

Applicability of the article on leases. Sections 336.2A-105 and 336.2A-106.

Applicability of the article on bank deposits and collections. Section 336.4-102.

Governing law in the article on funds transfers. Section 336.4A-507.

Bulk transfers subject to the article on bulk transfers. Section 336.6-102.

Applicability of the article on investment securities. Section 336.8-106.

Perfection provisions of the article on secured transactions. Section 336.9-103.

Sec. 2. **EFFECTIVE DATE.**

This act is effective January 1, 1991.

Presented to the governor April 28, 1990

Signed by the governor May 4, 1990, 10:46 p.m.

---

#### CHAPTER 583—S.F.No. 1860

*An act relating to domestic abuse; authorizing courts to exclude a respondent from the place of employment of a petitioner in an order for protection; clarifying the probable cause arrest provision for violations of orders for protection; authorizing bonds to ensure compliance with orders for protection; authorizing referrals to prosecuting authorities for violations of orders for protection; improving prosecutorial procedures in domestic abuse cases; clarifying the duties of the crime victim ombudsman; requiring the commissioner of public safety to study the feasibility and costs of a statewide computerized data base on domestic abuse; requiring a report; expanding the crime of first degree murder to include certain deaths caused by domestic abuse; imposing penalties; amending Minnesota Statutes 1988, sections 518B.01, subdivisions 6, 7, and 14; 611A.0315, subdivision 1; 611A.71, subdivision 6; 611A.74, subdivisions 1 and 3; and 611A.75; Minnesota Statutes 1989 Supplement, section 609.185; proposing coding for new law in Minnesota Statutes, chapter 611A.*

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

Section 1. Minnesota Statutes 1988, section 518B.01, subdivision 6, is amended to read:

Subd. 6. **RELIEF BY THE COURT.** (a) Upon notice and hearing, the court may provide relief as follows:

(1) restrain the abusing party from committing acts of domestic abuse;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

(3) award temporary custody or establish temporary visitation with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court's deliberation under this subdivision shall in no way delay the issuance of an order for protection granting other reliefs provided for in Laws 1985, chapter 195;

(4) on the same basis as is provided in chapter 518, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518;

(5) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;

(6) order the abusing party to participate in treatment or counseling services;

(7) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(8) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment; and

(9) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or constable, as provided by this section.

(b) Any relief granted by the order for protection shall be for a fixed period not to exceed one year, except when the court determines a longer fixed period is appropriate.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be

New language is indicated by underline, deletions by ~~strikeout~~.

waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

Sec. 2. Minnesota Statutes 1988, section 518B.01, subdivision 7, is amended to read:

Subd. 7. **TEMPORARY ORDER.** (a) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte temporary order for protection, pending a full hearing, and granting relief as the court deems proper, including an order:

- (1) restraining the abusing party from committing acts of domestic abuse;
- (2) excluding any party from the dwelling they share or from the residence of the other except by further order of the court; and
- (3) excluding the abusing party from the place of employment of the petitioner or otherwise limiting access to the petitioner by the abusing party at the petitioner's place of employment.

(b) An ex parte temporary order for protection shall be effective for a fixed period not to exceed 14 days, except for good cause as provided under paragraph (c). A full hearing, as provided by this section, shall be set for not later than seven days from the issuance of the temporary order. The respondent shall be served forthwith a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(c) When service is made by published notice, as provided under subdivision 5, the petitioner may apply for an extension of the period of the ex parte order at the same time the petitioner files the affidavit required under that subdivision. The court may extend the ex parte temporary order for an additional period not to exceed 14 days. The respondent shall be served forthwith a copy of the modified ex parte order along with a copy of the notice of the new date set for the hearing.

Sec. 3. Minnesota Statutes 1988, section 518B.01, subdivision 14, is amended to read:

Subd. 14. **VIOLATION OF AN ORDER FOR PROTECTION.** (a) Whenever an order for protection is granted pursuant to this section, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor.

(b) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an

New language is indicated by underline, deletions by ~~strikeout~~.

order granted pursuant to this section restraining the person or excluding the person from the residence, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer.

(c) A violation of an order for protection shall also constitute contempt of court and be subject to the penalties therefor.

(d) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed \$10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(e) Upon the filing of an affidavit by the petitioner or any peace officer, alleging that the respondent has violated any order for protection granted pursuant to this section, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. The court also may refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (a).

(e) (f) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by clause (b).

