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HOUSE FILE No. 2608

*FIRST COMMITTEE ENGROSSMENT*

February 4, 2010

Authored by Hilstrom and Slocum

The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

March 1, 2010

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

March 18, 2010

By motion, re-referred to the Committee on Finance

*Referred by Chair to Public Safety Finance Division.*

March 26, 2010

*Returned to the Committee on Finance as Amended.*

1.1 A bill for an act  
 1.2 relating to public safety; recodifying and clarifying the domestic abuse no  
 1.3 contact order law; expanding the tampering with a witness crime; increasing the  
 1.4 maximum bail for nonfelony domestic assault and domestic abuse order for  
 1.5 protection violations; clarifying the requirement that the data communications  
 1.6 network include orders for protection and no contact orders; exempting certain  
 1.7 domestic abuse or sexual attack programs from data practices requirements;  
 1.8 extending area for protection to a reasonable area around residence or dwelling  
 1.9 in ex parte orders for protection; modifying crime of stalking; authorizing a  
 1.10 pilot project to allow judges to order electronic monitoring for domestic abuse  
 1.11 offenders on pretrial release; imposing criminal penalties; amending Minnesota  
 1.12 Statutes 2008, sections 13.871, by adding a subdivision; 299C.46, subdivision  
 1.13 6; 518B.01, subdivisions 6, 7; 609.498, subdivision 3, by adding a subdivision;  
 1.14 609.749; 629.471, subdivision 3, by adding a subdivision; 629.72, subdivisions  
 1.15 1, 2a; proposing coding for new law in Minnesota Statutes, chapters 13; 629;  
 1.16 repealing Minnesota Statutes 2008, section 518B.01, subdivision 22.

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

1.18 Section 1. **[13.823] DOMESTIC ABUSE OR SEXUAL ATTACK PROGRAMS.**

1.19 **Subdivision 1. Definitions.** For purposes of this section:

1.20 **(1) "domestic abuse" has the meaning given in section 518B.01, subdivision 2; and**

1.21 **(2) "sexual attack" has the meaning given in section 611A.21, subdivision 2.**

1.22 **Subd. 2. Provisions not applicable.** Except as otherwise provided in this

1.23 **subdivision, a program that provides shelter or support services to victims of domestic**

1.24 **abuse or a sexual attack and whose employees or volunteers are not under the direct**

1.25 **supervision of a government entity is not a political subdivision for purposes of this**

1.26 **chapter. Section 13.05, subdivision 11, does not apply to a contract between a government**

1.27 **entity and the program, provided that the program shall comply with sections 611A.32,**

1.28 **subdivision 5, and 611A.371, subdivision 3. Government data arising out of a contractual**

1.29 **relationship between the program and a government entity, other than programmatic**

2.1 and financial reports, contracts, and grant agreements, are private data on individuals  
2.2 or nonpublic data.

2.3 Sec. 2. Minnesota Statutes 2008, section 13.871, is amended by adding a subdivision  
2.4 to read:

2.5 Subd. 13. **Orders for protection and no contact orders.** Data contained in orders  
2.6 for protection and no contact orders are classified in section 299C.46, subdivision 6.

2.7 Sec. 3. Minnesota Statutes 2008, section 299C.46, subdivision 6, is amended to read:

2.8 Subd. 6. **Orders for protection and no contact orders.** (a) As used in this  
2.9 subdivision, "no contact orders" include orders issued as pretrial orders under section  
2.10 629.72, subdivision 2, orders under section 629.75, and orders issued as probationary or  
2.11 sentencing orders at the time of disposition in a criminal domestic abuse case.

2.12 (b) The data communications network must include orders for protection issued  
2.13 under section 518B.01 and no contact orders issued ~~under section 629.715, subdivision 4~~  
2.14 against adults and juveniles. A no contact order must be accompanied by a photograph  
2.15 of the offender for the purpose of enforcement of the order, if a photograph is available  
2.16 and verified by the court to be an image of the defendant.

2.17 (c) Data from orders for protection or no contact orders and data entered by law  
2.18 enforcement to assist in the enforcement of those orders are classified as private data on  
2.19 individuals as defined in section 13.02, subdivision 12. Data about the offender can be  
2.20 shared with the victim for purposes of enforcement of the order.

