CHAPTER 6--S.F.No. 395

An act relating to domestic violence; enacting the Uniform Recognition and Enforcement of Canadian Orders for Protection Act; amending Minnesota Statutes 2020, section 518B.01, subdivisions 14, 19a; proposing coding for new law as Minnesota Statutes, chapter 518F.

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

ARTICLE 1

UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN ORDERS FOR PROTECTION ACT

Section 1. **[518F.01] SHORT TITLE.**

This chapter may be cited as the "Uniform Recognition and Enforcement of Canadian Orders for Protection Act."

Sec. 2. **[518F.02] DEFINITIONS.**

Subdivision 1. **Terms.** For the purposes of this chapter, the following terms have the meanings given them.

Subd. 2. **Canadian order for protection.** "Canadian order for protection" means a civil protection order, judgment or part of a judgment, or other order issued in a civil proceeding by a court of Canada under law of the issuing jurisdiction that relates to domestic abuse, would be a protective order under this chapter, and prohibits a respondent from:

(1) committing acts of domestic abuse;

(2) being in physical proximity to a protected individual or following a protected individual;

(3) having contact with the petitioner whether in person, by telephone, mail, or e-mail or messaging, through a third party, or by any other means;

(4) being within a certain distance of a specified place or location associated with a protected individual; or

(5) molesting, annoying, harassing, or engaging in threatening conduct directed at a protected individual.

Subd. 3. **Domestic abuse.** "Domestic abuse" has the meaning given in section 518B.01, subdivision 2, paragraph (a).

Subd. 4. **Issuing court.** "Issuing court" means the court that issues a Canadian order for protection.

Subd. 5. **Order for protection.** "Order for protection" means an order issued under section 518B.01.

Subd. 6. **Peace officer.** "Peace officer" has the meaning given in section 626.84, subdivision 1, paragraph (c).

Subd. 7. **Person.** "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

Subd. 8. **Protected individual.** "Protected individual" means an individual protected by a Canadian order for protection.

Subd. 9. **Record.** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Subd. 10. **Respondent.** "Respondent" means an individual against whom a Canadian order for protection is issued.

Sec. 3. **[518F.03] ENFORCEMENT OF CANADIAN ORDERS FOR PROTECTION BY PEACE OFFICER.**

(a) If a peace officer determines under paragraph (b) or (c) that there is probable cause to believe that a valid Canadian order for protection exists and that the order has been violated, the officer shall enforce the terms of the Canadian order for protection as if the terms were in an order issued by a court in this state. Presentation to a peace officer of a certified copy of a Canadian order for protection is not required for enforcement. A peace officer who has probable cause to believe that an order exists and has been violated shall make an arrest for a violation of the order in the same manner that a peace officer would make an arrest for a violation of a protective order issued within this state.

(b) Presentation to a peace officer of a record of a Canadian order for protection that identifies both a protected individual and a respondent and on its face is in effect constitutes probable cause to believe that a valid order exists.

(c) If a record of a Canadian order for protection is not presented as provided in paragraph (b), a peace officer may consider other information in determining whether there is probable cause to believe that a valid Canadian order for protection exists.

(d) If a peace officer determines that an otherwise valid Canadian order for protection cannot be enforced because the respondent has not been notified of or served with the order, the officer shall notify the protected individual that the officer will make reasonable efforts to contact the respondent, consistent with the safety of the protected individual. After notice to the protected individual and consistent with the safety of the individual, the officer shall make a reasonable effort to inform the respondent of the order, notify the respondent of the terms of the order, provide a record of the order, if available, to the respondent, and allow the respondent a reasonable opportunity to comply with the order before the officer enforces the order. The provisions of section 518B.01, subdivisions 8 and 9a, apply to service of a Canadian order for protection by a peace officer.

(e) If a peace officer determines that an individual is a protected individual, the officer shall inform the individual of available local victim services.

Sec. 4. **[518F.04] ENFORCEMENT OF CANADIAN ORDER FOR PROTECTION BY COURT.**

(a) A court may issue an order enforcing or refusing to enforce a Canadian order for protection on application of:

(1) a person authorized by law of this state other than this chapter to seek enforcement of an order for protection; or

(2) a respondent.

