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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2668

03/03/2014 Authored by Hilstrom and Drazkowski

The bill was read for the first time and referred to the Committee on Judiciary Finance and Policy

1.1 A bill for an act

1.2 relating to courts; providing that petitioners in errors and omissions petitions

1.3 shall also serve the petition on all candidates for the office in which the error or

1.4 omission is alleged; eliminating requirements that court seal be a raised seal;

1.5 removing requirements for notarial act on pleadings and affidavits filed with

1.6 the court in all cases; providing that court documents are signed under penalty

1.7 of perjury; permitting alternative service in certain probate matters; requiring

1.8 applicants in structured settlement transfer action to provide the court with

1.9 information; providing that a request for a hearing in response to a temporary

1.10 restraining order must be made within 20 days after the temporary restraining

1.11 order is served; permitting application of fine payment to restitution before

1.12 application to court fines; amending Minnesota Statutes 2012, sections 204B.44;

1.13 358.03; 359.01, subdivision 5; 524.1-401; 524.5-113; 549.32, subdivision 2;

1.14 600.13; 609.48, subdivision 1; 609.748, subdivision 3; 611A.04, subdivision

1.15 4; 645.44, subdivisions 10, 14; proposing coding for new law in Minnesota

1.16 Statutes, chapter 358.

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

1.18 Section 1. Minnesota Statutes 2012, section 204B.44, is amended to read:

1.19 **204B.44 ERRORS AND OMISSIONS; REMEDY.**

1.20 Any individual may file a petition in the manner provided in this section for the

1.21 correction of any of the following errors, omissions, or wrongful acts which have occurred

1.22 or are about to occur:

1.23 (a) an error or omission in the placement or printing of the name or description of

1.24 any candidate or any question on any official ballot;

1.25 (b) any other error in preparing or printing any official ballot;

1.26 (c) failure of the chair or secretary of the proper committee of a major political party

1.27 to execute or file a certificate of nomination;

2.1 (d) any wrongful act, omission, or error of any election judge, municipal clerk,  
 2.2 county auditor, canvassing board or any of its members, the secretary of state, or any other  
 2.3 individual charged with any duty concerning an election.

2.4 The petition shall describe the error, omission, or wrongful act and the correction  
 2.5 sought by the petitioner. The petition shall be filed with any judge of the Supreme Court in  
 2.6 the case of an election for state or federal office or any judge of the district court in that  
 2.7 county in the case of an election for county, municipal, or school district office. The  
 2.8 petitioner shall serve a copy of the petition on the officer, board or individual charged with  
 2.9 the error, omission, or wrongful act, on all candidates for the office in the case of an election  
 2.10 for state, federal, county, municipal, or school district office, and on any other party as  
 2.11 required by the court. Upon receipt of the petition the court shall immediately set a time  
 2.12 for a hearing on the matter and order the officer, board or individual charged with the error,  
 2.13 omission or wrongful act to correct the error or wrongful act or perform the duty or show  
 2.14 cause for not doing so. The court shall issue its findings and a final order for appropriate  
 2.15 relief as soon as possible after the hearing. Failure to obey the order is contempt of court.

2.16 Sec. 2. Minnesota Statutes 2012, section 358.03, is amended to read:

2.17 **358.03 FORM OF OFFICIAL SEALS.**

2.18 Upon every seal of a court or officer authorized or required to have a seal there shall  
 2.19 be engraved the same device that is engraved on the seal of the state, and the name of the  
 2.20 court or office in which it is to be used. The seal of the court, if affixed electronically, must  
 2.21 bear the likeness of the seal of the state, and the name of the court in which it is to be used.

