

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 875

(SENATE AUTHORS: LIMMER and Newman)

DATE	D-PG	OFFICIAL STATUS
03/17/2011	542	Introduction and first reading Referred to Judiciary and Public Safety
04/18/2011	1373a	Comm report: To pass as amended and re-refer to Finance See HF1023, Art.1, Sec. 2, 3-4, 6-10 See SF958, Art. 3, Sec. 1, 3 (vetoed) See SF1, Art. 3, Sec. 1, 3 (First Special Session)

A bill for an act

relating to courts; modifying failure to provide vehicle insurance for drivers and owners; modifying service of petition for certain election errors; requiring corrections agent to provide form regarding predatory offender duty to register; clarifying certain fees and surcharges; modifying certain notary provisions; modifying certain lien filing and records; modifying certain service procedures and documents for domestic abuse; clarifying document copies for probate records; amending Minnesota Statutes 2010, sections 169.797, subdivision 4; 204B.44; 243.166, subdivision 2; 279.37, subdivision 8; 357.021, subdivision 6; 359.061, subdivisions 1, 2; 514.69; 514.70; 518B.01, subdivision 8; 525.091, subdivisions 1, 3; repealing Minnesota Statutes 2010, sections 359.061, subdivision 3; 525.091, subdivision 4.

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

Section 1. Minnesota Statutes 2010, section 169.797, subdivision 4, is amended to read:

Subd. 4. **Penalty.** (a) A person who violates this section is guilty of a misdemeanor.

A person is guilty of a gross misdemeanor who violates this section within ten years of the first of two prior convictions under this section, section 169.791, or a statute or ordinance in conformity with one of those sections. The operator of a vehicle who violates subdivision 3 and who causes or contributes to causing a vehicle accident that results in the death of any person or in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, is guilty of a gross misdemeanor. The same prosecuting authority who is responsible for prosecuting misdemeanor violations of this section is responsible for prosecuting gross misdemeanor violations of this section. In addition to any sentence of imprisonment that the court may impose on a person convicted of violating this section, the court shall impose a fine of not less than \$200 nor more than the maximum amount authorized by law. The court may allow community service in lieu of any fine imposed if the defendant is indigent.

2.1 (b) A driver who is the owner of the vehicle may, no later than the date and time
2.2 specified in the citation for the driver's first court appearance, produce proof of insurance
2.3 stating that security had been provided for the vehicle that was being operated at the time
2.4 of demand to the court administrator. The driver may send the required proof of insurance
2.5 by mail as long as it is received no later than the date and time specified in the citation for
2.6 the driver's first court appearance. If a citation is issued, no person shall be convicted of
2.7 violating this section if the court administrator receives the required proof of insurance no
2.8 later than the date and time specified in the citation for the driver's first court appearance.
2.9 If the charge is made other than by citation, no person shall be convicted of violating
2.10 this section if the person presents the required proof of insurance at the person's first
2.11 court appearance after the charge is made.

2.12 (c) If the driver is not the owner of the vehicle, the driver shall, no later than the
2.13 date and time specified in the citation for the driver's first court appearance, provide the
2.14 district court administrator with proof of insurance or the name and address of the owner.
2.15 Upon receipt of the name and address of the owner, the district court administrator shall
2.16 communicate the information to law enforcement agency.

2.17 (d) If the driver is not the owner of the vehicle, the officer may send or provide a
2.18 notice to the owner of the vehicle requiring the owner to produce proof of insurance for
2.19 the vehicle that was being operated at the time of the demand. Notice by mail is presumed
2.20 to be received five days after mailing and shall be sent to the owner's current address or the
2.21 address listed on the owner's driver's license. Within ten days after receipt of the notice,
2.22 the owner shall produce the required proof of insurance to the place stated in the notice
2.23 received by the owner. The required proof of insurance may be sent by mail by the owner
2.24 as long as it is received within ten days. Any owner who fails to produce proof of insurance
2.25 within ten days of an officer's request under this subdivision is guilty of a misdemeanor.
2.26 The peace officer may mail the citation to the owner's current address or address stated
2.27 on the owner's driver's license. It is an affirmative defense to a charge against the owner
2.28 that the driver used the owner's vehicle without consent, if insurance would not have been
2.29 required in the absence of the unauthorized use by the driver. It is not a defense that a
2.30 person failed to notify the Department of Public Safety of a change of name or address as
2.31 required under section 171.11. The citation may be sent after the ten-day period.

2.32 ~~(b)~~ (e) The court may impose consecutive sentences for offenses arising out of a
2.33 single course of conduct as permitted in section 609.035, subdivision 2.

2.34 ~~(c)~~ (f) In addition to the criminal penalty, the driver's license of an operator convicted
2.35 under this section shall be revoked for not more than 12 months. If the operator is also an
2.36 owner of the vehicle, the registration of the vehicle shall also be revoked for not more

than 12 months. Before reinstatement of a driver's license or registration, the operator shall file with the commissioner of public safety the written certificate of an insurance carrier authorized to do business in this state stating that security has been provided by the operator as required by section 65B.48.

