

CHAPTER 629

EXTRADITION, DETAINERS, ARREST, BAIL

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629.291 TRANSFER OF INMATES OF CORRECTIONAL FACILITIES TO FEDERAL DISTRICT COURT FOR TRIAL FOR VIOLATIONS OF FEDERAL CRIMINAL LAWS.

Subdivision 1. Petition for transfer. The attorney general of the United States, or any of the attorney general's assistants, or the United States attorney for the district of Minnesota, or any of the United States attorney's assistants, may file a petition with the governor requesting the state of Minnesota to consent to transfer an inmate, serving a sentence in a Minnesota correctional facility for violation of a Minnesota criminal law, to the United States district court for the purpose of being tried for violation of a federal criminal law. In order for a petition to be filed under this section, the inmate must at the time of the filing of the petition be under indictment in the United States district court for Minnesota for violation of a federal criminal law. The petition must name the inmate for whom transfer is requested and the Minnesota correctional facility in which the inmate is imprisoned. The petition must be verified and have a certified copy of the federal indictment attached to it. The petitioner must agree in the petition to pay all expenses incurred by the state in transferring the inmate to the United States court for trial.

[For text of subds 2 and 3, see M.S.1992]

History: 1993 c 326 art 13 s 36

629.34 WHEN ARREST MAY BE MADE WITHOUT A WARRANT.

Subdivision 1. Peace officers and constables. (a) A peace officer, as defined in section 626.84, subdivision 1, clause (c), or a constable, as defined in section 367.40, subdivision 3, who is on or off duty within the jurisdiction of the appointing authority, or on duty outside the jurisdiction of the appointing authority pursuant to section 629.40, may arrest a person without a warrant as provided under paragraph (c).

(b) A part-time peace officer, as defined in section 626.84, subdivision 1, clause (f), who is on duty within the jurisdiction of the appointing authority, or on duty outside the jurisdiction of the appointing authority pursuant to section 629.40 may arrest a person without a warrant as provided under paragraph (c).

(c) A peace officer, constable, or part-time peace officer who is authorized under paragraph (a) or (b) to make an arrest without a warrant may do so under the following circumstances:

(1) when a public offense has been committed or attempted in the officer's or constable's presence;

(2) when the person arrested has committed a felony, although not in the officer's or constable's presence;

(3) when a felony has in fact been committed, and the officer or constable has reasonable cause for believing the person arrested to have committed it;

(4) upon a charge based upon reasonable cause of the commission of a felony by the person arrested;

(5) under the circumstances described in clause (2), (3), or (4), when the offense

is a gross misdemeanor violation of section 609.52, 609.595, 609.631, 609.749, or 609.821; or

(6) under circumstances described in clause (2), (3), or (4), when the offense is a violation of a restraining order or no contact order previously issued by a court.

(d) To make an arrest authorized under this subdivision, the officer or constable may break open an outer or inner door or window of a dwelling house if, after notice of office and purpose, the officer or constable is refused admittance.

[For text of subd 2, see M.S.1992]

History: 1993 c 326 art 2 s 28

629.341 ALLOWING PROBABLE CAUSE ARRESTS FOR DOMESTIC VIOLENCE; IMMUNITY FROM LIABILITY.

Subdivision 1. **Arrest.** Notwithstanding section 629.34 or any other law or rule, a peace officer may arrest a person anywhere without a warrant, including at the person's residence if the peace officer has probable cause to believe that the person within the preceding four hours has assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm the person's spouse, former spouse, other person with whom the person resides or has formerly resided, or other person with whom the person has a child or an unborn child in common, regardless of whether they have been married or have lived together at any time. The arrest may be made even though the assault did not take place in the presence of the peace officer.

[For text of subds 2 to 5, see M.S.1992]

History: 1993 c 326 art 2 s 29

629.342 LAW ENFORCEMENT POLICIES FOR DOMESTIC ABUSE ARRESTS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Policies required.** (a) By July 1, 1993, each law enforcement agency shall develop, adopt, and implement a written policy regarding arrest procedures for domestic abuse incidents. In the development of a policy, each law enforcement agency shall consult with domestic abuse advocates, community organizations, and other law enforcement agencies with expertise in the recognition and handling of domestic abuse incidents. The policy shall discourage dual arrests, include consideration of whether one of the parties acted in self defense, and provide guidance to officers concerning instances in which officers should remain at the scene of a domestic abuse incident until the likelihood of further imminent violence has been eliminated.

(b) The bureau of criminal apprehension, the board of peace officer standards and training, and the battered women's advisory council appointed by the commissioner of corrections under section 611A.34, in consultation with the Minnesota chiefs of police association, the Minnesota sheriffs association, and the Minnesota police and peace officers association, shall develop a written model policy regarding arrest procedures for domestic abuse incidents for use by local law enforcement agencies. Each law enforcement agency may adopt the model policy in lieu of developing its own policy under the provisions of paragraph (a).

(c) Local law enforcement agencies that have already developed a written policy regarding arrest procedures for domestic abuse incidents before July 1, 1992, are not required to develop a new policy but must review their policies and consider the written model policy developed under paragraph (b).

