

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 2912

(SENATE AUTHORS: LIMMER)

DATE
03/15/2023

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Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to judiciary; modifying appeal of deposit for possession of property;

1.3 permitting electronic service for order for protection and restraining order;

1.4 amending Minnesota Statutes 2022, sections 117.042; 518B.01, subdivision 8;

1.5 609.748, subdivision 5.

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

1.7 Section 1. Minnesota Statutes 2022, section 117.042, is amended to read:

1.8 **117.042 POSSESSION.**

1.9 Whenever the petitioner shall require title and possession of all or part of the owner's

1.10 property prior to the filing of an award by the court appointed commissioners, the petitioner

1.11 shall, at least 90 days prior to the date on which possession is to be taken, notify the owner

1.12 of the intent to possess by notice served by certified mail and before taking title and

1.13 possession shall pay to the owner or deposit with the court an amount equal to petitioner's

1.14 approved appraisal of value. Amounts deposited with the court shall be paid out under the

1.15 direction of the court. If it is deemed necessary to deposit the above amount with the court

1.16 the petitioner may apply to the court for an order transferring title and possession of the

1.17 property or properties involved from the owner to the petitioner. In all other cases, petitioner

1.18 has the right to the title and possession after the filing of the award by the court appointed

1.19 commissioners as follows:

1.20 (1) if appeal is waived by the parties upon payment of the award;

1.21 (2) if appeal is not waived by the parties upon payment or deposit of three-fourths of

1.22 the award. If the amount deposited is \$10,000 or more, it shall be deposited by the court

1.23 administrator in an interest bearing account no later than the five business day days next

following the day on which the amount was deposited with the court. All interest credited to the amount deposited from the date of deposit shall be paid to the ultimate recipient of the amount deposited.

Nothing in this section shall limit rights granted in section 117.155.

Sec. 2. Minnesota Statutes 2022, 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, or if the respondent appears remotely for a hearing and is notified at the hearing by the judicial officer that an order for protection will issue, the order may be served on the respondent electronically or by first class mail, as ordered by the court. 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. 3. Minnesota Statutes 2022, section 609.748, subdivision 5, is amended to read:

Subd. 5. **Restraining order.** (a) The court may issue a restraining order that provides any or all of the following:

(1) orders the respondent to cease or avoid the harassment of another person; or

(2) orders the respondent to have no contact with another person.

(b) The court may issue an order under paragraph (a) if all of the following occur:

(1) the petitioner has filed a petition under subdivision 3;

(2) a peace officer has served respondent with a copy of the temporary restraining order obtained under subdivision 4, and with notice of the right to request a hearing, or service has been made by publication under subdivision 3, paragraph (b); and

(3) the court finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment.

A restraining order may be issued only against the respondent named in the petition; except that if the respondent is an organization, the order may be issued against and apply to all of the members of the organization. If the court finds that the petitioner has had two or more previous restraining orders in effect against the same respondent or the respondent has violated a prior or existing restraining order on two or more occasions, relief granted by the restraining order may be for a period of up to 50 years. In all other cases, relief granted by the restraining order must be for a fixed period of not more than two years. When a referee presides at the hearing on the petition, the restraining order becomes effective upon the referee's signature.

4.1 (c) An order issued under this subdivision must be personally served upon the respondent,
4.2 or if the respondent appears remotely for a hearing and is notified at the hearing by the
4.3 judicial officer that a restraining order will issue, the order may be served on the respondent
4.4 electronically or by first class mail, as ordered by the court..

4.5 (d) If the court orders relief for a period of up to 50 years under paragraph (a), the
4.6 respondent named in the restraining order may request to have the restraining order vacated
4.7 or modified if the order has been in effect for at least five years and the respondent has not
4.8 violated the order. Application for relief under this paragraph must be made in the county
4.9 in which the restraining order was issued. Upon receipt of the request, the court shall set a
4.10 hearing date. Personal service must be made upon the petitioner named in the restraining
4.11 order not less than 30 days before the date of the hearing. At the hearing, the respondent
4.12 named in the restraining order has the burden of proving by a preponderance of the evidence
4.13 that there has been a material change in circumstances and that the reasons upon which the
4.14 court relied in granting the restraining order no longer apply and are unlikely to occur. If
4.15 the court finds that the respondent named in the restraining order has met the burden of
4.16 proof, the court may vacate or modify the order. If the court finds that the respondent named
4.17 in the restraining order has not met the burden of proof, the court shall deny the request and
4.18 no request may be made to vacate or modify the restraining order until five years have
4.19 elapsed from the date of denial. An order vacated or modified under this paragraph must
4.20 be personally served on the petitioner named in the restraining order.