Sec. 4. Minnesota Statutes 1989 Supplement, section 609.185, is amended to read:

**609.185 MURDER IN THE FIRST DEGREE.**

Whoever does any of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) causes the death of a human being with premeditation and with intent to effect the death of the person or of another;

(2) causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the person or another;

(3) causes the death of a human being with intent to effect the death of the person or another, while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, tampering with a witness in the first degree, escape from custody, or any felony violation of chapter 152 involving the unlawful sale of a controlled substance;

(4) causes the death of a peace officer or a guard employed at a Minnesota state correctional facility, with intent to effect the death of that person or another, while the peace officer or guard is engaged in the performance of official duties; or

(5) causes the death of a minor under circumstances other than those described in clause (1) or (2) while committing ~~or attempting to commit~~ child abuse, when the perpetrator has engaged in a past pattern of child abuse upon the child and the death occurs under circumstances manifesting an extreme indifference to human life; or

(6) causes the death of a human being under circumstances other than those described in clause (1), (2), or (5) while committing domestic abuse, when the perpetrator has engaged in a past pattern of domestic abuse upon the victim and the death occurs under circumstances manifesting an extreme indifference to human life.

For purposes of clause (5), "child abuse" means an act committed against a minor victim that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.342, 609.343, 609.344, 609.345, 609.377, or 609.378.

For purposes of clause (6), "domestic abuse" means an act that:

(1) constitutes a violation of section 609.221, 609.222, or 609.223; and

(2) is committed against the victim who is a family or household member as defined in section 518B.01, subdivision 2, paragraph (b).

**Sec. 5. [611A.0311] DOMESTIC ABUSE PROSECUTIONS PLAN AND PROCEDURES; PILOT PROGRAM.**

Subdivision 1. DEFINITIONS. (a) "Domestic abuse" has the meaning given in section 518B.01, subdivision 2.

(b) "Domestic abuse case" means a prosecution for: (1) a crime that involves domestic abuse; (2) violation of a condition of release following an arrest for a crime that involves domestic abuse; or (3) violation of a domestic abuse order for protection.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. CONTENTS OF PLAN. The commissioner of public safety shall select five county attorneys and five city attorneys whose jurisdictions have higher than a 50 percent dismissal rate of domestic abuse cases and direct them to develop and implement a written plan to expedite and improve the efficiency and just disposition of domestic abuse cases brought to the prosecuting authority. Domestic abuse advocates and other interested members of the public must have an opportunity to assist in the development of a model plan and in the development or adaptation of the plans in each of the jurisdictions selected for the pilot program. Once a model plan is developed, the commissioner shall make it available to all city and county attorneys regardless of whether they are participating in the pilot program. All plans must state goals and contain policies and procedures to address the following matters:

(1) early assignment of a trial prosecutor who has the responsibility of handling the domestic abuse case through disposition, whenever feasible, or, where applicable, probation revocation; and early contact between the trial prosecutor and the victim;

(2) procedures to facilitate the earliest possible contact between the prosecutor's office and the victim for the purpose of acquainting the victim with the criminal justice process, the use of subpoenas, the victim's role as a witness in the prosecution, and the domestic abuse or victim services that are available;

(3) procedures to coordinate the trial prosecutor's efforts with those of the domestic abuse advocate or victim advocate, where available, and to facilitate the early provision of advocacy services to the victim;

(4) methods that will be used to identify, gather, and preserve evidence in addition to the victim's in-court testimony that will enhance the ability to prosecute a case when a victim is reluctant to assist, including but not limited to physical evidence of the victim's injury, evidence relating to the scene of the crime, eyewitness testimony, and statements of the victim made at or near the time of the injury;

(5) procedures for educating local law enforcement agencies about the contents of the plan and their role in assisting with its implementation;

(6) the use for subpoenas to victims and witnesses, where appropriate;

(7) procedures for annual review of the plan to evaluate whether it is meeting its goals effectively and whether improvements are needed; and

(8) a timetable for implementation.

Subd. 3. COPY FILED WITH DEPARTMENT OF PUBLIC SAFETY. A copy of the written plan must be filed with the commissioner of public safety on or before November 15, 1990. The city and county attorneys selected for the pilot program shall file a status report on the pilot program by January 1, 1992.

New language is indicated by underline, deletions by ~~strikeout~~.

The status report must contain information on the number of prosecutions and dismissals of domestic abuse cases in the prosecutor's office.

Sec. 6. Minnesota Statutes 1988, section 611A.0315, subdivision 1, is amended to read:

Subdivision 1. **NOTICE OF DECISION NOT TO PROSECUTE.** (a) A prosecutor shall make every reasonable effort to notify a domestic assault victim that the prosecutor has decided to decline prosecution of the case or to dismiss the criminal charges filed against the defendant. Efforts to notify the victim should include, in order of priority: (1) contacting the victim or a person designated by the victim by telephone; and (2) contacting the victim by mail. If a suspect is still in custody, the notification attempt shall be made before the suspect is released from custody.

(b) Whenever a prosecutor dismisses criminal charges against a person accused of domestic assault, a record shall be made of the specific reasons for the dismissal. If the dismissal is due to the unavailability of the witness, the prosecutor shall indicate the specific reason that the witness is unavailable.

