

A bill for an act

relating to public safety; providing an exception to 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 2; 629.471, subdivision 3, by adding a subdivision; 629.72, subdivisions 1, 2; 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 sections 629.715, subdivision 4, and 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 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, subdivision 2, is amended to read:

Subd. 2. **Tampering with a witness in the second degree.** (a) Whoever does any of the following is guilty of tampering with a witness in the second degree and may be sentenced as provided in subdivision 3:

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2.1 ~~(a)~~ (1) intentionally prevents or dissuades or intentionally attempts to prevent or
2.2 dissuade by means of any act described in section 609.27, subdivision 1, clause (3), (4), or
2.3 (5), a person who is or may become a witness from attending or testifying at any trial,
2.4 proceeding, or inquiry authorized by law;

2.5 ~~(b)~~ (2) by means of any act described in section 609.27, subdivision 1, clause (3),
2.6 (4), or (5), intentionally coerces or attempts to coerce a person who is or may become a
2.7 witness to testify falsely at any trial, proceeding, or inquiry authorized by law;

2.8 ~~(c)~~ (3) intentionally prevents or dissuades or attempts to prevent or dissuade by
2.9 means of any act described in section 609.27, subdivision 1, clause (3), (4), or (5), a
2.10 person from providing information to law enforcement authorities concerning a crime; or

2.11 ~~(d)~~ (4) by means of any act described in section 609.27, subdivision 1, clause (3),
2.12 (4), or (5), intentionally coerces or attempts to coerce a person to provide false information
2.13 concerning a crime to law enforcement authorities.

2.14 (b) Unless a greater penalty is applicable under subdivision 1 or 1b, whoever does
2.15 any of the following is guilty of tampering with a witness in the second degree and may be
2.16 sentenced as provided in subdivision 3:

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

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

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

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

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

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

2.32 Subd. 3. **Six times fine.** Except as provided in subdivision 3a, for offenses under
2.33 sections 518B.01, 609.224, 609.2242, and 609.377, the maximum cash bail that may be
2.34 required for a person charged with a misdemeanor or gross misdemeanor violation is six
2.35 times the highest cash fine that may be imposed for the offense.

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

3.3 Sec. 4. Minnesota Statutes 2008, section 629.471, is amended by adding a subdivision
3.4 to read:

3.5 Subd. 3a. No limit for certain domestic abuse cases. For nonfelony violations
3.6 of the offenses described in section 629.72, subdivision 1, a court through the process
3.7 described in section 629.72, subdivision 2, may set bail in any amount necessary to protect
3.8 the safety of the alleged victim, other family and household members, and the public.

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

3.11 Sec. 5. Minnesota Statutes 2008, section 629.72, subdivision 1, is amended to read:

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

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

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

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

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

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

3.22 Sec. 6. Minnesota Statutes 2008, section 629.72, subdivision 2, is amended to read:

3.23 Subd. 2. **Judicial review; release; bail.** (a) The judge before whom the arrested
3.24 person is brought shall review the facts surrounding the arrest and detention of a person
3.25 arrested for domestic abuse, harassment, violation of an order for protection, or violation
3.26 of a domestic abuse no contact order. The prosecutor or prosecutor's designee shall present
3.27 relevant information involving the victim's or the victim's family's account of the alleged
3.28 crime to the judge to be considered in determining the arrested person's release. In making
3.29 a decision concerning pretrial release conditions of a person arrested for domestic abuse,
3.30 harassment, violation of an order for protection, or violation of a domestic abuse no
3.31 contact order, the judge shall review the facts of the arrest and detention of the person and
3.32 determine whether: (1) release of the person poses a threat to the alleged victim, another

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4.1 family or household member, or public safety; or (2) there is a substantial likelihood the
4.2 person will fail to appear at subsequent proceedings. Before releasing a person arrested
4.3 for or charged with a crime of domestic abuse, harassment, violation of an order for
4.4 protection, or violation of a domestic abuse no contact order, the judge shall make findings
4.5 on the record, to the extent possible, concerning the determination made in accordance
4.6 with the factors specified in clauses (1) and (2).

4.7 (b) The judge ~~may~~ shall impose conditions of release or bail, or both, on the person
4.8 to protect the alleged victim or other family or household members or public safety and to
4.9 ensure the appearance of the person at subsequent proceedings. These conditions may
4.10 include an order:

4.11 (1) enjoining the person from threatening to commit or committing acts of domestic
4.12 abuse or harassment against the alleged victim or other family or household members or
4.13 from violating an order for protection or a domestic abuse no contact order;

4.14 (2) prohibiting the person from harassing, annoying, telephoning, contacting, or
4.15 otherwise communicating with the alleged victim, either directly or indirectly;

4.16 (3) directing the person to vacate or stay away from the home of the alleged victim
4.17 and to stay away from any other location where the alleged victim is likely to be;

4.18 (4) prohibiting the person from possessing a firearm or other weapon specified by
4.19 the court;

4.20 (5) prohibiting the person from possessing or consuming alcohol or controlled
4.21 substances; and

4.22 (6) specifying any other matter required to protect the safety of the alleged victim
4.23 and to ensure the appearance of the person at subsequent proceedings.