~~(d)~~ (g) The commissioner shall include a notice of the penalties contained in this section on all forms for registration of vehicles required to maintain a plan of reparation security.

Sec. 2. Minnesota Statutes 2010, section 204B.44, is amended to read:

204B.44 ERRORS AND OMISSIONS; REMEDY.

Any individual may file a petition in the manner provided in this section for the correction of any of the following errors, omissions, or wrongful acts which have occurred or are about to occur:

(a) an error or omission in the placement or printing of the name or description of any candidate or any question on any official ballot;

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

(c) failure of the chair or secretary of the proper committee of a major political party to execute or file a certificate of nomination;

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

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

Sec. 3. Minnesota Statutes 2010, section 243.166, subdivision 2, is amended to read:

4.1 Subd. 2. **Notice.** When a person who is required to register under subdivision 1b,
4.2 paragraph (a), is sentenced or becomes subject to a juvenile court disposition order, the
4.3 court shall tell the person of the duty to register under this section and that, if the person
4.4 fails to comply with the registration requirements, information about the offender may
4.5 be made available to the public through electronic, computerized, or other accessible
4.6 means. The court may not modify the person's duty to register in the pronounced
4.7 sentence or disposition order. The court shall require the person to read and sign a
4.8 form, completed by the assigned corrections agent, stating that the duty of the person to
4.9 register under this section has been explained. The court shall forward the signed sex
4.10 offender registration form, the complaint, and sentencing documents to the bureau. If a
4.11 person required to register under subdivision 1b, paragraph (a), was not notified by the
4.12 court of the registration requirement at the time of sentencing or disposition, the assigned
4.13 corrections agent shall notify the person of the requirements of this section. When a
4.14 person who is required to register under subdivision 1b, paragraph (c) or (d), is released
4.15 from commitment, the treatment facility shall notify the person of the requirements of this
4.16 section. The treatment facility shall also obtain the registration information required under
4.17 this section and forward it to the bureau.

4.18 Sec. 4. Minnesota Statutes 2010, section 279.37, subdivision 8, is amended to read:

4.19 Subd. 8. **Fees.** The party or parties making such confession of judgment shall pay
4.20 the county auditor a fee as set by the county board to defray the costs of processing the
4.21 confession of judgment and making the annual billings required. Fees as set by the county
4.22 board shall be ~~paid to the court administrator of the court for entry of judgment and for~~
4.23 ~~the entry of each full or partial release thereof. The fees paid to the court administrator~~
4.24 ~~under this section are~~ in lieu of the fees provided for in section 357.021. ~~Fees collected~~
4.25 ~~under this section and~~ shall be processed by the county and credited to the general revenue
4.26 fund of the county.

4.27 Sec. 5. Minnesota Statutes 2010, section 357.021, subdivision 6, is amended to read:

4.28 Subd. 6. **Surcharges on criminal and traffic offenders.** (a) Except as provided
4.29 in this paragraph, the court shall impose and the court administrator shall collect a \$75
4.30 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or
4.31 petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle
4.32 parking, for which there shall be a \$12 surcharge. When a defendant is convicted of more
4.33 than one offense in a case, the surcharge shall be imposed only once in that case. In the
4.34 Second Judicial District, the court shall impose, and the court administrator shall collect,

an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed. The surcharge shall not be imposed when a person is convicted of a petty misdemeanor for which no fine is imposed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge, and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of management and budget.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the court administrator or other entity collecting the surcharge imposed by the court.

(f) A person who ~~successfully completes a diversion or similar program~~ enters a diversion program, continuance without prosecution, continuance for dismissal, or stay of adjudication for a violation of chapter 169 must pay the surcharge described in this subdivision. A surcharge imposed under this paragraph shall be imposed only once per case.

(g) The surcharge does not apply to administrative citations issued pursuant to section 169.999.

Sec. 6. Minnesota Statutes 2010, section 359.061, subdivision 1, is amended to read:

Subdivision 1. **Resident notaries.** The commission of every notary commissioned under section 359.01, together with: (1) a signature that matches the first, middle, and last name as listed on the notary's commission and shown on the notarial stamp, and (2) a sample signature in the style in which the notary will actually execute notarial acts, shall be recorded in the office of the ~~court administrator of the district court~~ local registrar of

the notary's county of residence or in the county department to which duties relating to notaries public have been assigned under section 485.27, in a record kept for that purpose.

Sec. 7. Minnesota Statutes 2010, section 359.061, subdivision 2, is amended to read:

Subd. 2. **Nonresident notaries.** The commission of a nonresident notary must be recorded in the Minnesota county the notary designates pursuant to section 359.01, subdivision 2, clause (3), ~~in the office of the court administrator of the district court of that county or~~ in the county department to which duties relating to notaries public have been assigned under section 485.27.

