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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **1060**

- 02/11/2021 Authored by Agbaje, Gomez, Hassan, Youakim, Frazier and others
The bill was read for the first time and referred to the Committee on Housing Finance and Policy
- 02/22/2021 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law
- 03/08/2021 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time
- 05/17/2021 Pursuant to Rule 4.20, returned to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act

1.2 relating to housing; establishing procedures for eviction and tenant screening

1.3 reports; amending Minnesota Statutes 2020, sections 504B.001, subdivision 4;

1.4 504B.241, subdivision 4; 504B.245; 504B.321; 504B.331; 504B.335; 504B.345,

1.5 subdivision 1, by adding a subdivision; 504B.361, subdivision 1; 504B.371,

1.6 subdivisions 4, 5, 7; proposing coding for new law in Minnesota Statutes, chapter

1.7 504B; repealing Minnesota Statutes 2020, section 504B.341.

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

1.9 Section 1. Minnesota Statutes 2020, section 504B.001, subdivision 4, is amended to read:

1.10 Subd. 4. **Evict or eviction.** "Evict" or "eviction" means a ~~summary~~ court proceeding to

1.11 remove a tenant or occupant from or otherwise recover possession of real property by the

1.12 process of law set out in this chapter.

1.13 Sec. 2. Minnesota Statutes 2020, section 504B.241, subdivision 4, is amended to read:

1.14 Subd. 4. **Court file information.** (a) If a residential tenant screening service includes

1.15 information from a court file on an individual in a residential tenant report, the report must

1.16 provide the full name and date of birth of the individual in any case where the court file

1.17 includes the individual's full name and date of birth, and the outcome of the court proceeding

1.18 must be accurately recorded in the residential tenant report including the specific basis of

1.19 the court's decision, when available.

1.20 (b) If a tenant screening service knows that a court file has been expunged or that the

1.21 court file has not resulted in a writ of recovery of premises and order to vacate, as defined

1.22 in section 504B.001, subdivision 15, the tenant screening service shall delete any reference

1.23 to that file in any data maintained or disseminated by the screening service. Every tenant

2.1 screening service has an affirmative duty to update and verify the current status of court
2.2 files by accessing the Minnesota Court Information System no more than 24 hours prior to
2.3 issuing a residential tenant screening report. If a file cannot be found, it shall be presumed
2.4 to be expunged and may not be reported.

2.5 (c) Whenever the court supplies information from a court file on an individual, in
2.6 whatever form, the court shall include the full name and date of birth of the individual, if
2.7 that is indicated on the court file or summary, and information on the outcome of the court
2.8 proceeding, including the specific basis of the court's decision, coded as provided in
2.9 subdivision 5 for the type of action, when it becomes available.

2.10 (d) The residential tenant screening service is not liable under section 504B.245 if the
2.11 residential tenant screening service reports complete and accurate information as provided
2.12 by the court, consistent with paragraph (b).

2.13 Sec. 3. Minnesota Statutes 2020, section 504B.245, is amended to read:

2.14 **504B.245 TENANT REPORT; REMEDIES.**

2.15 ~~The remedies provided in section 8.31 apply to~~ A residential tenant aggrieved by a
2.16 violation of section 504B.241 is entitled to recover damages, together with costs and
2.17 disbursements, including costs of investigation and attorney fees, and receive other equitable
2.18 relief as determined by the court. ~~A residential tenant screening service or landlord in~~
2.19 ~~compliance with the provisions of the Fair Credit Reporting Act, United States Code, title~~
2.20 ~~15, section 1681, et seq., is considered to be in compliance with section 504B.241.~~

2.21 Sec. 4. Minnesota Statutes 2020, section 504B.321, is amended to read:

2.22 **504B.321 COMPLAINT AND SUMMONS.**

2.23 Subdivision 1. ~~Procedure~~ **Complaint.** (a) To bring an eviction action, the person
2.24 complaining shall file a complaint with the court, stating the full name ~~and~~ ^{and} date of birth,
2.25 telephone number, and e-mail address of the person or persons against whom the complaint
2.26 is made, unless it is not known, describing the premises of which possession is claimed,
2.27 stating the facts which authorize the recovery of possession, and asking for recovery thereof.