2.21 Sec. 4. Minnesota Statutes 2008, section 518B.01, subdivision 6, is amended to read:

2.22 Subd. 6. **Relief by court.** (a) Upon notice and hearing, the court may provide  
2.23 relief as follows:

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

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

2.27 (3) exclude the abusing party from a reasonable area surrounding the dwelling or  
2.28 residence, which area shall be described specifically in the order;

2.29 (4) award temporary custody or establish temporary parenting time with regard to  
2.30 minor children of the parties on a basis which gives primary consideration to the safety of  
2.31 the victim and the children. In addition to the primary safety considerations, the court  
2.32 may consider particular best interest factors that are found to be relevant to the temporary  
2.33 custody and parenting time award. Findings under section 257.025, 518.17, or 518.175

3.1 are not required with respect to the particular best interest factors not considered by the  
3.2 court. If the court finds that the safety of the victim or the children will be jeopardized by  
3.3 unsupervised or unrestricted parenting time, the court shall condition or restrict parenting  
3.4 time as to time, place, duration, or supervision, or deny parenting time entirely, as needed  
3.5 to guard the safety of the victim and the children. The court's decision on custody and  
3.6 parenting time shall in no way delay the issuance of an order for protection granting other  
3.7 relief provided for in this section. The court must not enter a parenting plan under section  
3.8 518.1705 as part of an action for an order for protection;

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

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

3.14 (7) order the abusing party to participate in treatment or counseling services,  
3.15 including requiring the abusing party to successfully complete a domestic abuse  
3.16 counseling program or educational program under section 518B.02;

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

3.22 (9) exclude the abusing party from the place of employment of the petitioner, or  
3.23 otherwise limit access to the petitioner by the abusing party at the petitioner's place of  
3.24 employment;

3.25 (10) order the abusing party to have no contact with the petitioner whether in  
3.26 person, by telephone, mail, or electronic mail or messaging, through a third party, or  
3.27 by any other means;

3.28 (11) order the abusing party to pay restitution to the petitioner;

3.29 (12) order the continuance of all currently available insurance coverage without  
3.30 change in coverage or beneficiary designation; ~~and~~

3.31 (13) order, in its discretion, other relief as it deems necessary for the protection of  
3.32 a family or household member, including orders or directives to the sheriff or other law  
3.33 enforcement or corrections officer as provided by this section;

3.34 (14) direct the care, possession, or control of a pet or companion animal owned,  
3.35 possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent;  
3.36 and

4.1 (15) direct the respondent to refrain from physically abusing or injuring any pet or  
4.2 companion animal, without legal justification, known to be owned, possessed, kept, or  
4.3 held by either party or a minor child residing in the residence or household of either party  
4.4 as an indirect means of intentionally threatening the safety of such person.

4.5 (b) Any relief granted by the order for protection shall be for a period not to exceed  
4.6 two years, except when the court determines a longer period is appropriate. When a  
4.7 referee presides at the hearing on the petition, the order granting relief becomes effective  
4.8 upon the referee's signature.

4.9 (c) An order granting the relief authorized in paragraph (a), clause (1), may not be  
4.10 vacated or modified in a proceeding for dissolution of marriage or legal separation, except  
4.11 that the court may hear a motion for modification of an order for protection concurrently  
4.12 with a proceeding for dissolution of marriage upon notice of motion and motion. The  
4.13 notice required by court rule shall not be waived. If the proceedings are consolidated  
4.14 and the motion to modify is granted, a separate order for modification of an order for  
4.15 protection shall be issued.

4.16 (d) An order granting the relief authorized in paragraph (a), clause (2) or (3), is not  
4.17 voided by the admittance of the abusing party into the dwelling from which the abusing  
4.18 party is excluded.

4.19 (e) If a proceeding for dissolution of marriage or legal separation is pending between  
4.20 the parties, the court shall provide a copy of the order for protection to the court with  
4.21 jurisdiction over the dissolution or separation proceeding for inclusion in its file.

4.22 (f) An order for restitution issued under this subdivision is enforceable as civil  
4.23 judgment.