2.22 Sec. 3. **[358.116] COURT DOCUMENTS.**

2.23 Unless specifically required by court rule, a pleading, motion, affidavit, or other  
 2.24 document filed with a court of the Minnesota judicial branch is not required to be  
 2.25 notarized. Signing a document filed with the court constitutes "verification upon oath or  
 2.26 affirmation" as defined in section 358.41, clause (3), without administration of an oath  
 2.27 under section 358.07, provided that the signature, as defined by court rules, is affixed  
 2.28 immediately below a declaration using substantially the following language: "I declare  
 2.29 under penalty of perjury that everything I have stated in this document is true and correct."  
 2.30 In addition to the signature, the date of signing and the county and state where the  
 2.31 document was signed shall be noted on the document. A person who signs knowing that  
 2.32 the document is false in any material respect is guilty of perjury under section 609.48,  
 2.33 even if the date, county, and state of signing are omitted from the document.

3.1 Sec. 4. Minnesota Statutes 2012, section 359.01, subdivision 5, is amended to read:

3.2 Subd. 5. **Registration to perform electronic notarizations.** Before performing  
 3.3 electronic notarial acts, a notary public shall register the capability to notarize  
 3.4 electronically with the secretary of state. Before performing electronic notarial acts  
 3.5 after recommissioning, a notary public shall reregister with the secretary of state. The  
 3.6 requirements of this chapter relating to electronic notarial acts do not apply to notarial  
 3.7 acts performed under sections 358.15, paragraph (a), clause (4), and 358.43, paragraph  
 3.8 (a), clause (2).

3.9 Sec. 5. Minnesota Statutes 2012, section 524.1-401, is amended to read:

3.10 **524.1-401 NOTICE; METHOD AND TIME OF GIVING.**

3.11 (a) If notice of a hearing on any petition is required and except for specific notice  
 3.12 requirements as otherwise provided, the petitioner shall cause notice of the time and place  
 3.13 of hearing of any petition to be given to any interested person or the person's attorney  
 3.14 if the person has appeared by attorney or requested that notice be sent to the attorney.

3.15 Subject to paragraph (e), notice shall be given:

3.16 (1) by mailing a copy thereof at least 14 days before the time set for the hearing by  
 3.17 certified, registered or ordinary first class mail addressed to the person being notified at  
 3.18 the post office address given in the demand for notice, if any, or at the demander's office  
 3.19 or place of residence, if known;

3.20 (2) by delivering a copy thereof to the person being notified personally at least 14  
 3.21 days before the time set for the hearing; or

3.22 (3) if the address, or identity of any person is not known and cannot be ascertained  
 3.23 with reasonable diligence, by publishing once a week for two consecutive weeks, a  
 3.24 copy thereof in a legal newspaper in the county where the hearing is to be held, the last  
 3.25 publication of which is to be at least 10 days before the time set for the hearing.

3.26 (b) The court for good cause shown may provide for a different method or time  
 3.27 of giving notice for any hearing.

3.28 (c) Proof of the giving of notice shall be made on or before the hearing and filed  
 3.29 in the proceeding.

3.30 (d) No defect in any notice nor in publication or in service thereof shall limit or affect  
 3.31 the validity of the appointment, powers, or other duties of the personal representative. Any  
 3.32 of the notices required by this section and sections 524.3-306, 524.3-310, 524.3-403 and  
 3.33 524.3-801 may be combined into one notice.

3.34 (e) Except where personal service is required by statute for the petition to appoint  
 3.35 a guardian under section 524.5-308 or conservator under section 524.5-404, service of

4.1 all documents and notices under this chapter may, and where required by Supreme Court  
 4.2 rule or order shall, be made by electronic means other than facsimile transmission if  
 4.3 authorized by rule or order of the Supreme Court and if service is made in accordance  
 4.4 with the rule or order.

4.5 Sec. 6. Minnesota Statutes 2012, section 524.5-113, is amended to read:

4.6 **524.5-113 NOTICE.**

4.7 (a) Except for notice for which specific requirements are otherwise provided in  
 4.8 this article or as otherwise ordered by the court for good cause, notice of a hearing on a  
 4.9 petition is required for all petitions in the manner prescribed by this section. The petitioner  
 4.10 shall give notice of the time and place of the hearing to all interested persons. Subject to  
 4.11 paragraph (f), notice must be given by mail postmarked at least 14 days before the hearing.