2.28 (b) The lack of the full name and date of birth, telephone number, and e-mail address
2.29 of the person against whom the complaint is made does not deprive the court of jurisdiction
2.30 or make the complaint invalid.

2.31 (c) ~~The court shall issue a summons, commanding the person against whom the complaint~~
2.32 ~~is made to appear before the court on a day and at a place stated in the summons.~~

3.1 ~~(d) The appearance shall be not less than seven nor more than 14 days from the day of~~
3.2 ~~issuing the summons, except as provided by subdivision 2.~~

3.3 ~~(e) A copy of the complaint shall be attached to the summons, which shall state that the~~
3.4 ~~copy is attached and that the original has been filed.~~

3.5 Subd. 2. **Expedited procedure.** (a) In an eviction action brought under section 504B.171
3.6 or on the basis that the tenant is causing a nuisance or other illegal behavior that seriously
3.7 endangers the safety of other residents, their property, or the landlord's property, the person
3.8 filing the complaint shall file an affidavit stating specific facts and instances in support of
3.9 why an expedited hearing is required.

3.10 (b) The complaint and affidavit shall be reviewed by a referee or judge and scheduled
3.11 for an expedited hearing only if sufficient supporting facts are stated and they meet the
3.12 requirements of this paragraph.

3.13 (c) The appearance in an expedited hearing shall be not less than five days nor more
3.14 than seven days from the date the summons is issued. The summons, in an expedited hearing,
3.15 shall be served upon the tenant within 24 hours of issuance unless the court orders otherwise
3.16 for good cause shown.

3.17 (d) If the court determines that the person seeking an expedited hearing did so without
3.18 sufficient basis under the requirements of this subdivision, the court shall impose a civil
3.19 penalty of up to \$500 for abuse of the expedited hearing process.

3.20 Subd. 3. Contents of complaint. The person bringing the complaint must:

3.21 (1) attach the current written lease or most recent written lease in existence;

3.22 (2) if alleging nonpayment of rent, attach a detailed ledger or accounting of the amount
3.23 owed;

3.24 (3) if alleging a breach of lease, identify the clause of the lease which is the basis of the
3.25 allegation;

3.26 (4) if alleging a violation of section 504B.171, specify the conduct constituting the
3.27 alleged violation;

3.28 (5) if alleging a violation of section 504B.285, subdivision 1, attach a copy of any notice
3.29 to vacate or notice to quit; and

3.30 (6) indicate if the unit receives a federal or state housing subsidy through project-based
3.31 federal assistance payments, the Section 8 program, as defined in section 469.002, subdivision
3.32 24, or the low-income housing tax credit program, or other similar program.

4.1 Subd. 4. **Summons.** (a) The court shall issue a summons, commanding the person against
4.2 whom the complaint is made to appear before the court on a day and at a place stated in the
4.3 summons. A copy of the complaint must be attached to the summons.

4.4 (b) The summons must include, at a minimum:

4.5 (1) the full name of the person against whom the complaint is brought;

4.6 (2) the date, time, and location of the hearing;

4.7 (3) information about the methods for participating in the court appearance, including,
4.8 if applicable, information for appearing by telephone or teleconferencing system and contact
4.9 information for the court regarding remote participation;

4.10 (4) the following statement: You have the right to seek legal help or request a reasonable
4.11 accommodation from the court for the court proceeding. If you can't afford a lawyer, free
4.12 legal help may be available. Contact your local Legal Aid office or visit the LawHelpMN
4.13 website at www.LawHelpMn.org for information and referrals;

4.14 (5) the following statement: To apply for financial assistance, contact your local county
4.15 or tribal social services office or call the United Way toll-free information line by dialing
4.16 2-1-1; and

4.17 (6) notification that a copy of the complaint is attached and has been filed with the court.

4.18 Subd. 5. **Hearing.** The court appearance described in this section shall not be less than
4.19 14 days from the day of issuing the summons, except as provided by subdivision 2.

4.20 Subd. 6. **Defective filing or service.** The court must dismiss and expunge the record of
4.21 any action if the person bringing the action fails to comply with subdivision 1 or 2.