4.24 Sec. 5. Minnesota Statutes 2008, section 518B.01, subdivision 7, is amended to read:

4.25 Subd. 7. **Ex parte order.** (a) Where an application under this section alleges an  
4.26 immediate and present danger of domestic abuse, the court may grant an ex parte order for  
4.27 protection and granting relief as the court deems proper, including an order:

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

4.29 (2) excluding any party from the dwelling they share or from the residence of the  
4.30 other, including a reasonable area surrounding the dwelling or residence, which area shall  
4.31 be described specifically in the order, except by further order of the court;

4.32 (3) excluding the abusing party from the place of employment of the petitioner or  
4.33 otherwise limiting access to the petitioner by the abusing party at the petitioner's place of  
4.34 employment;

5.1 (4) ordering the abusing party to have no contact with the petitioner whether in  
5.2 person, by telephone, mail, e-mail, through electronic devices, or through a third party; ~~and~~

5.3 (5) continuing all currently available insurance coverage without change in coverage  
5.4 or beneficiary designation;

5.5 (6) directing the care, possession, or control of a pet or companion animal owned,  
5.6 possessed, or kept by a party or a child of a party; and

5.7 (7) directing the respondent to refrain from physically abusing or injuring any pet or  
5.8 companion animal, without legal justification, known to be owned, possessed, kept, or  
5.9 held by either party or a minor child residing in the residence or household of either party  
5.10 as an indirect means of intentionally threatening the safety of such person.

5.11 (b) A finding by the court that there is a basis for issuing an ex parte order for  
5.12 protection constitutes a finding that sufficient reasons exist not to require notice under  
5.13 applicable court rules governing applications for ex parte relief.

5.14 (c) Subject to paragraph (d), an ex parte order for protection shall be effective for  
5.15 a fixed period set by the court, as provided in subdivision 6, paragraph (b), or until  
5.16 modified or vacated by the court pursuant to a hearing. When signed by a referee, the ex  
5.17 parte order becomes effective upon the referee's signature. Upon request, a hearing, as  
5.18 provided by this section, shall be set. Except as provided in paragraph (d), the respondent  
5.19 shall be personally served forthwith a copy of the ex parte order along with a copy of  
5.20 the petition and, if requested by the petitioner, notice of the date set for the hearing. If  
5.21 the petitioner does not request a hearing, an order served on a respondent under this  
5.22 subdivision must include a notice advising the respondent of the right to request a hearing,  
5.23 must be accompanied by a form that can be used by the respondent to request a hearing  
5.24 and must include a conspicuous notice that a hearing will not be held unless requested  
5.25 by the respondent within five days of service of the order.

5.26 (d) Service of the ex parte order may be made by published notice, as provided  
5.27 under subdivision 5, provided that the petitioner files the affidavit required under that  
5.28 subdivision. If personal service is not made or the affidavit is not filed within 14 days  
5.29 of issuance of the ex parte order, the order expires. If the petitioner does not request a  
5.30 hearing, the petition mailed to the respondent's residence, if known, must be accompanied  
5.31 by the form for requesting a hearing and notice described in paragraph (c). Unless  
5.32 personal service is completed, if service by published notice is not completed within 28  
5.33 days of issuance of the ex parte order, the order expires.

5.34 (e) If the petitioner seeks relief under subdivision 6 other than the relief described in  
5.35 paragraph (a), the petitioner must request a hearing to obtain the additional relief.

6.1 (f) Nothing in this subdivision affects the right of a party to seek modification of an  
6.2 order under subdivision 11.

6.3 Sec. 6. Minnesota Statutes 2008, section 609.498, is amended by adding a subdivision  
6.4 to read:

6.5 Subd. 2a. **Tampering with a witness in the third degree.** (a) Unless a greater  
6.6 penalty is applicable under subdivision 1, 1b, or 2, whoever does any of the following is  
6.7 guilty of tampering with a witness in the third degree and may be sentenced as provided in  
6.8 subdivision 3:

6.9 (1) intentionally prevents or dissuades or intentionally attempts to prevent or  
6.10 dissuade by means of intimidation, a person who is or may become a witness from  
6.11 attending or testifying at any trial, proceeding, or inquiry authorized by law;

6.12 (2) by means of intimidation, intentionally influences or attempts to influence a  
6.13 person who is or may become a witness to testify falsely at any trial, proceeding, or  
6.14 inquiry authorized by law;

6.15 (3) intentionally prevents or dissuades or attempts to prevent or dissuade by means  
6.16 of intimidation, a person from providing information to law enforcement authorities  
6.17 concerning a crime; or

6.18 (4) by means of intimidation, intentionally influences or attempts to influence a  
6.19 person to provide false information concerning a crime to law enforcement authorities.

6.20 (b) In a prosecution under this subdivision, proof of intimidation may be based on a  
6.21 specific act or on the totality of the circumstances.