4.12 (b) Proof of notice must be made before or at the hearing and filed in the proceeding.

4.13 (c) A notice under this article must be given in plain language.

4.14 (d) If a patient of a state hospital, regional center, or any state-operated service has  
 4.15 a guardianship or conservatorship established, modified, or terminated, the head of the  
 4.16 state hospital, regional center, or state-operated service shall be notified. The notice shall  
 4.17 require the institution to advise the court of the existence, if known, of a health care  
 4.18 directive as defined in section 145C.01, executed by the proposed ward, incapacitated  
 4.19 person, or protected person, a living will executed under chapter 145B, or any other similar  
 4.20 document executed in another state and enforceable under the laws of this state. If a ward,  
 4.21 incapacitated person, or protected person is under the guardianship or conservatorship  
 4.22 of the commissioner of human services as developmentally disabled or dependent and  
 4.23 neglected or is under the temporary custody of the commissioner of human services,  
 4.24 the court shall notify the commissioner of human services if the public guardianship or  
 4.25 conservatorship is established, modified, or terminated.

4.26 (e) If a conservator is required to file a bond pursuant to section 524.5-415, notice  
 4.27 of any proceeding must be sent or delivered to the surety at the address shown in the  
 4.28 court records at the place where the bond is filed and to any other address then known to  
 4.29 the petitioner.

4.30 (f) Except where personal service is required by statute for the petition to appoint  
 4.31 a guardian under section 524.5-308 or conservator under section 524.5-404, service of  
 4.32 all documents and notices under this chapter may, and where required by Supreme Court  
 4.33 rule or order shall, be made by electronic means other than facsimile transmission if  
 4.34 authorized by rule or order of the Supreme Court and if service is made in accordance  
 4.35 with the rule or order.

5.1 Sec. 7. Minnesota Statutes 2012, section 549.32, subdivision 2, is amended to read:

5.2 Subd. 2. **Notice.** Not less than 20 days before the scheduled hearing on an  
 5.3 application for authorization of a transfer of structured settlement payment rights under  
 5.4 section 549.31, the transferee shall file with the court or responsible administrative  
 5.5 authority and serve on: any other government authority that previously approved the  
 5.6 structured settlement; and all interested parties, a notice of the proposed transfer and the  
 5.7 application for its authorization. The notice must include:

5.8 (1) a copy of the transferee's application to the court or responsible administrative  
 5.9 authority;

5.10 (2) a copy of the transfer agreement;

5.11 (3) a copy of the disclosure statement required under section 549.31, subdivision 1,  
 5.12 paragraph (b);

5.13 (4) notification that an interested party is entitled to support, oppose, or otherwise  
 5.14 respond to the transferee's application, either in person or by counsel, by submitting  
 5.15 written comments to the court or responsible administrative authority or by participating  
 5.16 in the hearing; ~~and~~

5.17 (5) notification of the time and place of the hearing and notification of the manner in  
 5.18 which and the time by which written responses to the application must be filed, in order to  
 5.19 be considered by the court or responsible administrative authority. Written responses to  
 5.20 the application must be filed within 15 days after service of the transferee's notice; and

5.21 (6) notification of the date and judicial district of any prior application made by the  
 5.22 payee for transfer by the transferee, including whether the prior application was granted or  
 5.23 denied. If that prior application was granted or those prior applications were granted of the  
 5.24 payee, the petition shall provide the amount and due dates of any structured settlement  
 5.25 payments that were transferred, the aggregate amount of the payments, the discounted  
 5.26 present value of the payments, and the gross amount that was payable to the payee in  
 5.27 exchange for the payments.