Sec. 7. Minnesota Statutes 1988, section 611A.71, subdivision 6, is amended to read:

Subd. 6. **EXECUTIVE DIRECTOR.** The commissioner of public safety shall, with the advice of the advisory council, select and employ an executive director for the council who shall serve in the unclassified service at the pleasure of the commissioner and shall aid the council in the performance of its duties under subdivision 5 and supervise the administration of the following:

- (1) ~~the crime victim ombudsman; and~~
- (2) ~~the crime victims reparations act.~~

Sec. 8. Minnesota Statutes 1988, section 611A.74, subdivision 1, is amended to read:

Subdivision 1. **CREATION.** The office of crime victim ombudsman for Minnesota is created. The ombudsman shall be appointed by the commissioner of public safety with the advice of the advisory council, and shall serve in the unclassified service at the pleasure of the commissioner. The ombudsman is directly accountable to the ~~executive director of the crime victim and witness advisory council and, through the executive director, accountable to the commissioner of public safety.~~

Sec. 9. Minnesota Statutes 1988, section 611A.74, subdivision 3, is amended to read:

Subd. 3. **POWERS.** The crime victim ombudsman has those powers necessary to carry out the duties set out in subdivision 1, including:

New language is indicated by underline, deletions by ~~strikeout~~.

(a) The ombudsman may investigate, with or without a complaint, any action of an element of the criminal justice system or a victim assistance program included in subdivision 2.

(b) The ombudsman may request and shall be given access to information pertaining to a complaint. The ombudsman may request and shall be given access to police reports pertaining to juveniles and juvenile delinquency petitions, notwithstanding section 260.161. Any information received by the ombudsman retains its data classification under chapter 13 while in the ombudsman's possession. Juvenile records obtained under this subdivision may not be released to any person.

(c) After completing investigation of a complaint, the ombudsman shall inform in writing the complainant, the investigated person or entity, and other appropriate authorities, including the attorney general, of the action taken. If the complaint involved the conduct of an element of the criminal justice system in relation to a criminal or civil proceeding, the ombudsman's findings shall be forwarded to the court in which the proceeding occurred.

Sec. 10. Minnesota Statutes 1988, section 611A.75, is amended to read:

**611A.75 REPORT TO LEGISLATURE.**

~~The commissioner of public safety shall report to the legislature by February 1, 1987, and biennially thereafter, on the implementation and administration activities of Laws 1985, First Special Session chapter 4, sections 10 to 20 crime victim programs under chapter 611A.~~

**Sec. 11. DOMESTIC ABUSE; PLAN FOR STATEWIDE COMPUTER DATA SYSTEM.**

The commissioner of public safety, in consultation with the department of corrections advisory council on battered women and the state court administrator, shall evaluate the feasibility and costs of establishing a statewide, computerized data system containing the following information on domestic assault crimes and domestic abuse orders for protection:

(1) identifying information on individuals arrested for, charged with, or convicted of domestic assault, as defined in Minnesota Statutes, section 611A.0315, and the names and birth dates of their victims or alleged victims;

(2) prior arrests and convictions of individuals described in clause (1) for: homicide, assault, criminal sexual conduct, criminal damage to property, kidnapping, terroristic threats, trespass, obscene or harassing telephone calls, interference with privacy, harassment by means of the mail, or violations of an order for protection;

(3) pretrial release conditions applicable to individuals charged with domestic assault;

New language is indicated by underline, deletions by ~~strikeout~~.



(4) probation and supervised release conditions applicable to individuals convicted of domestic assault;

(5) identifying information on respondents who are or were subject to an order for protection issued under chapter 518B, and identifying information on the victim or alleged victim, to the extent determined to be necessary; and

(6) the terms and conditions of these orders for protection.

The evaluation must include consideration of the risk to victims of creating a data base that identifies victims. The commissioner shall report to the legislature on or before February 1, 1991, on the results of the evaluation.

Sec. 12. **EFFECTIVE DATE.**

Section 4 is effective August 1, 1990, and applies to crimes committed on or after that date.

Presented to the governor April 28, 1990

Signed by the governor May 3, 1990, 5:39 p.m.

**CHAPTER 584—S.F.No. 1001**

*An act relating to the community dispute resolution program; establishing eligibility criteria for grant recipients; appropriating money; amending Minnesota Statutes 1988, sections 494.01, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 494.*

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

Section 1. Minnesota Statutes 1988, section 494.01, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** ~~For the purposes of Laws 1984, chapter 654, article 2, sections 133 to 136 this chapter,~~ "dispute resolution" means a process voluntarily entered by parties in disagreement using mediation or arbitration to reconcile the parties' differences.

Sec. 2. Minnesota Statutes 1988, section 494.01, subdivision 2, is amended to read:

Subd. 2. **ESTABLISHMENT; ADMINISTRATION.** ~~The dispute resolution program shall be established and administered by the state court administrator's office~~ administrator shall administer the dispute resolution program.

Sec. 3. **[494.015] TRAINING AND PROGRAM CERTIFICATION GUIDELINES.**

New language is indicated by underline, deletions by ~~strikeout~~.