6.22 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes  
6.23 committed on or after that date.

6.24 Sec. 7. Minnesota Statutes 2008, section 609.498, subdivision 3, is amended to read:

6.25 Subd. 3. **Sentence.** (a) Whoever violates subdivision 2 ~~may be sentenced to~~  
6.26 ~~imprisonment for not more than one year or to payment of a fine not to exceed \$3,000~~ is  
6.27 guilty of a gross misdemeanor.

6.28 (b) Whoever violates subdivision 2a is guilty of a misdemeanor.

6.29 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes  
6.30 committed on or after that date.

6.31 Sec. 8. Minnesota Statutes 2008, section 609.749, is amended to read:

6.32 **609.749 HARASSMENT; STALKING; PENALTIES.**

7.1 Subdivision 1. **Definition.** As used in this section, "~~harass~~" "stalking" means  
7.2 to engage in ~~intentional~~ conduct which: ~~(1)~~ the actor knows or has reason to know  
7.3 would cause the victim under the circumstances to feel frightened, threatened, oppressed,  
7.4 persecuted, or intimidated; ~~2~~ and ~~(2)~~ causes this reaction on the part of the victim regardless  
7.5 of the relationship between the actor and victim.

7.6 Subd. 1a. **No proof of specific intent required.** In a prosecution under this section,  
7.7 the state is not required to prove that the actor intended to cause the victim to feel  
7.8 frightened, threatened, oppressed, persecuted, or intimidated, or except as otherwise  
7.9 provided in subdivision 3, paragraph (a), clause (4), or paragraph (b), that the actor  
7.10 intended to cause any other result.

7.11 Subd. 1b. **Venue.** (a) When acts constituting a violation of this section are  
7.12 committed in two or more counties, the accused may be prosecuted in any county in which  
7.13 one of the acts was committed for all acts in violation of this section.

7.14 (b) The conduct described in subdivision 2, clause (4), (5), or (7), may be prosecuted  
7.15 at the place where any call is made or received or, in the case of wireless or electronic  
7.16 communication or any communication made through any available technologies, where the  
7.17 actor or victim resides or in the jurisdiction of the victim's designated address if the victim  
7.18 participates in the address confidentiality program established by chapter 5B. The conduct  
7.19 described in subdivision 2, clause (2), may be prosecuted where the actor or victim resides.  
7.20 The conduct described in subdivision 2, clause (6), may be prosecuted where any letter,  
7.21 telegram, message, package, or other object is sent or received or, in the case of wireless or  
7.22 electronic communication or communication made through other available technologies,  
7.23 where the actor or victim resides or in the jurisdiction of the victim's designated address if  
7.24 the victim participates in the address confidentiality program established by chapter 5B.

7.25 Subd. 1c. **Arrest.** For all violations under this section, except a violation of  
7.26 subdivision 2, clause (7), a peace officer may make an arrest under the provisions of  
7.27 section 629.34. A peace officer may not make a warrantless, custodial arrest of any person  
7.28 for a violation of subdivision 2, clause (7).

7.29 Subd. 2. **Harassment and Stalking crimes.** ~~(a)~~ A person who ~~harasses~~ stalks  
7.30 another by committing any of the following acts is guilty of a gross misdemeanor:

7.31 (1) directly or indirectly, or through third parties, manifests a purpose or intent to  
7.32 injure the person, property, or rights of another by the commission of an unlawful act;

7.33 (2) ~~stalks~~, follows, monitors, or pursues another, whether in person or through  
7.34 any available technological or other means;

7.35 (3) returns to the property of another if the actor is without claim of right to the  
7.36 property or consent of one with authority to consent;

8.1 (4) repeatedly makes telephone calls, sends text messages, or induces a victim to  
8.2 make telephone calls to the actor, whether or not conversation ensues;

8.3 (5) makes or causes the telephone of another repeatedly or continuously to ring;

8.4 (6) repeatedly mails or delivers or causes the delivery by any means, including  
8.5 electronically, of letters, telegrams, messages, packages, through assistive devices for  
8.6 the visually or hearing impaired, or any communication made through any available  
8.7 technologies or other objects; or

8.8 (7) knowingly makes false allegations against a peace officer concerning the  
8.9 officer's performance of official duties with intent to influence or tamper with the officer's  
8.10 performance of official duties.

