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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 1245

March 2, 2009

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

March 23, 2009

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to public safety; amending provisions relating to domestic abuse;
1.3 expanding definition of family or household member; providing for statewide
1.4 application and expanded use of domestic abuse no contact orders; amending
1.5 Minnesota Statutes 2008, section 518B.01, subdivisions 2, 20, 22.

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

1.7 Section 1. Minnesota Statutes 2008, section 518B.01, subdivision 2, is amended to read:

1.8 Subd. 2. Definitions. As used in this section, the following terms shall have the
1.9 meanings given them:

1.10 (a) "Domestic abuse" means the following, if committed against a family or
1.11 household member by a family or household member:

1.12 (1) physical harm, bodily injury, or assault;

1.13 (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or

1.14 (3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal
1.15 sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or
1.16 609.3451; or interference with an emergency call within the meaning of section 609.78,
1.17 subdivision 2.

1.18 (b) "Family or household members" means:

1.19 (1) spouses and former spouses;

1.20 (2) parents and children;

1.21 (3) persons related by blood;

1.22 (4) persons who are presently residing together or who have resided together in
1.23 the past;

1.24 (5) persons who have a child in common regardless of whether they have been
1.25 married or have lived together at any time;

2.1 (6) a man and woman if the woman is pregnant and the man is alleged to be the
 2.2 father, regardless of whether they have been married or have lived together at any time; and

2.3 (7) persons who are involved in a significant romantic or sexual relationship or who
 2.4 have been involved in a significant romantic or sexual relationship in the past.

2.5 Issuance of an order for protection on the ground in clause (6) does not affect a
 2.6 determination of paternity under sections 257.51 to 257.74. In determining whether
 2.7 persons are or have been involved in a significant romantic or sexual relationship
 2.8 under clause (7), the court shall consider the length of time of the relationship; type of
 2.9 relationship; frequency of interaction between the parties; and, if the relationship has
 2.10 terminated, length of time since the termination.

2.11 (c) "Qualified domestic violence-related offense" has the meaning given in section
 2.12 609.02, subdivision 16.

2.13 **EFFECTIVE DATE.** This section is effective July 1, 2009.

2.14 Sec. 2. Minnesota Statutes 2008, section 518B.01, subdivision 20, is amended to read:

2.15 Subd. 20. **Statewide application.** An order for protection or domestic abuse no
 2.16 contact order granted under this section applies throughout this state.

2.17 **EFFECTIVE DATE.** This section is effective July 1, 2009.

2.18 Sec. 3. Minnesota Statutes 2008, section 518B.01, subdivision 22, is amended to read:

2.19 Subd. 22. **Domestic abuse no contact order.** (a) A domestic abuse no contact order
 2.20 is an order issued by a court against a defendant in a criminal proceeding or a juvenile
 2.21 offender in a juvenile delinquency proceeding for:

2.22 (1) domestic abuse;

2.23 (2) harassment or stalking charged under section 609.749 and committed against
 2.24 a family or household member;

2.25 (3) violation of an order for protection charged under subdivision 14; or

2.26 (4) violation of a prior domestic abuse no contact order charged under this
 2.27 subdivision.

2.28 It includes pretrial orders before final disposition of the case and probationary orders after
 2.29 sentencing. For probationary orders issued after sentencing, this includes a conviction for
 2.30 any offense arising out of the same circumstances surrounding an arrest for an offense
 2.31 described under this paragraph.

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

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

3.9 (d) A person is guilty of a felony and may be sentenced to imprisonment for not
3.10 more than five years or to payment of a fine of not more than \$10,000, or both, if the
3.11 person knowingly violates this subdivision: (1) within ten years of the first of two or
3.12 more previous qualified domestic violence-related offense convictions or adjudications
3.13 of delinquency; or (2) while possessing a dangerous weapon, as defined in section
3.14 609.02, subdivision 6. Upon a felony conviction under this paragraph in which the
3.15 court stays imposition or execution of sentence, the court shall impose at least a 30-day
3.16 period of incarceration as a condition of probation. The court also shall order that the
3.17 defendant participate in counseling or other appropriate programs selected by the court.
3.18 Notwithstanding section 609.135, the court must impose and execute the minimum
3.19 sentence provided in this paragraph for felony convictions.

3.20 (e) A peace officer shall arrest without a warrant and take into custody a person
3.21 whom the peace officer has probable cause to believe has violated a domestic abuse no
3.22 contact order, even if the violation of the order did not take place in the presence of the
3.23 peace officer, if the existence of the order can be verified by the officer. The person shall
3.24 be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays,
3.25 unless the person is released earlier by a judge or judicial officer. A peace officer acting
3.26 in good faith and exercising due care in making an arrest pursuant to this paragraph is
3.27 immune from civil liability that might result from the officer's actions.

3.28 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes
3.29 committed on or after that date.