4.22 Subd. 7. **Nonpublic record.** An eviction action is not accessible to the public until the
4.23 court enters a final judgment.

4.24 Sec. 5. Minnesota Statutes 2020, section 504B.331, is amended to read:

4.25 **504B.331 SUMMONS; HOW SERVED.**

4.26 (a) The summons and complaint must be served at least ~~seven~~ 14 days before the date
4.27 of the court appearance specified in section 504B.321, in the manner provided for service
4.28 of a summons in a civil action in district court. ~~It may be served by any person not named~~
4.29 ~~a party to the action.~~

4.30 (b) If the defendant cannot be found in the county, the summons and complaint may be
4.31 served at least ~~seven~~ 14 days before the date of the court appearance by:

5.1 (1) leaving a copy at the defendant's last usual place of abode with a person of suitable
5.2 age and discretion residing there; or

5.3 (2) if the defendant had no place of abode, by leaving a copy at the property described
5.4 in the complaint with a person of suitable age and discretion occupying the premises.

5.5 (c) Failure of the sheriff to serve the defendant is prima facie proof that the defendant
5.6 cannot be found in the county.

5.7 (d) Where the defendant cannot be found in the county, service of the summons and
5.8 complaint may be made upon the defendant by posting the summons in a conspicuous place
5.9 on the property for not less than ~~one week~~ 14 days if:

5.10 (1) the property described in the complaint is:

5.11 (i) nonresidential and no person actually occupies the property; or

5.12 (ii) residential and service has been attempted at least twice on different days, with at
5.13 least one of the attempts having been made between the hours of 6:00 p.m. and 10:00 p.m.;
5.14 and

5.15 (2) the plaintiff or the plaintiff's attorney has signed and filed with the court an affidavit
5.16 stating that:

5.17 (i) the defendant cannot be found, or that the plaintiff or the plaintiff's attorney believes
5.18 that the defendant is not in the state; ~~and~~

5.19 (ii) a copy of the summons and complaint has been mailed to the defendant at the
5.20 defendant's last known address if any is known to the plaintiff; and

5.21 (iii) the plaintiff or plaintiff's attorney has communicated to the defendant that an eviction
5.22 hearing has been scheduled, including the date, time, and place of the hearing specified in
5.23 the summons by all forms of communication the plaintiff regularly uses to communicate
5.24 with the defendant, including e-mail and text message.

5.25 (e) If the defendant or the defendant's attorney does not appear in court on the date of
5.26 the appearance, the trial shall proceed.

5.27 Sec. 6. Minnesota Statutes 2020, section 504B.335, is amended to read:

5.28 **504B.335 ANSWER; TRIAL.**

5.29 (a) At the court appearance specified in the summons, the defendant may answer the
5.30 complaint, either orally or in writing, and the court shall ~~hear and decide the action, unless~~
5.31 ~~it grants a continuance of the trial as provided in section 504B.341.;~~

6.1 (1) dismiss the action;

6.2 (2) approve a settlement between the parties;

6.3 (3) schedule a trial for no fewer than ten days after the appearance; or

6.4 (4) continue the matter for such other hearings the court deems appropriate.

6.5 (b) If any defendant fails to appear at the scheduled court appearance, the court shall
6.6 review the court records and determine whether the complaint was properly served pursuant
6.7 to section 504B.331. The court shall:

6.8 (1) dismiss the case for improper service;

6.9 (2) proceed with a trial on the allegations in the complaint; or

6.10 (3) schedule and provide notice to all parties of the date and time of a trial.

6.11 (c) When scheduling a trial, the court must consider all aspects of the case, including
6.12 the complexity of the matter; the need for parties to obtain discovery; the need for parties
6.13 to secure the presence of witnesses; the opportunity for the defendant to seek legal counsel,
6.14 apply for any emergency financial assistance that may be available, or both; and any
6.15 extenuating factors enumerated under section 504B.171.

6.16 (d) The parties shall cooperate with reasonable informal discovery requests by another
6.17 party.

6.18 ~~(b)~~ (e) Either party may demand a trial by jury.