8.11 ~~(b) The conduct described in paragraph (a), clauses (4) and (5), may be prosecuted at~~  
8.12 ~~the place where any call is either made or received or, additionally in the case of wireless~~  
8.13 ~~or electronic communication, where the actor or victim resides. The conduct described~~  
8.14 ~~in paragraph (a), clause (2), may be prosecuted where the actor or victim resides. The~~  
8.15 ~~conduct described in paragraph (a), clause (6), may be prosecuted where any letter,~~  
8.16 ~~telegram, message, package, or other object is either sent or received or, additionally in~~  
8.17 ~~the case of wireless or electronic communication, where the actor or victim resides.~~

8.18 ~~(c) A peace officer may not make a warrantless, custodial arrest of any person for a~~  
8.19 ~~violation of paragraph (a), clause (7).~~

8.20 Subd. 3. **Aggravated violations.** (a) A person who commits any of the following  
8.21 acts is guilty of a felony and may be sentenced to imprisonment for not more than five  
8.22 years or to payment of a fine of not more than \$10,000, or both:

8.23 (1) commits any offense described in subdivision 2 because of the victim's or  
8.24 another's actual or perceived race, color, religion, sex, sexual orientation, disability as  
8.25 defined in section 363A.03, age, or national origin;

8.26 (2) commits any offense described in subdivision 2 by falsely impersonating another;

8.27 (3) commits any offense described in subdivision 2 and possesses a dangerous  
8.28 weapon at the time of the offense;

8.29 (4) ~~harasses~~ stalks another, as defined in subdivision 1, with intent to influence or  
8.30 otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a  
8.31 judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer  
8.32 of the court, because of that person's performance of official duties in connection with  
8.33 a judicial proceeding; or

8.34 (5) commits any offense described in subdivision 2 against a victim under the age of  
8.35 18, if the actor is more than 36 months older than the victim.



9.1 (b) A person who commits any offense described in subdivision 2 against a victim  
 9.2 under the age of 18, if the actor is more than 36 months older than the victim, and the act  
 9.3 is committed with sexual or aggressive intent, is guilty of a felony and may be sentenced  
 9.4 to imprisonment for not more than ten years or to payment of a fine of not more than  
 9.5 \$20,000, or both.

9.6 Subd. 4. **Second or subsequent violations; felony.** (a) A person is guilty of a  
 9.7 felony who violates any provision of subdivision 2 within ten years of a previous qualified  
 9.8 domestic violence-related offense conviction or adjudication of delinquency, and may  
 9.9 be sentenced to imprisonment for not more than five years or to payment of a fine of  
 9.10 not more than \$10,000, or both.

9.11 (b) A person is guilty of a felony who violates any provision of subdivision 2 within  
 9.12 ten years of the first of two or more previous qualified domestic violence-related offense  
 9.13 convictions or adjudications of delinquency, and may be sentenced to imprisonment for  
 9.14 not more than ten years or to payment of a fine of not more than \$20,000, or both.

9.15 Subd. 5. **Pattern of harassing stalking conduct.** (a) A person who engages in  
 9.16 a pattern of ~~harassing~~ stalking conduct with respect to a single victim or one or more  
 9.17 members of a single household which the actor knows or has reason to know would  
 9.18 cause the victim under the circumstances to feel terrorized or to fear bodily harm and  
 9.19 which does cause this reaction on the part of the victim, is guilty of a felony and may  
 9.20 be sentenced to imprisonment for not more than ten years or to payment of a fine of  
 9.21 not more than \$20,000, or both.

9.22 (b) For purposes of this subdivision, a "pattern of ~~harassing~~ stalking conduct" means  
 9.23 two or more acts within a five-year period that violate or attempt to violate the provisions  
 9.24 of any of the following or a similar law of another state, the United States, the District of  
 9.25 Columbia, ~~tribal lands~~ tribe, or United States territories:

9.26 (1) this section;

9.27 (2) sections 609.185 to 609.205;

9.28 ~~(2)~~ (3) section 609.713;

9.29 ~~(3)~~ (4) section 609.224;

9.30 ~~(4)~~ (5) section 609.2242;

9.31 ~~(5)~~ (6) section 518B.01, subdivision 14;

9.32 ~~(6)~~ (7) section 609.748, subdivision 6;

9.33 ~~(7)~~ (8) section 609.605, subdivision 1, paragraph (b), clauses (3), (4), and (7);

9.34 (9) section 609.78, subdivision 2;

9.35 ~~(8)~~ (10) section 609.79;

9.36 ~~(9)~~ (11) section 609.795;

10.1 ~~(10)~~ (12) section 609.582;

10.2 ~~(11)~~ (13) section 609.595;

10.3 ~~(12)~~ (14) section 609.765; ~~or~~

10.4 ~~(13)~~ (15) sections 609.342 to 609.3451; or

10.5 (16) section 629.75, subdivision 2.