(b) In a proceeding under paragraph (a), the court shall follow the procedures of this state for enforcement of an order for protection. An order entered under this section is limited to the enforcement of the terms of the Canadian order for protection.

(c) A Canadian order for protection is enforceable under this section if:

(1) the order states the name of the protected individual and the individual against whom enforcement is sought;

(2) the order has not expired;

(3) the order was issued by a court or tribunal that had jurisdiction over the parties and subject matter under the law of the foreign jurisdiction; and

(4) the order was issued in accordance with the respondent's due process rights, either after the respondent was provided with reasonable notice and an opportunity to be heard before the court or tribunal that issued the order, or in the case of an ex parte order, the respondent was granted notice and an opportunity to be heard within a reasonable time after the order was issued.

(d) A Canadian order for protection on its face is prima facie evidence of its enforceability under this section.

(e) A person claiming that a Canadian order for protection is not enforceable has the burden to show, by a preponderance of the evidence, that the requirements under paragraph (c) were not met. If the court determines that the order is not enforceable, the court shall issue an order that the Canadian order for protection is not enforceable under this section and section 518F.03 and may not be registered under section 518F.05.

(f) This section applies to enforcement of a provision of a Canadian order for protection against a party to the order in which each party is a protected individual and respondent only if:

(1) the party seeking enforcement of the order filed a pleading requesting the order from the issuing court; and

(2) the court made specific findings that entitled the party to the enforcement sought.

(g) A person who violates a valid Canadian order for protection is subject to the penalties provided in section 518B.01, subdivision 14, paragraphs (b) to (d).

Sec. 5. **[518F.05] REGISTRATION OF CANADIAN ORDER FOR PROTECTION.**

(a) An individual may register a Canadian order for protection in this state under section 518B.01, subdivision 19a.

(b) Registration in this state or filing under law of this state other than this chapter of a Canadian order for protection is not required for its enforcement under this chapter.

Sec. 6. **[518F.06] IMMUNITY.**

The state, state agency, local governmental agency, peace officer, prosecuting attorney, court administrator, and state or local governmental official acting in an official capacity are immune from civil

and criminal liability for an act or omission arising out of the registration or enforcement of a Canadian order for protection or the detention or arrest of an alleged violator of a Canadian order for protection if the act or omission was a good faith effort to comply with this chapter.

Sec. 7. **[518F.07] OTHER REMEDIES.**

An individual who seeks a remedy under this chapter may seek other legal or equitable remedies.

Sec. 8. **[518F.09] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.**

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, United States Code, title 15, section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, United States Code, title 15, section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, United States Code, title 15, section 7003(b).

Sec. 9. **[518F.10] TRANSITION.**

This chapter applies to a Canadian order for protection issued before, on, or after the effective date of this chapter and to a continuing action for enforcement of a Canadian order for protection commenced before, on, or after the effective date of this chapter. A request for enforcement of a Canadian order for protection made on or after the effective date of this chapter for a violation of the order occurring before, on, or after the effective date of this chapter is governed by this chapter.

Sec. 10. **[518F.11] SEVERABILITY.**

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

ARTICLE 2

CONFORMING CHANGES

Section 1. Minnesota Statutes 2020, section 518B.01, subdivision 14, is amended to read:

Subd. 14. **Violation of an order for protection.** (a) A person who violates an order for protection issued by a judge or referee is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), whenever an order for protection is granted by a judge or referee or pursuant to a similar law of another state, the United States, the District of Columbia, tribal lands, ~~or~~ United States territories, Canada, or a Canadian province, and the respondent or person to be restrained knows of the existence of the order, violation of the order for protection is a misdemeanor. Upon a misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of three days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. If the court stays imposition or execution of the jail sentence and the defendant refuses or fails to comply with the court's treatment order, the court must impose and execute the stayed jail sentence. A violation of an order for protection shall also constitute contempt of court and be subject to the penalties provided in chapter 588.

(c) A person is guilty of a gross misdemeanor who violates this subdivision within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person violates this subdivision:

(1) within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency; or

(2) while possessing a dangerous weapon, as defined in section 609.02, subdivision 6.

Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

(e) 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 order granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal lands, ~~or~~ United States territories, Canada, or a Canadian province restraining the person or excluding the person from the residence or the petitioner's place of employment, 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. The probable cause required under this paragraph includes probable cause that the person knows of the existence of the order. If the order has not been served, the officer shall immediately serve the order whenever reasonably safe and possible to do so. An order for purposes of this subdivision, includes the short-form order described in subdivision 8a. When the order is first served upon the person at a location at which, under the terms of the order, the person's presence constitutes a violation, the person shall not be arrested for violation of the order without first being given a reasonable opportunity to leave the location in the presence of the peace officer. A person arrested under this paragraph shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(f) 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.

(g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal lands, ~~or~~ United States territories, Canada, or a Canadian province, 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, or in the county in which the alleged violation occurred, if the petitioner and respondent do not reside in this state. The court also shall refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).

(h) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 or a similar law of another state, the United States, the District of Columbia, tribal lands, ~~or~~ United States territories, Canada, or Canadian province, and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year, except when the court determines a longer fixed period is appropriate.

(i) 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 paragraph (e).

(j) When a person is convicted under paragraph (b) or (c) of violating an order for protection and the court determines that the person used a firearm in any way during commission of the violation, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(k) Except as otherwise provided in paragraph (j), when a person is convicted under paragraph (b) or (c) of violating an order for protection, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(l) Except as otherwise provided in paragraph (j), a person is not entitled to possess a pistol if the person has been convicted under paragraph (b) or (c) after August 1, 1996, of violating an order for protection, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(m) If the court determines that a person convicted under paragraph (b) or (c) of violating an order for protection owns or possesses a firearm and used it in any way during the commission of the violation, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

Sec. 2. Minnesota Statutes 2020, section 518B.01, subdivision 19a, is amended to read:

Subd. 19a. **Entry and enforcement of foreign protective orders.** (a) As used in this subdivision, "foreign protective order" means an order for protection entered by a court of another state; an order by an Indian tribe or United States territory that would be a protective order entered under this chapter; a Canadian order for protection as defined in section 518F.02; a temporary or permanent order or protective order to exclude a respondent from a dwelling; or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault if it had been entered in Minnesota.

(b) A person for whom a foreign protection order has been issued or the issuing court or tribunal may provide a certified or authenticated copy of a foreign protective order to the court administrator in any county that would have venue if the original action was being commenced in this state or in which the person in whose favor the order was entered may be present, for filing and entering of the same into the state order for protection database.

(c) The court administrator shall file and enter foreign protective orders that are not certified or authenticated, if supported by an affidavit of a person with personal knowledge, subject to the penalties for perjury. The person protected by the order may provide this affidavit.

(d) The court administrator shall provide copies of the order as required by this section.

(e) A valid foreign protective order has the same effect and shall be enforced in the same manner as an order for protection issued in this state whether or not filed with a court administrator or otherwise entered in the state order for protection database.

(f) A foreign protective order is presumed valid if it meets all of the following:

(1) the order states the name of the protected individual and the individual against whom enforcement is sought;

(2) the order has not expired;

(3) the order was issued by a court or tribunal that had jurisdiction over the parties and subject matter under the law of the foreign jurisdiction; and

(4) the order was issued in accordance with the respondent's due process rights, either after the respondent was provided with reasonable notice and an opportunity to be heard before the court or tribunal that issued the order, or in the case of an ex parte order, the respondent was granted notice and an opportunity to be heard within a reasonable time after the order was issued.

(g) Proof that a foreign protective order failed to meet all of the factors listed in paragraph (f) is an affirmative defense in any action seeking enforcement of the order.

(h) A peace officer shall treat a foreign protective order as a valid legal document and shall make an arrest for a violation of the foreign protective order in the same manner that a peace officer would make an arrest for a violation of a protective order issued within this state.

(i) The fact that a foreign protective order has not been filed with the court administrator or otherwise entered into the state order for protection database shall not be grounds to refuse to enforce the terms of the order unless it is apparent to the officer that the order is invalid on its face.

(j) A peace officer acting reasonably and in good faith in connection with the enforcement of a foreign protective order is immune from civil and criminal liability in any action arising in connection with the enforcement.

(k) Filing and service costs in connection with foreign protective orders are waived.

Presented to the governor March 22, 2021