

**609.2334 ORDER FOR PROTECTION AGAINST FINANCIAL EXPLOITATION OF A VULNERABLE ADULT.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Conservator" has the meaning given in section 524.5-102, subdivision 3.

(c) "Financial exploitation" has the meaning given in section 626.5572, subdivision 9.

(d) "Guardian" has the meaning given in section 524.5-102, subdivision 5.

(e) "Lead investigative agency" has the meaning given in section 626.5572, subdivision 13.

(f) "Petitioner" means any of the following:

(1) a vulnerable adult currently experiencing or in imminent danger of financial exploitation;

(2) the guardian or conservator of a vulnerable adult currently experiencing or in imminent danger of financial exploitation;

(3) a person or organization acting on behalf of the vulnerable adult with the consent of the vulnerable adult or his or her guardian or conservator;

(4) an agent under a validly executed power of attorney with the authority specifically granted in the power of attorney; or

(5) a person who simultaneously files a petition under section 524.5-409, subdivision 2, for appointment of an emergency conservator with respect to the vulnerable adult.

(g) "Vulnerable adult" has the meaning given in section 626.5572, subdivision 21.

Subd. 2. **Jurisdiction; petition.** (a) A petitioner may petition the court for an order for protection against financial exploitation of a vulnerable adult seeking injunctive relief and any other equitable remedy the court deems appropriate with the court located in the county where the petitioner, respondent, or vulnerable adult resides. There are no residency requirements that apply to a petition filed under this section. Actions under this section shall be given docket priorities by the court.

(b) A petition for relief under this section must:

(1) allege the existence of financial exploitation, or the imminent danger of financial exploitation, of the vulnerable adult;

(2) include the specific facts and circumstances for which relief is sought, including the relationship between the vulnerable adult and respondent;

(3) state whether the vulnerable adult has ever applied for or received an order for protection under this section or section 518B.01, or a restraining order under section 609.748; and

(4) state whether there are any pending actions between the vulnerable adult and the respondent.

(c) A person temporarily or permanently vacating a residence or household in an attempt to avoid financial exploitation does not affect the person's right to petition for an order under this section.

(d) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

Subd. 3. **Filing fee.** The filing fees for an order for protection against financial exploitation for a vulnerable adult under this section are waived for the petitioner and respondent.

Subd. 4. **Hearing.** Upon receipt of the petition, the court shall order a hearing which shall be held no later than 14 days from the date of the order for the hearing unless a temporary ex parte order is issued under subdivision 8. If the court issues a temporary ex parte order, the hearing must be held as provided under subdivision 8.

Subd. 5. **Service.** (a) Except as provided in paragraph (b), the petition and any order issued under this section must be served on the respondent as provided in section 518B.01, subdivisions 8, 8a, and 9a. If the petitioner is not the vulnerable adult, the petitioner must serve the vulnerable adult with a copy of the petition, notice of any hearing, and any orders issued under this section. If any assets or lines of credit are ordered to be frozen, the petitioner must serve the depository or financial institution with the order.

(b) If service on the respondent is not possible as provided in paragraph (a), the petitioner may serve the respondent through the method used to contact the vulnerable adult. The petitioner must provide to the court the reasons that service was not possible under section 518B.01, subdivision 8, 8a, or 9a.

Subd. 6. **Maltreatment report required.** Unless a report was made before a petition was filed under this section, the petitioner must file a report pursuant to section 626.557 within 24 hours of filing a petition under this section. This section does not modify or supersede mandated reporting requirements under section 626.557.

Subd. 7. **Factors.** In determining whether to award relief to the petitioner, the court may consider and evaluate all relevant factors, including any of the following:

(1) the existence of a current or previous order for protection issued under this section or section 518B.01, a current or previous harassment restraining order issued under section 609.748, or any previous or current similar order issued by another jurisdiction;

(2) any history of financial exploitation by the respondent upon the vulnerable adult identified in the petition or any other vulnerable adult;

(3) any history of the vulnerable adult's previous financial exploitation by the respondent or any other person;

(4) the capacity of the vulnerable adult to make decisions related to their finances and property;

(5) the susceptibility of the vulnerable adult to undue influence; or

(6) the respondent's criminal history.

Subd. 8. **Temporary ex parte order.** (a) The court may issue a temporary order for protection ex parte if the court finds that:

(1) there is an immediate and present danger of financial exploitation of the vulnerable adult;

(2) there is a likelihood of irreparable harm and nonavailability of an adequate remedy at law;

(3) there is a substantial likelihood of success on the merits;

- (4) the threatened injury to the vulnerable adult outweighs possible harm to the respondent; and
- (5) a temporary order protects the vulnerable adult's financial security.

