

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 1229

(SENATE AUTHORS: LIMMER)

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OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; allowing all peace officers to serve a harassment restraining
1.3 order; creating short-form notification requirements; amending Minnesota Statutes
1.4 2016, section 609.748, subdivisions 3, 3a, 5, by adding subdivisions.

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

1.6 Section 1. Minnesota Statutes 2016, section 609.748, subdivision 3, is amended to read:

1.7 Subd. 3. **Contents of petition; hearing; notice.** (a) A petition for relief must allege
1.8 facts sufficient to show the following:

- 1.9 (1) the name of the alleged harassment victim;
- 1.10 (2) the name of the respondent; and
- 1.11 (3) that the respondent has engaged in harassment.

1.12 A petition for relief must state whether the petitioner has had a previous restraining order
1.13 in effect against the respondent. The petition shall be accompanied by an affidavit made
1.14 under oath stating the specific facts and circumstances from which relief is sought. The
1.15 court shall provide simplified forms and clerical assistance to help with the writing and
1.16 filing of a petition under this section and shall advise the petitioner of the right to sue in
1.17 forma pauperis under section 563.01. The court shall advise the petitioner of the right to
1.18 request a hearing. If the petitioner does not request a hearing, the court shall advise the
1.19 petitioner that the respondent may request a hearing and that notice of the hearing date and
1.20 time will be provided to the petitioner by mail at least five days before the hearing. Upon
1.21 receipt of the petition and a request for a hearing by the petitioner, the court shall order a
1.22 hearing. Personal service must be made upon the respondent not less than five days before
1.23 the hearing. If personal service cannot be completed in time to give the respondent the

2.1 minimum notice required under this paragraph, the court may set a new hearing date. Nothing
2.2 in this section shall be construed as requiring a hearing on a matter that has no merit.

2.3 (b) Notwithstanding paragraph (a), the order for a hearing and a temporary order issued
2.4 under subdivision 4 may be served on the respondent by means of a one-week published
2.5 notice under section 645.11, if:

2.6 (1) the petitioner files an affidavit with the court stating that an attempt at personal
2.7 service made by a ~~sheriff~~ peace officer was unsuccessful because the respondent is avoiding
2.8 service by concealment or otherwise; and

2.9 (2) a copy of the petition and order for hearing and any temporary restraining order has
2.10 been mailed to the respondent at the respondent's residence or place of business, if the
2.11 respondent is an organization, or the respondent's residence or place of business is not known
2.12 to the petitioner.

2.13 (c) Regardless of the method of service, if the respondent is a juvenile, whenever possible,
2.14 the court also shall have notice of the pendency of the case and of the time and place of the
2.15 hearing served by mail at the last known address upon any parent or guardian of the juvenile
2.16 respondent who is not the petitioner.

2.17 (d) A request for a hearing under this subdivision must be made within 20 days of service
2.18 of the petition.

2.19 Sec. 2. Minnesota Statutes 2016, section 609.748, subdivision 3a, is amended to read:

2.20 Subd. 3a. **Filing fee; cost of service.** The filing fees for a restraining order under this
2.21 section are waived for the petitioner if the petition alleges acts that would constitute a
2.22 violation of section 609.749, subdivision 2, 3, 4, or 5, or sections 609.342 to 609.3451. The
2.23 court administrator and ~~the sheriff of any county~~ any peace officer in this state shall perform
2.24 their duties relating to service of process without charge to the petitioner. The court shall
2.25 direct payment of the reasonable costs of service of process if served by a private process
2.26 server when ~~the sheriff~~ a peace officer is unavailable or if service is made by publication.
2.27 The court may direct a respondent to pay to the court administrator the petitioner's filing
2.28 fees and reasonable costs of service of process if the court determines that the respondent
2.29 has the ability to pay the petitioner's fees and costs.

2.30 Sec. 3. Minnesota Statutes 2016, section 609.748, subdivision 5, is amended to read:

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

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

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

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

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

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

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

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

3.19 (c) An order issued under this subdivision must be personally served upon the respondent.

3.20 (d) If the court orders relief for a period of up to 50 years under paragraph (a), the
3.21 respondent named in the restraining order may request to have the restraining order vacated
3.22 or modified if the order has been in effect for at least five years and the respondent has not
3.23 violated the order. Application for relief under this paragraph must be made in the county
3.24 in which the restraining order was issued. Upon receipt of the request, the court shall set a
3.25 hearing date. Personal service must be made upon the petitioner named in the restraining
3.26 order not less than 30 days before the date of the hearing. At the hearing, the respondent
3.27 named in the restraining order has the burden of proving by a preponderance of the evidence
3.28 that there has been a material change in circumstances and that the reasons upon which the
3.29 court relied in granting the restraining order no longer apply and are unlikely to occur. If
3.30 the court finds that the respondent named in the restraining order has met the burden of
3.31 proof, the court may vacate or modify the order. If the court finds that the respondent named
3.32 in the restraining order has not met the burden of proof, the court shall deny the request and
3.33 no request may be made to vacate or modify the restraining order until five years have

4.1 elapsed from the date of denial. An order vacated or modified under this paragraph must
4.2 be personally served on the petitioner named in the restraining order.

4.3 Sec. 4. Minnesota Statutes 2016, section 609.748, is amended by adding a subdivision to
4.4 read:

4.5 Subd. 5a. **Short-form notification.** (a) In lieu of personal service of a harassment
4.6 restraining order, a peace officer may serve a person with a short-form notification. The
4.7 short-form notification must include the following clauses: the respondent's name; the
4.8 respondent's date of birth, if known; the petitioner's name; the names of other protected
4.9 parties; the date and county in which the temporary restraining order or restraining order
4.10 was filed; the court file number; the hearing date and time, if known; the conditions that
4.11 apply to the respondent, either in checklist form or handwritten; and the name of the judge
4.12 who signed the order.

4.13 The short-form notification must be in bold print in the following form:

4.14 The restraining order is now enforceable. You must report to your nearest law
4.15 enforcement office or district court to obtain a copy of the restraining order. You are subject
4.16 to arrest and may be charged with a misdemeanor, gross misdemeanor, or felony if you
4.17 violate any of the terms of the restraining order or this short-form notification.

4.18 (b) Upon verification of the identity of the respondent and the existence of an unserved
4.19 order for protection against the respondent, a law enforcement officer may detain the
4.20 respondent for a reasonable time necessary to complete and serve the short-form notification.

4.21 (c) When service is made by short-form notification, it may be proved by the affidavit
4.22 of the law enforcement officer making the service.

4.23 (d) For service under this section only, service upon an individual may occur at any
4.24 time, including Sundays and legal holidays.

4.25 (e) The superintendent of the Bureau of Criminal Apprehension shall provide the short
4.26 form to law enforcement agencies.

4.27 Sec. 5. Minnesota Statutes 2016, section 609.748, is amended by adding a subdivision to
4.28 read:

4.29 Subd. 5b. **Service by others.** In addition to peace officers, corrections officers, including
4.30 but not limited to probation officers, court services officers, parole officers, and employees
4.31 of jails or correctional facilities, may serve a temporary restraining order or restraining
4.32 order.