10.6 ~~(c) When acts constituting a violation of this subdivision are committed in two or~~  
 10.7 ~~more counties, the accused may be prosecuted in any county in which one of the acts was~~  
 10.8 ~~committed for all acts constituting the pattern.~~

10.9 Subd. 6. **Mental health assessment and treatment.** (a) When a person is convicted  
 10.10 of a felony offense under this section, or another felony offense arising out of a charge  
 10.11 based on this section, the court shall order an independent professional mental health  
 10.12 assessment of the offender's need for mental health treatment. The court may waive the  
 10.13 assessment if an adequate assessment was conducted prior to the conviction.

10.14 (b) Notwithstanding sections 13.384, 13.85, 144.291 to 144.298, 260B.171, or  
 10.15 260C.171, the assessor has access to the following private or confidential data on the  
 10.16 person if access is relevant and necessary for the assessment:

10.17 (1) medical data under section 13.384;

10.18 (2) welfare data under section 13.46;

10.19 (3) corrections and detention data under section 13.85;

10.20 (4) health records under sections 144.291 to 144.298; and

10.21 (5) juvenile court records under sections 260B.171 and 260C.171.

10.22 Data disclosed under this section may be used only for purposes of the assessment and  
 10.23 may not be further disclosed to any other person, except as authorized by law.

10.24 (c) If the assessment indicates that the offender is in need of and amenable to mental  
 10.25 health treatment, the court shall include in the sentence a requirement that the offender  
 10.26 undergo treatment.

10.27 (d) The court shall order the offender to pay the costs of assessment under this  
 10.28 subdivision unless the offender is indigent under section 563.01.

10.29 Subd. 7. **Exception.** Conduct is not a crime under this section if it is performed  
 10.30 under terms of a valid license, to ensure compliance with a court order, or to carry out  
 10.31 a specific lawful commercial purpose or employment duty, is authorized or required  
 10.32 by a valid contract, or is authorized, required, or protected by state ~~or, federal, or tribal~~  
 10.33 law or the state or, federal, or tribal constitutions. Subdivision 2, clause (2), does not  
 10.34 impair the right of any individual or group to engage in speech protected by the federal  
 10.35 ~~Constitution, state, or tribal constitutions, the state Constitution, or federal or, state, or~~  
 10.36 tribal law, including peaceful and lawful handbilling and picketing.

11.1 Subd. 8. **Stalking; firearms.** (a) When a person is convicted of a ~~harassment or~~  
11.2 stalking crime under this section and the court determines that the person used a firearm in  
11.3 any way during commission of the crime, the court may order that the person is prohibited  
11.4 from possessing any type of firearm for any period longer than three years or for the  
11.5 remainder of the person's life. A person who violates this paragraph is guilty of a gross  
11.6 misdemeanor. At the time of the conviction, the court shall inform the defendant whether  
11.7 and for how long the defendant is prohibited from possessing a firearm and that it is  
11.8 a gross misdemeanor to violate this paragraph. The failure of the court to provide this  
11.9 information to a defendant does not affect the applicability of the firearm possession  
11.10 prohibition or the gross misdemeanor penalty to that defendant.

11.11 (b) Except as otherwise provided in paragraph (a), when a person is convicted of  
11.12 a stalking ~~or harassment~~ crime under this section, the court shall inform the defendant  
11.13 that the defendant is prohibited from possessing a pistol for three years from the date of  
11.14 conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure  
11.15 of the court to provide this information to a defendant does not affect the applicability of  
11.16 the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

11.17 (c) Except as otherwise provided in paragraph (a), a person is not entitled to possess  
11.18 a pistol if the person has been convicted after August 1, 1996, of a stalking ~~or harassment~~  
11.19 crime under this section, unless three years have elapsed from the date of conviction and,  
11.20 during that time, the person has not been convicted of any other violation of this section.  
11.21 Property rights may not be abated but access may be restricted by the courts. A person  
11.22 who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

11.23 (d) If the court determines that a person convicted of a stalking ~~or harassment~~  
11.24 crime under this section owns or possesses a firearm and used it in any way during the  
11.25 commission of the crime, it shall order that the firearm be summarily forfeited under  
11.26 section 609.5316, subdivision 3.