4.24 (c) If the court determines that no condition or conditions of release can adequately
4.25 protect the safety of the alleged victim or other family or household members or public
4.26 safety, the court shall set bail at an amount sufficient to do so.

4.27 (d) If conditions of release are imposed, the judge shall issue a written order for
4.28 conditional release. The court administrator shall immediately distribute a copy of the
4.29 order for conditional release to the agency having custody of the arrested person and shall
4.30 provide the agency having custody of the arrested person with any available information
4.31 on the location of the victim in a manner that protects the victim's safety. Either the court
4.32 or its designee or the agency having custody of the arrested person shall serve upon the
4.33 defendant a copy of the order. Failure to serve the arrested person with a copy of the order
4.34 for conditional release does not invalidate the conditions of release.

4.35 ~~(d)~~ (e) If the judge imposes as a condition of release a requirement that the person
4.36 have no contact with the alleged victim, the judge may also, on its own motion or that of

5.1 the prosecutor or on request of the victim, issue an ex parte temporary restraining order
5.2 under section 609.748, subdivision 4, ~~or~~ an ex parte temporary order for protection under
5.3 section 518B.01, subdivision 7, or a domestic abuse no contact order under section 629.75.
5.4 Notwithstanding section 518B.01, subdivision 7, paragraph (b), or 609.748, subdivision
5.5 4, paragraph (c), the temporary order is effective until the defendant is convicted or
5.6 acquitted, or the charge is dismissed, provided that upon request the defendant is entitled
5.7 to a full hearing on the restraining order under section 609.748, subdivision 5, or on
5.8 the order for protection under section 518B.01. The hearing must be held within seven
5.9 days of the defendant's request.

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

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

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

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

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

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

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

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

5.26 (c) A no contact order under this section shall be issued at the same time as any
5.27 pretrial release or sentencing issues are decided.

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

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

5.32 (c) A person is guilty of a gross misdemeanor who knowingly violates this
5.33 subdivision within ten years of a previous qualified domestic violence-related offense
5.34 conviction or adjudication of delinquency. Upon a gross misdemeanor conviction under
5.35 this paragraph, the defendant must be sentenced to a minimum of ten days' imprisonment

6.1 and must be ordered to participate in counseling or other appropriate programs selected
6.2 by the court as provided in section 518B.02. Notwithstanding section 609.135, the court
6.3 must impose and execute the minimum sentence provided in this paragraph for gross
6.4 misdemeanor convictions.

6.5 (d) A person is guilty of a felony and may be sentenced to imprisonment for not
6.6 more than five years or to payment of a fine of not more than \$10,000, or both, if the
6.7 person knowingly violates this subdivision: (1) within ten years of the first of two or
6.8 more previous qualified domestic violence-related offense convictions or adjudications
6.9 of delinquency; or (2) while possessing a dangerous weapon, as defined in section
6.10 609.02, subdivision 6. Upon a felony conviction under this paragraph in which the
6.11 court stays imposition or execution of sentence, the court shall impose at least a 30-day
6.12 period of incarceration as a condition of probation. The court also shall order that the
6.13 defendant participate in counseling or other appropriate programs selected by the court.
6.14 Notwithstanding section 609.135, the court must impose and execute the minimum
6.15 sentence provided in this paragraph for felony convictions.

6.16 Subd. 3. **Warrantless custodial arrest.** A peace officer shall arrest without a
6.17 warrant and take into custody a person whom the peace officer has probable cause to
6.18 believe has violated a domestic abuse no contact order, even if the violation of the order
6.19 did not take place in the presence of the peace officer, if the existence of the order can
6.20 be verified by the officer. The person shall be held in custody for at least 36 hours,
6.21 excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by
6.22 a judge or judicial officer. A peace officer acting in good faith and exercising due care in
6.23 making an arrest pursuant to this subdivision is immune from civil liability that might
6.24 result from the officer's actions.

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

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

6.28 The revisor of statutes shall replace references to Minnesota Statutes, section
6.29 518B.01, subdivision 22, in statutes and rules with a reference to Minnesota Statutes,
6.30 section 629.75.

6.31 Sec. 9. **REPEALER.**

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

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