6.19 ~~(e)~~ (f) The proceedings in the action are the same as in other civil actions, except as
6.20 provided in sections 504B.281 to 504B.371.

6.21 ~~(d) The court, in scheduling appearances and hearings under this section, shall give~~
6.22 ~~priority to any eviction brought under section 504B.171, or on the basis that the defendant~~
6.23 ~~is a tenant and is causing a nuisance or seriously endangers the safety of other residents,~~
6.24 ~~their property, or the landlord's property.~~

6.25 (g) Nothing in this section affects the rights of a landlord under section 504B.321,
6.26 subdivision 2.

6.27 (h) The court may not require the defendant to pay any amount of money into court,
6.28 post a bond, or by any other means post security for any purpose prior to final disposition
6.29 of the action, except for appeals as provided in section 504B.371.

7.1 Sec. 7. **[504B.337] ENFORCEMENT OF SETTLEMENT AGREEMENTS.**

7.2 Subdivision 1. **Notice of compliance with settlement agreement.** A party who believes
7.3 the other party has failed to comply with a court-approved settlement agreement may seek
7.4 judicial enforcement of the agreement after serving upon the other party an affidavit. A
7.5 party may file an affidavit that sets forth the specific facts constituting the alleged settlement
7.6 violation. The party must serve this affidavit on all other parties.

7.7 Subd. 2. **Adjudication.** The court may schedule a hearing on the evidence or make a
7.8 determination based on any filings and evidence submitted by the parties on the issue.

7.9 Subd. 3. **Stay of writ of recovery.** No writ of recovery shall be issued until the hearing
7.10 has been held and a judgment on the matter entered.

7.11 Sec. 8. Minnesota Statutes 2020, section 504B.345, subdivision 1, is amended to read:

7.12 Subdivision 1. **General.** (a) If the court or jury finds for the plaintiff, the court shall
7.13 immediately enter judgment that the plaintiff shall have recovery of the premises, and shall
7.14 tax the costs against the defendant. The court shall issue execution in favor of the plaintiff
7.15 for the costs and also immediately issue a writ of recovery of premises and order to vacate.

7.16 (b) The court shall give priority in issuing a writ of recovery of premises and order to
7.17 vacate for an eviction action brought under section 504B.171 or on the basis that the tenant
7.18 is causing a nuisance or seriously endangers the safety of other residents, their property, or
7.19 the landlord's property.

7.20 (c) If the court or jury finds for the defendant, the court:

7.21 (1) ~~the court~~ shall enter judgment for the defendant, tax the costs against the plaintiff,
7.22 and issue execution in favor of the defendant; ~~and~~

7.23 (2) ~~the court may~~ must expunge the records relating to the action under the provisions
7.24 of section 484.014 or under the court's inherent authority at the time judgment is entered
7.25 or after that time upon motion of the defendant; and

7.26 (3) may order relief as provided in section 504B.425, including retroactive rent abatement.

7.27 (d) Except in actions brought: (1) under section 504B.291 as required by section
7.28 609.5317, subdivision 1; (2) under section 504B.171; or (3) on the basis that the tenant is
7.29 causing a nuisance or seriously endangers the safety of other residents, their property, or
7.30 the landlord's property, ~~upon a showing by the defendant that immediate restitution of the~~
7.31 ~~premises would work a substantial hardship upon the defendant or the defendant's family,~~
7.32 the court shall stay the writ of recovery of premises and order to vacate for a ~~reasonable~~

8.1 ~~period, not to exceed seven days~~ a minimum of seven days. In establishing the period of
8.2 the stay, the court must consider extenuating circumstances or any hardships that would be
8.3 suffered by the defendant.

8.4 (e) This section applies to any writ of recovery issued at the conclusion of a trial pursuant
8.5 to section 504B.335, paragraph (a) or (b).

8.6 Sec. 9. Minnesota Statutes 2020, section 504B.345, is amended by adding a subdivision
8.7 to read:

8.8 Subd. 3. **Motion to vacate judgment.** Notwithstanding any other law to the contrary,
8.9 the defendant may bring a motion to vacate a judgment in an eviction action and may appeal
8.10 an order denying a motion to vacate a judgment to the same extent and under the same
8.11 guidelines as a party to any other civil action.