[For text of subds 3 and 4, see M.S.1992]

History: 1993 c 326 art 2 s 30

629.40 ALLOWING ARRESTS ANYWHERE IN STATE.

[For text of subds 1 to 4, see M.S.1992]

Subd. 5. [Repealed, 1993 c 326 art 7 s 22]

629.72 BAIL IN CASES OF DOMESTIC ASSAULT OR HARASSMENT.

Subdivision 1. Allowing detention in lieu of citation; release. Notwithstanding any other law or rule, an arresting officer may not issue a citation in lieu of arrest and detention to an individual charged with harassment or charged with assaulting the individual's spouse or other individual with whom the charged person resides.

Notwithstanding any other law or rule, an individual who is arrested on a charge of harassing any person or of assaulting the individual's spouse or other person with whom the individual resides must be brought to the police station or county jail. The officer in charge of the police station or the county sheriff in charge of the jail shall issue a citation in lieu of continued detention unless it reasonably appears to the officer or sheriff that detention is necessary to prevent bodily harm to the arrested person or another, or there is a substantial likelihood the arrested person will fail to respond to a citation.

If the arrested person is not issued a citation by the officer in charge of the police station or the county sheriff, the arrested person must be brought before the nearest available judge of the district court in the county in which the alleged harassment or assault took place without unnecessary delay as provided by court rule.

Subd. 2. Judicial review; release; bail. (a) The judge before whom the arrested person is brought shall review the facts surrounding the arrest and detention. The arrested person must be ordered released pending trial or hearing on the person's personal recognizance or on an order to appear or upon the execution of an unsecured bond in a specified amount unless the judge determines that release (1) will be inimical to public safety, (2) will create a threat of bodily harm to the arrested person, the victim of the alleged harassment or assault, or another, or (3) will not reasonably assure the appearance of the arrested person at subsequent proceedings.

(b) If the judge determines release is not advisable, the judge may impose any conditions of release that will reasonably assure the appearance of the person for subsequent proceedings, or will protect the victim of the alleged harassment or assault, or may fix the amount of money bail without other conditions upon which the arrested person may obtain release. If conditions of release are imposed, the judge shall issue a written order for conditional release. The court administrator shall immediately distribute a copy of the order for conditional release to the agency having custody of the arrested person and shall provide the agency having custody of the arrested person with any available information on the location of the victim in a manner that protects the victim's safety. Either the court or its designee or the agency having custody of the arrested person shall serve upon the defendant a copy of the order. Failure to serve the arrested person with a copy of the order for conditional release does not invalidate the conditions of release.

(c) If the judge imposes as a condition of release a requirement that the person have no contact with the victim of the alleged harassment or assault, the judge may also, on its own motion or that of the prosecutor or on request of the victim, issue an ex parte temporary restraining order under section 609.748, subdivision 4, or an ex parte temporary order for protection under section 518B.01, subdivision 7. Notwithstanding section 518B.01, subdivision 7, paragraph (b), or 609.748, subdivision 4, paragraph (c), the temporary order is effective until the defendant is convicted or acquitted, or the charge is dismissed, provided that upon request the defendant is entitled to a full hearing on the restraining order under section 609.748, subdivision 5, or on the order for protection under section 518B.01. The hearing must be held within seven days of the defendant's request.

Subd. 2a. Electronic monitoring as a condition of pretrial release. (a) Until the commissioner of corrections has adopted standards governing electronic monitoring

devices used to protect victims of domestic abuse, the court, as a condition of release, may not order a person arrested for a crime described in section 609.135, subdivision 5a, paragraph (b), to use an electronic monitoring device to protect a victim's safety.

(b) Notwithstanding paragraph (a), district courts in the tenth judicial district may order, as a condition of a release, a person arrested on a charge of a crime described in section 609.135, subdivision 5a, paragraph (b), to use an electronic monitoring device to protect the victim's safety. The courts shall make data on the use of electronic monitoring devices to protect a victim's safety in the tenth judicial district available to the commissioner of corrections to evaluate and to aid in development of standards for the use of devices to protect victims of domestic abuse.

Subd. 3. Release. If the arrested person is not issued a citation by the officer in charge of the police station or the county sheriff pursuant to subdivision 1, and is not brought before a judge within the time limits prescribed by court rule, the arrested person shall be released by the arresting authorities, and a citation must be issued in lieu of continued detention.

Subd. 4. Service of restraining order or order for protection. If a restraining order is issued under section 609.748 or an order for protection is issued under section 518B.01 while the arrested person is still in detention, the order must be served upon the arrested person during detention if possible.

Subd. 5. Violations of conditions of release. The judge who released the arrested person shall issue a warrant directing that the person be arrested and taken immediately before the judge, if the judge:

(1) receives an application alleging that the arrested person has violated the conditions of release; and

(2) finds that probable cause exists to believe that the conditions of release have been violated.

Subd. 6. Notice to victim regarding release of arrested person. (a) Immediately after issuance of a citation in lieu of continued detention under subdivision 1, or the entry of an order for release under subdivision 2, but before the arrested person is released, the agency having custody of the arrested person or its designee must make a reasonable and good faith effort to inform orally the alleged victim of:

(1) the conditions of release, if any;

(2) the time of release;

(3) the time, date, and place of the next scheduled court appearance of the arrested person and the victim's right to be present at the court appearance; and

(4) if the arrested person is charged with domestic assault, the location and telephone number of the area battered women's shelter as designated by the department of corrections.

(b) As soon as practicable after an order for conditional release is entered, the agency having custody of the arrested person or its designee must personally deliver or mail to the alleged victim a copy of the written order and written notice of the information in clauses (2) and (3).

History: 1993 c 326 art 2 s 31