

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 4413

(SENATE AUTHORS: GUSTAFSON)

DATE
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Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to public safety; providing for personal service of orders for protection,

1.3 restraining orders, and related notices; requiring law enforcement officers to make

1.4 reasonable efforts to locate respondents; allowing service of certain orders for

1.5 protection and harassment restraining orders to be served by mail; authorizing

1.6 service by mail of orders dismissing harassment restraining orders; requiring

1.7 probation agents and others to assist law enforcement officers in locating

1.8 respondents; requiring that notice of served orders for protection or harassment

1.9 restraining orders be provided to probation officers; amending Minnesota Statutes

1.10 2022, sections 518B.01, subdivisions 3a, 8, 9, 9a; 609.748, subdivisions 3a, 5, 5b,

1.11 by adding a subdivision.

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

1.13 Section 1. Minnesota Statutes 2022, section 518B.01, subdivision 3a, is amended to read:

1.14 Subd. 3a. **Filing fee.** The filing fees for an order for protection under this section are

1.15 waived for the petitioner and respondent. ~~The court administrator, the sheriff of any county~~

1.16 ~~in this state, and other law enforcement and corrections officers shall perform their duties~~

1.17 ~~relating to service of process without charge to the petitioner. The court shall direct payment~~

1.18 ~~of the reasonable costs of service of process if served by a private process server when the~~

1.19 ~~sheriff or other law enforcement or corrections officer is unavailable or if service is made~~

1.20 ~~by publication, without requiring the petitioner to make application under section 563.01.~~

1.21 Sec. 2. Minnesota Statutes 2022, section 518B.01, subdivision 8, is amended to read:

1.22 Subd. 8. **Service; alternate service; publication; notice.** (a) The petition and any order

1.23 issued under this section other than orders for dismissal shall be served on the respondent

1.24 personally, or if the respondent appears remotely for a hearing and is notified at the hearing

1.25 by the judicial officer that an order for protection will be issued, the order may be served

2.1 on the respondent electronically or by first class mail, as ordered by the court. Orders for
2.2 dismissal may be served personally or by certified mail. In lieu of personal service of an
2.3 order for protection, a law enforcement officer may serve a person with a short-form
2.4 notification as provided in subdivision 8a.

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

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

2.22 The court shall consider the length of time the respondent's location has been unknown,
2.23 the likelihood that the respondent's location will become known, the nature of the relief
2.24 sought, and the nature of efforts made to locate the respondent. The court shall order service
2.25 by first class mail, forwarding address requested, to any addresses where there is a reasonable
2.26 possibility that mail or information will be forwarded or communicated to the respondent.

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

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

Sec. 3. Minnesota Statutes 2022, section 518B.01, subdivision 9, is amended to read:

Subd. 9. **Assistance of sheriff in service or execution; possession of dwelling or residence.** When an order is issued under this section upon request of the petitioner, the court shall order the sheriff to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, ~~or otherwise assist in execution or service of the order of protection. If the application for relief is brought in a county in which the respondent is not present, the sheriff shall forward the pleadings necessary for service upon the respondent to the sheriff of the county in which the respondent is present. This transmittal must be expedited to allow for timely service.~~

Sec. 4. Minnesota Statutes 2022, section 518B.01, subdivision 9a, is amended to read:

Subd. 9a. **Personal service by others; procedures; cost; reasonable efforts and cooperation required.** (a) Where personal service is required under this section, service must comply with subdivision 8 and rule 4.03 of the Rules of Civil Procedure.

(b) Upon request of the petitioner or order of the court, the sheriff of any county in this state in which a respondent resides or is present must execute or serve any petition, ex parte order, notice of hearing, order for protection, and any other order of a court on the respondent. If the application for relief is brought in a county in which the respondent is not present, the sheriff of the county where the application for relief was brought shall forward the pleadings necessary for service upon the respondent to the sheriff of the county in which the respondent is present. This transmittal must be expedited to allow for timely service.

(c) Peace officers licensed by the state of Minnesota and corrections officers, including, but not limited to, probation officers, court services officers, parole officers, and employees of jails or correctional facilities, may serve an order for protection and must, to the extent possible, provide any sheriff, law enforcement officer, or other peace officer attempting to effectuate service with relevant information regarding where a respondent may be found, such as the respondent's residence, the respondent's place of employment or schooling, or other locations frequented by the respondent.

(d) The court administrator, the sheriff of any county in this state, and any other law enforcement officer, peace officer, or corrections officer shall perform the duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff or other law enforcement officer, peace officer, or corrections officer is unavailable or if service is made by publication, without requiring the petitioner to make application under section 563.01.

(e) A sheriff, law enforcement officer, or any other peace officer must make reasonable efforts to locate a respondent to effectuate service. Reasonable efforts may include a search of any information that is publicly available; a search of any government data in a database to which the sheriff, law enforcement officer, or other peace officer has access, provided the data is classified as public data on individuals as defined in section 13.02, subdivision 15, or is otherwise available to criminal justice agencies, as defined in section 13.02, subdivision 3a; and communication with any court administrator, the sheriff of any county in this state, and any other law enforcement officer, peace officer, or corrections officer.

(f) A sheriff, law enforcement officer, or any other peace officer who serves a respondent who the sheriff or officer knows is on supervised probation with an ex parte order, order for protection, or short-form notification must provide a copy of the served order or notification to the respondent's probation officer.