8.12 Sec. 10. Minnesota Statutes 2020, section 504B.361, subdivision 1, is amended to read:

8.13 Subdivision 1. **Summons and writ.** The state court administrator shall develop a uniform
8.14 form for the summons and writ of recovery of premises and order to vacate. The summons
8.15 shall conform to the requirements enumerated under section 504B.321, subdivision 3. The
8.16 writ of recovery of premises and order to vacate must include:

8.17 (1) the following statement: If you want to seek legal help and can't afford a lawyer, free
8.18 legal help may be available. Contact your local Legal Aid office or visit the LawHelpMN
8.19 website at www.LawHelpMn.org for information and referrals; and

8.20 (2) the following statement: To apply for financial assistance or other social services,
8.21 contact your local county or tribal social services office or call the United Way toll-free
8.22 information line by dialing 2-1-1.

8.23 Sec. 11. Minnesota Statutes 2020, section 504B.371, subdivision 4, is amended to read:

8.24 Subd. 4. **Stay pending appeal.** After the appeal is taken, all further proceedings in the
8.25 case are stayed, ~~except as provided in subdivision 7.~~

8.26 Sec. 12. Minnesota Statutes 2020, section 504B.371, subdivision 5, is amended to read:

8.27 Subd. 5. **Stay of writ issued before appeal.** ~~(a) Except as provided in subdivision 7,~~ If
8.28 the court issues a writ for recovery of premises and order to vacate before an appeal is taken,
8.29 the appealing party may request that the court stay further proceedings and execution of the
8.30 writ for possession of premises and order to vacate, and the court shall grant a stay.

9.1 (b) If the party appealing remains in possession of the premises, that party must give a
9.2 bond under subdivision 3.

9.3 (c) When the officer who has the writ for possession of premises and order to vacate is
9.4 served with the order granting the stay, the officer shall cease all further proceedings. If the
9.5 writ for possession of premises and order to vacate has not been completely executed, the
9.6 defendant shall remain in possession of the premises until the appeal is decided.

9.7 Sec. 13. Minnesota Statutes 2020, section 504B.371, subdivision 7, is amended to read:

9.8 Subd. 7. **Exception.** Subdivisions 1, 4, and 6 do not apply in an ~~action on a lease, against~~
9.9 ~~a tenant holding over after the expiration of the term of the lease, or a termination of the~~
9.10 ~~lease by a notice to quit,~~ action where the plaintiff has prevailed on a claim pursuant to
9.11 section 504B.171, subdivision 2, if the plaintiff gives a bond conditioned to pay all costs
9.12 and damages if on the appeal the judgment of restitution is reversed and a new trial ordered.
9.13 In such a case, the court shall issue a writ for recovery of premises and order to vacate
9.14 notwithstanding the notice of appeal, as if no appeal had been taken, and the appellate court
9.15 shall issue all needful writs and processes to carry out any judgment which may be rendered
9.16 in the court.

9.17 Sec. 14. **REPEALER.**

9.18 Minnesota Statutes 2020, section 504B.341, is repealed.

9.19 Sec. 15. **EFFECTIVE DATE.**

9.20 Sections 1 to 14 are effective August 1, 2021, and apply to actions filed on or after that
9.21 date.

APPENDIX
Repealed Minnesota Statutes: H1060-2

504B.341 CONTINUANCE OF TRIAL.

(a) In an eviction action, the court, in its discretion, may grant a continuance of the trial for no more than six days unless all parties consent to longer continuance.

(b) However, in all actions brought under section 504B.285, other than actions on a written lease signed by both parties, the court shall continue the trial as necessary but for no more than three months if the defendant or the defendant's agent or attorney:

(1) states under oath that the defendant cannot proceed to trial because a material witness is not present;

(2) names the witness;

(3) states under oath that the defendant has made due exertion to obtain the witness;

(4) states the belief that if the continuance is allowed the defendant will be able to procure the attendance of the witness at the trial or to obtain the witness's deposition; and

(5) gives a bond that the plaintiff will be paid all rent that accrues during the pendency of the action and all costs and damages that accrue due to the adjournment.