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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2552

03/08/2016 Authored by O'Neill, Hilstrom, Rosenthal and Slocum

The bill was read for the first time and referred to the Committee on Public Safety and Crime Prevention Policy and Finance

1.1 A bill for an act
1.2 relating to orders for protection; eliminating mandatory hearing requirement for
1.3 subsequent orders and extensions; amending Minnesota Statutes 2014, section
1.4 518B.01, subdivisions 6a, 11, 18.

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

1.6 Section 1. Minnesota Statutes 2014, section 518B.01, subdivision 6a, is amended to
1.7 read:

1.8 Subd. 6a. **Subsequent orders and extensions.** (a) Upon application, notice to
1.9 all parties, and hearing, the court may extend the relief granted in an existing order for
1.10 protection or, if a petitioner's order for protection is no longer in effect when an application
1.11 for subsequent relief is made, grant a new order. If the petitioner seeks only the relief under
1.12 subdivision 7, paragraph (a), a hearing is not required unless the court declines to order the
1.13 requested relief or the respondent requests a hearing. If a hearing is required, subdivision
1.14 5 applies to service of the application, notice to the parties, and time for the hearing.

1.15 (b) The court may extend the terms of an existing order or, if an order is no longer in
1.16 effect, grant a new order upon a showing that:

- 1.17 (1) the respondent has violated a prior or existing order for protection;
- 1.18 (2) the petitioner is reasonably in fear of physical harm from the respondent;
- 1.19 (3) the respondent has engaged in the act of stalking within the meaning of section
1.20 609.749, subdivision 2; or
- 1.21 (4) the respondent is incarcerated and about to be released, or has recently been
1.22 released from incarceration.

1.23 A petitioner does not need to show that physical harm is imminent to obtain an
1.24 extension or a subsequent order under this subdivision.

2.1 ~~(b)~~ (c) Relief granted by the order for protection may be for a period of up to 50
2.2 years, if the court finds:

2.3 (1) the respondent has violated a prior or existing order for protection on two or
2.4 more occasions; or

2.5 (2) the petitioner has had two or more orders for protection in effect against the
2.6 same respondent.

2.7 An order issued under this paragraph may restrain the abusing party from committing
2.8 acts of domestic abuse; or prohibit the abusing party from having any contact with the
2.9 petitioner, whether in person, by telephone, mail or electronic mail or messaging, through
2.10 electronic devices, through a third party, or by any other means.

2.11 Sec. 2. Minnesota Statutes 2014, section 518B.01, subdivision 11, is amended to read:

2.12 Subd. 11. **Modifying or vacating order.** (a) Upon application, notice to all parties,
2.13 and hearing, the court may modify the terms of an existing order for protection.

2.14 (b) If the court orders relief under subdivision 6a, paragraph ~~(b)~~ (c), the respondent
2.15 named in the order for protection may request to have the order vacated or modified if
2.16 the order has been in effect for at least five years and the respondent has not violated the
2.17 order during that time. Application for relief under this subdivision must be made in the
2.18 county in which the order for protection was issued. Upon receipt of the request, the
2.19 court shall set a hearing date. Personal service must be made upon the petitioner named
2.20 in the order for protection not less than 30 days before the date of the hearing. At the
2.21 hearing, the respondent named in the order for protection has the burden of proving by
2.22 a preponderance of the evidence that there has been a material change in circumstances
2.23 and that the reasons upon which the court relied in granting or extending the order for
2.24 protection no longer apply and are unlikely to occur. If the court finds that the respondent
2.25 named in the order for protection has met the burden of proof, the court may vacate or
2.26 modify the order. If the court finds that the respondent named in the order for protection
2.27 has not met the burden of proof, the court shall deny the request and no request may be
2.28 made to vacate or modify the order for protection until five years have elapsed from the
2.29 date of denial. An order vacated or modified under this paragraph must be personally
2.30 served on the petitioner named in the order for protection.

2.31 Sec. 3. Minnesota Statutes 2014, section 518B.01, subdivision 18, is amended to read:

2.32 Subd. 18. **Notices.** (a) Each order for protection granted under this chapter must
2.33 contain a conspicuous notice to the respondent or person to be restrained that:

3.1 (1) violation of an order for protection is either (i) a misdemeanor punishable by
3.2 imprisonment for up to 90 days or a fine of up to \$1,000, or both, (ii) a gross misdemeanor
3.3 punishable by imprisonment of up to one year or a fine of up to \$3,000, or both, or (iii) a
3.4 felony punishable by imprisonment of up to five years or a fine of up to \$10,000, or both;

3.5 (2) the respondent is forbidden to enter or stay at the petitioner's residence, even
3.6 if invited to do so by the petitioner or any other person; in no event is the order for
3.7 protection voided;

3.8 (3) a peace officer must arrest without warrant and take into custody a person
3.9 whom the peace officer has probable cause to believe has violated an order for protection
3.10 restraining the person or excluding the person from a residence; and

3.11 (4) pursuant to the Violence Against Women Act of 1994, United States Code, title 18,
3.12 section 2265, the order is enforceable in all 50 states, the District of Columbia, tribal lands,
3.13 and United States territories, that violation of the order may also subject the respondent to
3.14 federal charges and punishment under United States Code, title 18, sections 2261 and 2262,
3.15 and that if a final order is entered against the respondent after the hearing, the respondent
3.16 may be prohibited from possessing, transporting, or accepting a firearm under the 1994
3.17 amendment to the Gun Control Act, United States Code, title 18, section 922(g)(8).

3.18 (b) If the court grants relief under subdivision 6a, paragraph ~~(b)~~ (c), the order for
3.19 protection must also contain a conspicuous notice to the respondent or person to be
3.20 restrained that the respondent must wait five years to seek a modification of the order.