Sec. 8. Minnesota Statutes 2010, section 514.69, is amended to read:

514.69 FILE WITH ~~COURT ADMINISTRATOR OF THE DISTRICT COURT~~ COUNTY.

Subdivision 1. **Perfection of hospital's lien.** In order to perfect such lien, the operator of such hospital, before, or within ten days after, such person shall have been discharged therefrom, shall file in the office of the ~~court administrator of the district court~~ county office assigned this duty by the county board pursuant to section 485.27 of the county in which such hospital shall be located a verified statement in writing setting forth the name and address of such patient, as it shall appear on the records of such hospital, the name and location of such hospital and the name and address of the operator thereof, the dates of admission to and discharge of such patient therefrom, the amount claimed to be due for such hospital care, and, to the best of claimant's knowledge, the names and addresses of all persons, firms, or corporations claimed by such injured person, or the legal representatives of such person, to be liable for damages arising from such injuries; such claimant shall also, within one day after the filing of such claim or lien, mail a copy thereof, by certified mail, to each person, firm, or corporation so claimed to be liable for such damages to the address so given in such statement. The filing of such claim or lien shall be notice thereof to all persons, firms, or corporations liable for such damages whether or not they are named in such claim or lien.

Subd. 2. **Perfection of public assistance lien.** In the case of public assistance liens filed under section 256.015 or 256B.042, the state agency may perfect its lien by filing its verified statement in the office of the ~~court administrator~~ county office assigned this duty by the county board pursuant to section 485.27 in the county of financial responsibility for the public assistance paid. The ~~court administrator~~ county office shall record the lien in the same manner as provided in section 514.70.

Sec. 9. Minnesota Statutes 2010, section 514.70, is amended to read:

514.70 ~~COURT ADMINISTRATOR~~ COUNTY TO PROVIDE RECORD.

The ~~court administrator~~ county office assigned this duty by the county board pursuant to section 485.27 shall endorse thereon the date and hour of filing and, at the expense of the county, shall provide a hospital lien book with proper index in which the ~~court administrator~~ county office shall enter the date and hour of such filing, the names and addresses of such hospital, the operators thereof and of such patient, the amount claimed and the names and addresses of those claimed to be liable for damages. The ~~court administrator~~ county office shall be paid \$5 as a fee for such filing and \$5 as a fee for filing each lien satisfaction.

Sec. 10. Minnesota Statutes 2010, section 518B.01, subdivision 8, is amended to read:

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

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

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

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

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

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

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

Sec. 11. Minnesota Statutes 2010, section 525.091, subdivision 1, is amended to read:

Subdivision 1. **Original documents.** (a) The court administrator of any county upon order of the judge exercising probate jurisdiction may destroy all the original documents in any probate proceeding of record in the office ~~after the file in such proceeding has been closed~~ provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, digitally imaged, electronic, or similarly reproduced copy of the original ~~of the following enumerated documents in the proceeding~~ are on file in the office. After the file in the proceeding has been closed only the following enumerated documents need to be retained:

~~Enumerated original documents:~~

~~(a)~~ (1) in estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state estate taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents. When an estate is deemed closed as provided in ~~clause (d)~~ paragraph (b), the enumerated documents shall include all claims of creditors;

~~(b)~~ (2) in guardianships or conservatorships, the jurisdictional petition and order for hearing thereof with proof of service; letters; orders directing and confirming sale, mortgage, lease or for conveyance of real estate; order for restoration to capacity and order discharging guardian; and any amendment of the listed documents; and

9.1 ~~(e)~~ (3) in mental, inebriety, and indigent matters, the jurisdictional petition; report of
9.2 examination; warrant of commitment; notice of discharge from institution, or notice of
9.3 death and order for restoration to capacity; and any amendment of the listed documents.

9.4 ~~(d)~~ (b) Except for the enumerated documents described in this subdivision, the
9.5 court administrator may destroy all other ~~original~~ documents in any probate proceeding
9.6 without retaining any reproduction of the document. For the purpose of this subdivision,
9.7 a proceeding is deemed closed if no document has been filed in the proceeding for a
9.8 period of 15 years, except in the cases of wills filed for safekeeping and those containing
9.9 wills of decedents not adjudicated upon.

9.10 Sec. 12. Minnesota Statutes 2010, section 525.091, subdivision 3, is amended to read:

9.11 Subd. 3. **Effect of copies.** A photographic, photostatic, microphotographic,
9.12 microfilmed, digitally imaged, electronic, or similarly reproduced record is of the same
9.13 force and effect as the original and may be used as the original document or book of
9.14 record in all proceedings.

9.15 Sec. 13. **REPEALER.**

9.16 Minnesota Statutes 2010, sections 359.061, subdivision 3; and 525.091, subdivision
9.17 4, are repealed.

APPENDIX
Repealed Minnesota Statutes: S0875-1

359.061 RECORD OF COMMISSION.

Subd. 3. **Certificate of court administrator.** The court administrator, when requested, shall certify to official acts in the manner and for the fees prescribed by statute or court rule.

525.091 DESTRUCTION AND REPRODUCTION OF PROBATE RECORDS.

Subd. 4. **Exception.** This section does not apply to the court of any county until the county board of the county adopts a resolution authorizing the destruction of probate records pursuant to the provisions of this section. When the county board has complied with this subdivision, section 525.092 and any act amendatory thereof shall no longer apply to the probate court of that county.