11.27 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes  
11.28 committed on or after that date.

11.29 Sec. 9. Minnesota Statutes 2008, section 629.471, subdivision 3, is amended to read:

11.30 Subd. 3. **Six times fine.** For offenses under sections ~~518B.01, 609.224, 609.2242,~~  
11.31 and 609.377, the maximum cash bail that may be required for a person charged with a  
11.32 misdemeanor or gross misdemeanor violation is six times the highest cash fine that may be  
11.33 imposed for the offense.

12.1 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes  
12.2 committed on or after that date.

12.3 Sec. 10. Minnesota Statutes 2008, section 629.471, is amended by adding a subdivision  
12.4 to read:

12.5 Subd. 3a. **Ten times fine.** For offenses under sections 518B.01, 609.2242, and  
12.6 629.75, the maximum cash bail that may be required for a person charged with a  
12.7 misdemeanor or gross misdemeanor violation is ten times the highest cash fine that may  
12.8 be imposed for the offense.

12.9 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes  
12.10 committed on or after that date.

12.11 Sec. 11. Minnesota Statutes 2008, section 629.72, subdivision 1, is amended to read:

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

12.14 (b) "Domestic abuse" has the meaning given in section 518B.01, subdivision 2.

12.15 (c) "Harassment" has the meaning given in section 609.749.

12.16 (d) "Violation of a domestic abuse no contact order" has the meaning given in  
12.17 section ~~518B.01, subdivision 22~~ 629.75.

12.18 (e) "Violation of an order for protection" has the meaning given in section 518B.01,  
12.19 subdivision 14.

12.20 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes  
12.21 committed on or after that date.

12.22 Sec. 12. Minnesota Statutes 2008, section 629.72, subdivision 2a, is amended to read:

12.23 Subd. 2a. **Electronic monitoring; condition of pretrial release.** (a) Until the  
12.24 commissioner of corrections has adopted standards governing electronic monitoring  
12.25 devices used to protect victims of domestic abuse, the court, as a condition of release, may  
12.26 not order a person arrested for a crime described in section 609.135, subdivision 5a,  
12.27 paragraph (b), to use an electronic monitoring device to protect a victim's safety.

12.28 (b) A judicial district may convene an advisory group consisting of representatives  
12.29 from law enforcement, probation, prosecutors, defense attorneys, court administrators,  
12.30 judges, and battered women's organizations to develop standards for the use of electronic  
12.31 monitoring and global positioning system devices to protect victims of domestic abuse  
12.32 and for evaluating the effectiveness of electronic monitoring. The advisory group shall

13.1 report the standards to the chief judge of the district and to the chairs and ranking minority  
13.2 members of the house of representatives and senate committees with jurisdiction over  
13.3 criminal justice policy and finance.

13.4 (c) After receiving a report under paragraph (b), the chief judge of a judicial district  
13.5 may conduct a pilot project in the judicial district or a county within the judicial district  
13.6 for implementation of the electronic monitoring standards. Notwithstanding paragraph  
13.7 (a), district courts in the Tenth Judicial District a judge, in the judicial district or county  
13.8 conducting the pilot project, may order, as a condition of a release, a person arrested on  
13.9 a charge of a crime described in section 609.135, subdivision 5a, paragraph (b), to use  
13.10 an electronic monitoring device to protect the victim's safety. ~~The courts shall make~~  
13.11 ~~data on the use of electronic monitoring devices to protect a victim's safety in the Tenth~~  
13.12 ~~Judicial District available to the commissioner of corrections to evaluate and to aid in~~  
13.13 ~~development of standards for the use of devices to protect victims of domestic abuse. If a~~  
13.14 pilot project is conducted, the chief judge shall convene an advisory group consisting of  
13.15 representatives from law enforcement, probation, prosecutors, defense attorneys, court  
13.16 administrators, judges, and battered women's organizations to evaluate the pilot project.  
13.17 The advisory group shall report information regarding the pilot project to the state court  
13.18 administrator, as directed by that office, and to the chairs and ranking minority members  
13.19 of the house of representatives and senate committees with jurisdiction over criminal  
13.20 justice policy and finance.

13.21 **SUNSET.** The amendments to this section expire on January 15, 2013.

