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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **2608**

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

1.1 A bill for an act
1.2 relating to public safety; extending area for protection to a reasonable area around
1.3 residence or dwelling in ex parte orders for protection; amending Minnesota
1.4 Statutes 2008, section 518B.01, subdivision 7.

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

1.6 Section 1. Minnesota Statutes 2008, section 518B.01, subdivision 7, is amended to read:

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

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

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

1.14 (3) excluding the abusing party from the place of employment of the petitioner or
1.15 otherwise limiting access to the petitioner by the abusing party at the petitioner's place of
1.16 employment;

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

1.19 (5) continuing all currently available insurance coverage without change in coverage
1.20 or beneficiary designation.

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

2.1 (c) Subject to paragraph (d), an ex parte order for protection shall be effective for
2.2 a fixed period set by the court, as provided in subdivision 6, paragraph (b), or until
2.3 modified or vacated by the court pursuant to a hearing. When signed by a referee, the ex
2.4 parte order becomes effective upon the referee's signature. Upon request, a hearing, as
2.5 provided by this section, shall be set. Except as provided in paragraph (d), the respondent
2.6 shall be personally served forthwith a copy of the ex parte order along with a copy of
2.7 the petition and, if requested by the petitioner, notice of the date set for the hearing. If
2.8 the petitioner does not request a hearing, an order served on a respondent under this
2.9 subdivision must include a notice advising the respondent of the right to request a hearing,
2.10 must be accompanied by a form that can be used by the respondent to request a hearing
2.11 and must include a conspicuous notice that a hearing will not be held unless requested
2.12 by the respondent within five days of service of the order.

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

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

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