Sec. 5. Minnesota Statutes 2022, section 609.748, subdivision 3a, is amended to read:

Subd. 3a. **Filing fee; cost of service.** The filing fees for a restraining order under this section are waived for the petitioner and the respondent if the petition alleges acts that would constitute a violation of section 609.749, subdivision 2, 3, 4, or 5, or sections 609.342 to 609.3451. ~~The court administrator and any peace officer in this state shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when a peace officer is unavailable or if service is made by publication.~~

Sec. 6. Minnesota Statutes 2022, section 609.748, subdivision 5, is amended to read:

Subd. 5. **Restraining order.** (a) The court may issue a restraining order that provides any or all of the following:

(1) orders the respondent to cease or avoid the harassment of another person; or

(2) orders the respondent to have no contact with another person.

(b) The court may issue an order under paragraph (a) if all of the following occur:

(1) the petitioner has filed a petition under subdivision 3;

(2) a peace officer has served respondent with a copy of the temporary restraining order obtained under subdivision 4, and with notice of the right to request a hearing, or service has been made by publication under subdivision 3, paragraph (b); and

(3) the court finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment.

A restraining order may be issued only against the respondent named in the petition; except that if the respondent is an organization, the order may be issued against and apply to all of the members of the organization. If the court finds that the petitioner has had two or more previous restraining orders in effect against the same respondent or the respondent has violated a prior or existing restraining order on two or more occasions, relief granted by the restraining order may be for a period of up to 50 years. In all other cases, relief granted by the restraining order must be for a fixed period of not more than two years. When a referee presides at the hearing on the petition, the restraining order becomes effective upon the referee's signature.

(c) An order issued under this subdivision must be personally served upon the respondent, or if the respondent appears remotely for a hearing and is notified at the hearing by the judicial officer that a restraining order will be issued, the order may be served on the respondent electronically or by first class mail, as ordered by the court.

(d) If the court orders relief for a period of up to 50 years under paragraph (a), the respondent named in the restraining order may request to have the restraining order vacated or modified if the order has been in effect for at least five years and the respondent has not violated the order. Application for relief under this paragraph must be made in the county in which the restraining order was issued. Upon receipt of the request, the court shall set a hearing date. Personal service must be made upon the petitioner named in the restraining order not less than 30 days before the date of the hearing. At the hearing, the respondent named in the restraining order has the burden of proving by a preponderance of the evidence that there has been a material change in circumstances and that the reasons upon which the court relied in granting the restraining order no longer apply and are unlikely to occur. If the court finds that the respondent named in the restraining order has met the burden of proof, the court may vacate or modify the order. If the court finds that the respondent named in the restraining order has not met the burden of proof, the court shall deny the request and no request may be made to vacate or modify the restraining order until five years have elapsed from the date of denial. An order vacated or modified under this paragraph must be personally served on the petitioner named in the restraining order.

6.1 Sec. 7. Minnesota Statutes 2022, section 609.748, subdivision 5b, is amended to read:

6.2 Subd. 5b. **Personal service by others; procedures; cost; reasonable efforts and**
6.3 **cooperation required.** (a) Where personal service is required under this section, service
6.4 must comply with rule 4.03 of the Rules of Civil Procedure.

6.5 (b) In addition to peace officers, corrections officers, including but not limited to
6.6 probation officers, court services officers, parole officers, and employees of jails or
6.7 correctional facilities, may serve a temporary restraining order or restraining order and must,
6.8 to the extent possible, provide any sheriff, law enforcement officer, or other peace officer
6.9 attempting to effectuate service with relevant information regarding where a respondent
6.10 may be found, such as the respondent's residence, the respondent's place of employment or
6.11 schooling, or other locations frequented by the respondent.

6.12 (c) The court administrator and any peace officer in this state shall perform their duties
6.13 relating to service of process without charge to the petitioner. The court shall direct payment
6.14 of the reasonable costs of service of process if served by a private process server when a
6.15 peace officer is unavailable or if service is made by publication.

6.16 (d) A peace officer must make reasonable efforts to locate a respondent to effectuate
6.17 service. Reasonable efforts may include a search of any information that is publicly available;
6.18 a search of any government data in a database to which the sheriff, law enforcement officer,
6.19 or other peace officer has access, provided the data is classified as public data on individuals
6.20 as defined in section 13.02, subdivision 15, or is otherwise available to criminal justice
6.21 agencies, as defined in section 13.02, subdivision 3a; and communication with any court
6.22 administrator, the sheriff of any county in this state, and any other law enforcement officer,
6.23 peace officer, or corrections officer.

6.24 (e) A sheriff, law enforcement officer, or any other peace officer who serves a respondent
6.25 who the sheriff or officer knows is on supervised probation with a temporary restraining
6.26 order, restraining order, or short-form notification must provide a copy of the served order
6.27 or notification to the respondent's probation officer, supervised release or conditional release
6.28 agent, or parole officer.

6.29 Sec. 8. Minnesota Statutes 2022, section 609.748, is amended by adding a subdivision to
6.30 read:

6.31 Subd. 5c. **Dismissals.** Orders for dismissal of a temporary restraining order or a
6.32 restraining order may be served personally or by certified mail.