(b) A denial of a petition for an ex parte order must be by written order and must note the grounds for denial. When the only ground for denial is failure to demonstrate the immediate and present danger of financial exploitation of a vulnerable adult, the court must set a full hearing on the petition for an order for protection at the earliest possible date and within 14 days of the date of the court's denial order. Nothing in this paragraph limits a petitioner's right to promptly amend a petition consistent with court rules.

(c) An ex parte temporary order may be effective for a fixed period not to exceed 14 days unless good cause is shown to extend the order. The ex parte temporary order may be extended once for up to an additional 14 days. A full hearing, as provided by this section, must be set for a date no later than the date when the ex parte temporary order expires.

Subd. 9. **Relief.** (a) The court may grant relief as provided under this section, if upon notice and hearing and consideration of all relevant factors, the court finds that:

(1) the vulnerable adult is the victim of financial exploitation or the vulnerable adult is in imminent danger of becoming a victim of financial exploitation;

(2) there is a likelihood of irreparable harm and nonavailability of an adequate remedy at law;

(3) the threatened injury to the vulnerable adult outweighs possible harm to the respondent; and

(4) an order protects the vulnerable adult's financial security.

(b) In addition to any other injunctive or equitable relief the court deems appropriate, the court may grant any or all of the following relief in either a temporary ex parte or final order issued under this section:

(1) prohibit the respondent from direct or indirect contact with the vulnerable adult;

(2) restrain the respondent from committing any acts of financial exploitation against the vulnerable adult;

(3) hold financial accounts in accordance with chapter 45A or freeze any assets of the vulnerable adult in any depository or financial institution whether titled solely in the vulnerable adult's name, solely in the respondent's name, jointly with the respondent, in conservatorship, or in a trust, provided that:

(i) assets held by a conservator for the vulnerable adult may be frozen only by an order entered by the court overseeing the conservatorship proceeding;

(ii) assets held by a trust may be frozen only by an order of the court if all the trustees of the trust are served with process and are given reasonable notice before any hearing on the petition; and

(iii) assets held solely in the name of the respondent may only be frozen on an ex parte basis if the petition and affidavit demonstrate to the court probable cause that such assets are traceable to the financial exploitation of the vulnerable adult, that such assets are likely to be returned to the vulnerable adult after a final evidentiary hearing, and that no other adequate remedy at law is reasonably available;

(4) freeze any line of credit of the vulnerable adult at any depository or financial institution whether listed solely in the vulnerable adult's name or jointly with the respondent, provided that:

(i) lines of credit held by a conservator for the vulnerable adult may be frozen only by an order entered by the court overseeing the conservatorship proceeding; and

(ii) lines of credit held by a trust may be frozen only by an order of the court if all the trustees of the trust are served with process and are given reasonable notice before any hearing on the petition;

(5) if the court has ordered an asset and credit freeze, ordering that living expenses of the vulnerable adult continue to be paid;

(6) award to the vulnerable adult the temporary exclusive use and possession of the dwelling that the vulnerable adult and the respondent share or bar the respondent from the residence of the vulnerable adult;

(7) provide necessary directives to law enforcement agencies; and

(8) provide any terms the court deems necessary for the protection of the vulnerable adult or the vulnerable adult's assets.

Subd. 10. **Modifying or vacating an order; extensions and subsequent orders.** Upon application and notice to all parties as required under this section, the court may vacate an order, modify the terms of an existing order for protection, extend relief granted in an existing order for protection, or, if an order for protection has expired, issue a new order.

Subd. 11. **Copy to law enforcement agency; lead investigative agency.** Within 24 hours of issuance of an order or continuance of an order under this section, the court administrator must forward the order for protection and any continuance of the order for protection to the local law enforcement agency with jurisdiction over the residence of the vulnerable adult and the lead investigative agency that received the report pursuant to subdivision 6. Section 518B.01, subdivision 13, applies to orders granted under this section.

Subd. 12. **Title to real property.** Nothing in this section affects title to real property.

Subd. 13. **Violation of an order for protection.** (a) A person is guilty of a misdemeanor if the person:

(1) knows of the existence of an order for protection issued under this section;

(2) is prohibited from direct or indirect contact with a vulnerable adult or restrained from committing any acts of financial exploitation against a vulnerable adult as provided in subdivision 9, paragraph (b); and

(3) violates the order by committing such conduct.

(b) A person who violates paragraph (a) within ten years of a previous conviction or adjudication of delinquency for a violation of this subdivision or section 609.2335 is guilty of a gross misdemeanor.

(c) A person who violates paragraph (a) within ten years of the first of two or more previous convictions or adjudications of delinquency for a violation of this subdivision or section 609.2335 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.

Subd. 14. **Admissibility of testimony in criminal proceeding.** Any testimony offered by a respondent in a hearing pursuant to this section is inadmissible in a criminal proceeding.

Subd. 15. **Other remedies available.** Any proceeding under this section shall be in addition to other civil or criminal remedies.

**History:** 2025 c 35 art 11 s 16