5.28 Sec. 8. Minnesota Statutes 2012, section 600.13, is amended to read:

5.29 **600.13 ORIGINAL RECORDS; PROBATE COURT DECREES; CERTIFIED**  
 5.30 **COPIES.**

5.31 The original record made by any public officer in the performance of official duty  
 5.32 shall be prima facie evidence of the facts required or permitted by law to be recorded by  
 5.33 the officer. A copy of such record, or of any document which is made evidence by law and  
 5.34 is preserved in the office or place where the same was required or is permitted to be filed  
 5.35 or kept, or a copy of any authorized record of such document so preserved, when certified

6.1 by the person entitled to the official custody thereof to have been compared by that person  
 6.2 with the original and to be a correct transcript therefrom, shall be received in evidence in  
 6.3 all cases, with the same force and effect given to such original document or record; but if  
 6.4 such officer have, by law, an official seal, the certificate shall be authenticated thereby. No  
 6.5 part of this section relating to the form of certification shall apply to documents or records  
 6.6 kept in the departments or offices of the United States government.

6.7 In all cases where a decree of a court exercising probate jurisdiction, assigning or  
 6.8 distributing property of a decedent, embraces real estate or other property situated in more  
 6.9 than one county, the court exercising probate jurisdiction shall furnish, upon request  
 6.10 therefor, certified copies of parts of such decrees, excluding from such certified copy all  
 6.11 descriptions of real or other property included in such decree excepting description of  
 6.12 such real estate and other property as appears from the face of the decree to be situated  
 6.13 in any one or more counties designated by the applicant for such certified copy. The  
 6.14 court shall indicate the omission hereby permitted, in the certified copy, by the words  
 6.15 "and other property situated in ..... county, or counties, Minnesota" inserted in  
 6.16 the certified copy at the points where the omissions occur. Such certified copy shall be  
 6.17 entitled to record in the office of the county recorder and in the office of the registrar of  
 6.18 titles of the county, or counties, in which the real estate or other property in the certified  
 6.19 copy described, or any part thereof, is situated. Such certified copy, or a copy of any  
 6.20 authorized record of such certified copy, certified by the person entitled to the official  
 6.21 custody thereof to have been compared by that person with the original or the record  
 6.22 thereof and to be a correct transcription therefrom, shall be received in evidence in all  
 6.23 cases with the same force and effect given to such original decree relative to the matter in  
 6.24 the certified copy or the record thereof contained. If such officer have by law an official  
 6.25 seal, the certificate shall be authenticated thereby.

6.26 This section shall not be construed to require the affixing of the seal of the court  
 6.27 to any certified copy of a rule or order made by such court, or to any paper filed therein,  
 6.28 when such copy is used in the same court or before any officer thereof.

6.29 In all cases where the affixing of a seal of the court is required, the court seal may be  
 6.30 affixed electronically as provided in sections 358.03 and 645.44.

6.31 Sec. 9. Minnesota Statutes 2012, section 609.48, subdivision 1, is amended to read:

6.32 Subdivision 1. **Acts constituting.** Whoever makes a false material statement not  
 6.33 believing it to be true in any of the following cases is guilty of perjury and may be  
 6.34 sentenced as provided in subdivision 4:

7.1 (1) in or for an action, hearing or proceeding of any kind in which the statement is  
7.2 required or authorized by law to be made under oath or affirmation;

7.3 (2) in any writing which is required or authorized by law to be under oath or  
7.4 affirmation;

7.5 (3) in any writing made according to section 358.115; ~~or~~

7.6 (4) in any writing made according to section 358.116; or

7.7 ~~(4)~~ (5) in any other case in which the penalties for perjury are imposed by law and  
7.8 no specific sentence is otherwise provided.

7.9 Sec. 10. Minnesota Statutes 2012, section 609.748, subdivision 3, is amended to read:

7.10 Subd. 3. **Contents of petition; hearing; notice.** (a) A petition for relief must  
7.11 allege facts sufficient to show the following:

7.12 (1) the name of the alleged harassment victim;

7.13 (2) the name of the respondent; and

7.14 (3) that the respondent has engaged in harassment.

