.14 or by certified mail.

8.15 (b) When service is made out of this state and in the United States, it may be proved by
8.16 the affidavit of the person making the service. When service is made outside the United
8.17 States, it may be proved by the affidavit of the person making the service, taken before and
8.18 certified by any United States minister, charge d'affaires, commissioner, consul, or
8.19 commercial agent, or other consular or diplomatic officer of the United States appointed to
8.20 reside in the other country, including all deputies or other representatives of the officer
8.21 authorized to perform their duties; or before an office authorized to administer an oath with
8.22 the certificate of an officer of a court of record of the country in which the affidavit is taken
8.23 as to the identity and authority of the officer taking the affidavit.

8.24 (c) If personal service cannot be made on a respondent, the court may order service of
8.25 the petition and any order issued under this section by alternate means, or by publication,
8.26 which publication must be made as in other actions. The application for alternate service
8.27 must include the last known location of the respondent; the petitioner's most recent contacts
8.28 with the respondent; the last known location of the respondent's employment; the names
8.29 and locations of the respondent's parents, siblings, children, and other close relatives; the
8.30 names and locations of other persons who are likely to know the respondent's whereabouts;
8.31 and a description of efforts to locate those persons.

8.32 The court shall consider the length of time the respondent's location has been unknown,
8.33 the likelihood that the respondent's location will become known, the nature of the relief

9.1 sought, and the nature of efforts made to locate the respondent. The court shall order service
9.2 by first class mail, forwarding address requested, to any addresses where there is a reasonable
9.3 possibility that mail or information will be forwarded or communicated to the respondent.

9.4 The court may also order publication, within or without the state, but only if it might
9.5 reasonably succeed in notifying the respondent of the proceeding. Service shall be deemed
9.6 complete 14 days after mailing or 14 days after court-ordered publication.

9.7 (d) A petition and any order issued under this section, including the short-form
9.8 notification, must include a notice to the respondent that if an order for protection is issued
9.9 to protect the petitioner or a child of the parties, upon request of the petitioner in any
9.10 parenting time proceeding, the court shall consider the order for protection in making a
9.11 decision regarding parenting time.

9.12 Sec. 8. Minnesota Statutes 2022, section 518B.01, subdivision 8a, is amended to read:

9.13 Subd. 8a. **Short-form notification.** (a) In lieu of personal service of an order for
9.14 protection under subdivision 8, a law enforcement officer may serve a ~~person~~ respondent
9.15 with a short-form notification. The short-form notification must include the following
9.16 clauses: the respondent's name; the respondent's date of birth, if known; the petitioner's
9.17 name; the names of other protected parties; the date and county in which the ex parte order
9.18 for protection or order for protection was filed; the court file number; the hearing date and
9.19 time, if known; the conditions that apply to the respondent, either in checklist form or
9.20 handwritten; and the name of the judge who signed the order.

9.21 The short-form notification must be in bold print in the following form:

9.22 The order for protection is now enforceable. You must report to your nearest sheriff
9.23 office or county court to obtain a copy of the order for protection. You are subject to arrest
9.24 and may be charged with a misdemeanor, gross misdemeanor, or felony if you violate any
9.25 of the terms of the order for protection or this short-form notification.

9.26 (b) Upon verification of the identity of the respondent and the existence of an unserved
9.27 order for protection against the respondent, a law enforcement officer may detain the
9.28 respondent for a reasonable time necessary to complete and serve the short-form notification.

9.29 (c) When service is made by short-form notification, it may be proved by the affidavit
9.30 of the law enforcement officer making the service.

9.31 (d) For service under this section only, service upon an individual may occur at any
9.32 time, including Sundays, and legal holidays.

10.1 (e) The superintendent of the Bureau of Criminal Apprehension shall provide the short
10.2 form to law enforcement agencies.

10.3 (f) This section does not apply to service of an order for protection on any custodian.

10.4 Sec. 9. Minnesota Statutes 2022, section 518B.01, subdivision 9a, is amended to read:

10.5 Subd. 9a. **Service by others.** Peace officers licensed by the state of Minnesota and
10.6 corrections officers, including, but not limited to, probation officers, court services officers,
10.7 parole officers, and employees of jails or correctional facilities, may serve an order for
10.8 protection on a respondent or any custodian.

10.9 Sec. 10. Minnesota Statutes 2022, section 518B.01, subdivision 11, is amended to read:

10.10 Subd. 11. **Modifying or vacating order.** (a) Upon application, notice to all parties,
10.11 notice to any custodian, and hearing, the court may modify the terms of an existing order
10.12 for protection.

10.13 (b) If the court orders relief under subdivision 6a, paragraph (c), the respondent named
10.14 in the order for protection may request to have the order vacated or modified if the order
10.15 has been in effect for at least five years and the respondent has not violated the order during
10.16 that time. Application for relief under this subdivision must be made in the county in which
10.17 the order for protection was issued. Upon receipt of the request, the court shall set a hearing
10.18 date. Personal service must be made upon the petitioner named in the order for protection
10.19 not less than 30 days before the date of the hearing. Notice of the request and hearing may
10.20 be made on any custodian personally or by certified mail. At the hearing, the respondent
10.21 named in the order for protection has the burden of proving by a preponderance of the
10.22 evidence that there has been a material change in circumstances and that the reasons upon
10.23 which the court relied in granting or extending the order for protection no longer apply and
10.24 are unlikely to occur. If the court finds that the respondent named in the order for protection
10.25 has met the burden of proof, the court may vacate or modify the order. If the court finds
10.26 that the respondent named in the order for protection has not met the burden of proof, the
10.27 court shall deny the request and no request may be made to vacate or modify the order for
10.28 protection until five years have elapsed from the date of denial. An order vacated or modified
10.29 under this paragraph must be personally served on the petitioner named in the order for
10.30 protection and may be served on any custodian personally or by certified mail.

11.1 Sec. 11. Minnesota Statutes 2022, section 518B.01, is amended by adding a subdivision
11.2 to read:

11.3 Subd. 11a. **Notice to custodian; failure not a bar to enforcement.** Failure to serve a
11.4 custodian with a petition, order for protection, dismissal, or any other order must not prevent
11.5 any order from taking effect or otherwise invalidate any order issued pursuant to this section.
11.6 In the event that service of a notice of a hearing is not completed on any custodian at least
11.7 24 hours prior to the time set for the hearing, the court may set a new hearing date no more
11.8 than five days later.