

A bill for an act

relating to public safety; modifying the statutory cap on bail for certain nonfelony domestic abuse offenders; recodifying and clarifying the domestic abuse no contact order law; expanding the tampering with a witness crime; clarifying the requirement that the data communications network include orders for protection and no contact orders; imposing criminal penalties; amending Minnesota Statutes 2008, sections 299C.46, subdivision 6; 609.498, subdivision 3, by adding a subdivision; 629.471, subdivision 3, by adding a subdivision; 629.72, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 629; repealing Minnesota Statutes 2008, section 518B.01, subdivision 22.

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

Section 1. Minnesota Statutes 2008, section 299C.46, subdivision 6, is amended to read:

Subd. 6. **Orders for protection and no contact orders.** (a) As used in this subdivision, "no contact orders" include orders issued as pretrial orders under section 629.72, subdivision 2; orders under section 629.75; and orders issued as probationary or sentencing orders at the time of disposition in a criminal domestic abuse case.

(b) The data communications network must include orders for protection issued under section 518B.01 and no contact orders issued under section 629.715, subdivision 4 against adults and juveniles. A no contact order must be accompanied by a photograph of the offender for the purpose of enforcement of the order, if a photograph is available and verified by the court to be an image of the defendant.

Sec. 2. Minnesota Statutes 2008, section 609.498, is amended by adding a subdivision to read:

Subd. 2a. **Tampering with a witness in the third degree.** (a) Unless a greater penalty is applicable under subdivision 1, 1b, or 2, whoever does any of the following is

guilty of tampering with a witness in the third degree and may be sentenced as provided in subdivision 3:

(1) intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of intimidation, a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law;

(2) by means of intimidation, intentionally influences or attempts to influence a person who is or may become a witness to testify falsely at any trial, proceeding, or inquiry authorized by law;

(3) intentionally prevents or dissuades or attempts to prevent or dissuade by means of intimidation, a person from providing information to law enforcement authorities concerning a crime; or

(4) by means of intimidation, intentionally influences or attempts to influence a person to provide false information concerning a crime to law enforcement authorities.

(b) In a prosecution under this subdivision, proof of intimidation may be based on a specific act or on the totality of the circumstances.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2008, section 609.498, subdivision 3, is amended to read:

Subd. 3. **Sentence.** (a) Whoever violates subdivision 2 ~~may be sentenced to imprisonment for not more than one year or to payment of a fine not to exceed \$3,000~~ is guilty of a gross misdemeanor.

(b) Whoever violates subdivision 2a is guilty of a misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2008, section 629.471, subdivision 3, is amended to read:

Subd. 3. **Six times fine.** For offenses under sections ~~518B.01, 609.224, 609.2242,~~ and 609.377, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor violation is six times the highest cash fine that may be imposed for the offense.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2008, section 629.471, is amended by adding a subdivision to read:

Subd. 3a. **Ten times fine.** For offenses under sections 518B.01 and 609.2242, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor violation is ten times the highest cash fine that may be imposed for the offense.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2008, section 629.72, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Domestic abuse" has the meaning given in section 518B.01, subdivision 2.

(c) "Harassment" has the meaning given in section 609.749.

(d) "Violation of a domestic abuse no contact order" has the meaning given in section ~~518B.01, subdivision 22~~ 629.75.

(e) "Violation of an order for protection" has the meaning given in section 518B.01, subdivision 14.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 7. **[629.75] DOMESTIC ABUSE NO CONTACT ORDER.**

Subdivision 1. **Establishment; description.** (a) A domestic abuse no contact order is an order issued by a court against a defendant in a criminal proceeding or a juvenile offender in a delinquency proceeding for:

(1) domestic abuse as defined in section 518B.01, subdivision 2;

(2) harassment or stalking under section 609.749 when committed against a family or household member as defined in section 518B.01, subdivision 2;

(3) violation of an order for protection under section 518B.01, subdivision 14; or

(4) violation of a prior domestic abuse no contact order under this subdivision or section 518B.01, subdivision 22.

(b) A domestic abuse no contact order may be issued as a pretrial order before final disposition of the underlying criminal case or as a postconviction probationary order. A domestic abuse no contact order is independent of any condition of pretrial release or probation imposed on the defendant. A domestic abuse no contact order may be issued in

addition to a similar restriction imposed as a condition of pretrial release or probation. In the context of a postconviction probationary order, a domestic abuse no contact order may be issued for an offense listed in paragraph (a) or for a conviction for any offense arising out of the same set of circumstances as an offense listed in paragraph (a).

(c) A no contact order under this section shall be issued in a proceeding that is separate from but held immediately following one in which any pretrial release or sentencing issues are decided.

Subd. 2. **Criminal penalties.** (a) As used in this subdivision "qualified domestic violence-related offense" has the meaning given in section 609.02, subdivision 16.

(b) A person who knows of the existence of a domestic abuse no contact order issued against the person and violates the order is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor who knowingly violates this subdivision within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days' imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court as provided in section 518B.02. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person knowingly violates this subdivision: (1) within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency; or (2) while possessing a dangerous weapon, as defined in section 609.02, subdivision 6. Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

Subd. 3. **Warrantless custodial arrest.** A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a domestic abuse no contact order, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The person shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by

5.1 a judge or judicial officer. A peace officer acting in good faith and exercising due care in
5.2 making an arrest pursuant to this subdivision is immune from civil liability that might
5.3 result from the officer's actions.

5.4 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes
5.5 committed on or after that date.

5.6 Sec. 8. **REVISOR'S INSTRUCTION.**

5.7 The revisor of statutes shall replace references to Minnesota Statutes, section
5.8 518B.01, subdivision 22, in statutes and rules with a reference to Minnesota Statutes,
5.9 section 629.75.

5.10 Sec. 9. **REPEALER.**

5.11 Minnesota Statutes 2008, section 518B.01, subdivision 22, is repealed.

5.12 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes
5.13 committed on or after that date.