7.15 A petition for relief must state whether the petitioner has had a previous restraining order  
7.16 in effect against the respondent. The petition shall be accompanied by an affidavit made  
7.17 under oath stating the specific facts and circumstances from which relief is sought. The  
7.18 court shall provide simplified forms and clerical assistance to help with the writing and  
7.19 filing of a petition under this section and shall advise the petitioner of the right to sue in  
7.20 forma pauperis under section 563.01. The court shall advise the petitioner of the right to  
7.21 request a hearing. If the petitioner does not request a hearing, the court shall advise the  
7.22 petitioner that the respondent may request a hearing and that notice of the hearing date  
7.23 and time will be provided to the petitioner by mail at least five days before the hearing.  
7.24 Upon receipt of the petition and a request for a hearing by the petitioner, the court shall  
7.25 order a hearing. Personal service must be made upon the respondent not less than five  
7.26 days before the hearing. If personal service cannot be completed in time to give the  
7.27 respondent the minimum notice required under this paragraph, the court may set a new  
7.28 hearing date. Nothing in this section shall be construed as requiring a hearing on a  
7.29 matter that has no merit.

7.30 (b) Notwithstanding paragraph (a), the order for a hearing and a temporary order  
7.31 issued under subdivision 4 may be served on the respondent by means of a one-week  
7.32 published notice under section 645.11, if:

7.33 (1) the petitioner files an affidavit with the court stating that an attempt at personal  
7.34 service made by a sheriff was unsuccessful because the respondent is avoiding service by  
7.35 concealment or otherwise; and

8.1 (2) a copy of the petition and order for hearing and any temporary restraining order  
8.2 has been mailed to the respondent at the respondent's residence or place of business, if the  
8.3 respondent is an organization, or the respondent's residence or place of business is not  
8.4 known to the petitioner.

8.5 (c) Regardless of the method of service, if the respondent is a juvenile, whenever  
8.6 possible, the court also shall have notice of the pendency of the case and of the time and  
8.7 place of the hearing served by mail at the last known address upon any parent or guardian  
8.8 of the juvenile respondent who is not the petitioner.

8.9 (d) A request for a hearing under this subdivision must be made within ~~45 days of~~  
8.10 ~~the filing or receipt~~ 20 days of service of the petition.

8.11 Sec. 11. Minnesota Statutes 2012, section 611A.04, subdivision 4, is amended to read:

8.12 Subd. 4. **Payment of restitution.** When the court orders ~~both~~ the payment of  
8.13 restitution and the payment of a fine ~~and the defendant does not pay the entire amount~~  
8.14 ~~of court-ordered restitution and the fine at the same time, the court may order that~~  
8.15 ~~all restitution shall be paid before the fine is paid, fees, surcharges, or other financial~~  
8.16 obligations, the court administrator shall apply any payments to the restitution obligation  
8.17 before applying payments to the fine, fees, surcharges, or other financial obligations,  
8.18 unless otherwise ordered by the court.

8.19 Sec. 12. Minnesota Statutes 2012, section 645.44, subdivision 10, is amended to read:

8.20 Subd. 10. **Seal.** When the seal of a court, public office, or corporation is required by  
8.21 law to be affixed to any paper, the word "seal" includes an impression thereof upon the  
8.22 paper alone, as well as an impression on a wafer, wax, or other substance thereto attached.  
8.23 When the seal of a court is required by law to be affixed to any paper or document, the  
8.24 word "seal" also includes an image of the court seal affixed by the court to an electronic  
8.25 image of the paper or document.

8.26 Sec. 13. Minnesota Statutes 2012, section 645.44, subdivision 14, is amended to read:

8.27 Subd. 14. **Written; in writing.** "Written" and "in writing" may include any mode of  
8.28 representing words and letters. The signature of a person, when required by law, (1) must  
8.29 be in the handwriting of the person, or (2) if the person is unable to write (i) the person's  
8.30 mark or name written by another at the request and in the presence of the person, or (ii)  
8.31 by a rubber stamp facsimile of the person's actual signature, mark, or a signature of the  
8.32 person's name or a mark made by another and adopted for all purposes of signature by the  
8.33 person with a motor disability and affixed in the person's presence. The signature of a

- 9.1 person on a document that will be filed with a court, when required by law, may also be
- 9.2 made electronically if otherwise authorized by statute or court rule.