13.22 **Sec. 13. [629.75] DOMESTIC ABUSE NO CONTACT ORDER.**

13.23 **Subdivision 1. Establishment; description.** (a) A domestic abuse no contact order  
13.24 is an order issued by a court against a defendant in a criminal proceeding or a juvenile  
13.25 offender in a delinquency proceeding for:

13.26 (1) domestic abuse as defined in section 518B.01, subdivision 2;

13.27 (2) harassment or stalking under section 609.749 when committed against a family  
13.28 or household member as defined in section 518B.01, subdivision 2;

13.29 (3) violation of an order for protection under section 518B.01, subdivision 14; or

13.30 (4) violation of a prior domestic abuse no contact order under this subdivision or  
13.31 section 518B.01, subdivision 22.

13.32 (b) A domestic abuse no contact order may be issued as a pretrial order before final  
13.33 disposition of the underlying criminal case or as a postconviction probationary order. A  
13.34 domestic abuse no contact order is independent of any condition of pretrial release or  
13.35 probation imposed on the defendant. A domestic abuse no contact order may be issued in

14.1 addition to a similar restriction imposed as a condition of pretrial release or probation. In  
14.2 the context of a postconviction probationary order, a domestic abuse no contact order may  
14.3 be issued for an offense listed in paragraph (a) or for a conviction for any offense arising  
14.4 out of the same set of circumstances as an offense listed in paragraph (a).

14.5 (c) A no contact order under this section shall be issued in a proceeding that is  
14.6 separate from but held immediately following a proceeding in which any pretrial release  
14.7 or sentencing issues are decided.

14.8 Subd. 2. **Criminal penalties.** (a) As used in this subdivision "qualified domestic  
14.9 violence-related offense" has the meaning given in section 609.02, subdivision 16.

14.10 (b) A person who knows of the existence of a domestic abuse no contact order issued  
14.11 against the person and violates the order is guilty of a misdemeanor.

14.12 (c) A person is guilty of a gross misdemeanor who knowingly violates this  
14.13 subdivision within ten years of a previous qualified domestic violence-related offense  
14.14 conviction or adjudication of delinquency. Upon a gross misdemeanor conviction under  
14.15 this paragraph, the defendant must be sentenced to a minimum of ten days' imprisonment  
14.16 and must be ordered to participate in counseling or other appropriate programs selected  
14.17 by the court as provided in section 518B.02. Notwithstanding section 609.135, the court  
14.18 must impose and execute the minimum sentence provided in this paragraph for gross  
14.19 misdemeanor convictions.

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

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

14.25 (2) while possessing a dangerous weapon, as defined in section 609.02, subdivision  
14.26 6. Upon a felony conviction under this paragraph in which the court stays imposition or  
14.27 execution of sentence, the court shall impose at least a 30-day period of incarceration  
14.28 as a condition of probation. The court also shall order that the defendant participate in  
14.29 counseling or other appropriate programs selected by the court. Notwithstanding section  
14.30 609.135, the court must impose and execute the minimum sentence provided in this  
14.31 paragraph for felony convictions.

14.32 Subd. 3. **Warrantless custodial arrest.** A peace officer shall arrest without a  
14.33 warrant and take into custody a person whom the peace officer has probable cause to  
14.34 believe has violated a domestic abuse no contact order, even if the violation of the order  
14.35 did not take place in the presence of the peace officer, if the existence of the order can  
14.36 be verified by the officer. The person shall be held in custody for at least 36 hours,

15.1 excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by  
15.2 a judge or judicial officer. A peace officer acting in good faith and exercising due care in  
15.3 making an arrest pursuant to this subdivision is immune from civil liability that might  
15.4 result from the officer's actions.

15.5 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes  
15.6 committed on or after that date.

15.7 Sec. 14. **REVISOR'S INSTRUCTION.**

15.8 (a) The revisor of statutes shall make any cross-reference changes, language  
15.9 changes, or both, to Minnesota Statutes made necessary by section 8.

15.10 (b) The revisor of statutes shall replace references to Minnesota Statutes, section  
15.11 518B.01, subdivision 22, in statutes and rules with a reference to Minnesota Statutes,  
15.12 section 629.75.

15.13 Sec. 15. **REPEALER.**

15.14 Minnesota Statutes 2008, section 518B.01, subdivision 22, is repealed.

15.15 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes  
15.16 committed on or after that date.