

# HOUSE RESEARCH

## Bill Summary

**FILE NUMBER:** H.F. 2608  
**Version:** First committee engrossment

**DATE:** March 29, 2010

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**Subject:** Domestic violence

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### Overview

This bill makes various changes to domestic abuse provisions, including: recodifying and clarifying the domestic abuse no contact order law; increasing the maximum bail for nonfelony domestic abuse offenses; expanding the tampering with a witness crime; clarifying the requirement that the data communications network include orders for protection (OFPs) and no contact orders; exempting certain domestic abuse or sexual attack programs from data practices requirements; extending the area for protection to a reasonable area surrounding the residence or dwelling of a person seeking an ex parte OFP; permitting a court to order relief in an OFP relating to pets or companion animals; modifying the crime of stalking; and authorizing a pilot project to allow a judicial district to order electronic monitoring to protect domestic abuse victims.

### Section

**1 Domestic abuse or sexual attack programs.** Exempts domestic abuse or sexual attack programs from certain Data Practices Act requirements. [H.F. 3361]

**Subd. 1. Definitions.** Defines "domestic abuse" and "sexual attack."

**Subd. 2. Provisions not applicable.** Specifies that a program that provides shelter or support services to victims of domestic abuse or a sexual attack and whose employees or volunteers are not under the direct supervision of a government entity is not a political subdivision for purposes of the Data Practices Act. A provision of the Data Practices Act that requires contracts with a private person that performs functions of a government entity to include terms that make it clear that all of the data are subject to the Data Practices Act would not apply to these programs. Programs would be required to comply with sections 611A.32, subdivision 5, and 611A.371, subdivision 3, which classify data on victims and battered women as private data. Government data arising out of a contractual relationship between the program and a government entity, other than programmatic and financial reports, contracts, and grant agreements, would be private data or nonpublic data.

- 2 **Orders for protection and no contact orders.** Cross-reference. See **section 3.** [H.F. 3383]
- 3 **Orders for protection and no contact orders.** Adds a definition of "no contact orders" for purposes of the criminal justice data communications network. The definition includes no contact orders issued as a condition of pretrial release or probation for domestic abuse cases and under the domestic abuse no contact order law. A no contact order in the network must be accompanied by a photo of the offender. Classifies data in the network as private data on individuals. [H.F. 3089, 3383]
- 4 **Relief by the court.** Permits a court to include provisions in an order for protection: (1) directing for the care, possession, or control of a pet or companion animal; and (2) prohibiting the respondent from physically abusing or injuring any pet, without legal justification, as an indirect means of intentionally threatening the safety of such person. [H.F. 1396]
- 5 **Ex parte order.** Extends the area for protection to “a reasonable area surrounding the dwelling or residence” of a person seeking an ex parte OFP. The same language already appears in current law under section 518B.01, subdivision 6, which applies to the general order for protection. Also, adds the same relief provided in **section 4** – relating to provisions for pets or companion animals – to ex parte orders. [H.F. 1396, 2608]
- 6-7 **Tampering with a witness.** Creates the crime of tampering with a witness in the third degree. The new provision requires a showing that a defendant’s actions were intentional and by means of intimidation or threat. Cross-references a new misdemeanor penalty in section 7. [H.F. 3089]
- 8 **Stalking.** Amends the “harassment; stalking” statute in a variety of ways. Eliminates the reference in the title to “harassment.”

**Subd. 1. Definition.** Substitutes the term “stalking” for “harass.” Eliminates the express element of intent by striking the term “intentional.” Clarifies that there need not be a special relationship between the stalker and the victim.

**Subd. 1a. No proof of specific intent required.** No changes.

**Subd. 1b. Venue.** Consolidates the venue provisions that are currently scattered throughout the statute in one subdivision and specifies venue in cases where the victim participates in the Safe at Home program (*i.e.*, the address confidentiality program).

**Subd. 1c. Arrest.** Clarifies that the general warrantless arrest authority granted peace officers under section 629.34 applies to most stalking violations.

**Subd. 2. Stalking crimes.** Adds text messaging to the stalking offense of making repeated phone calls to a victim. Modifies the offense of monitoring someone via “any available” technology. Extends the offense of manifesting the intent to injure a person or property of another to cases where the offender uses a third-party to manifest the perpetrator’s intent. Adds assistive-devices for visually or hearing impaired to the list of ways that a person can stalk another. Strikes the venue and arrest language which was recodified in subdivisions 1b and 1c.

**Subd. 3. Aggravated violations.** Conforming change.

**Subd. 4. Second or subsequent violations; felony.** No changes.

**Subd. 5. Pattern of stalking conduct.** Adds to the list of crimes that can lead to a charge of patterned stalking. Pattern of stalking is a felony-level offense. The new offenses include murder 1-3, manslaughter 1-2, violation of a domestic abuse no contact order, and interference with an emergency call. Includes technical changes and deletes venue language that is recodified in subdivision 1b.

**Subd. 6. Mental health assessment and treatment.** No changes.

**Subd. 7. Exception.** Technical changes to extend immunity to lawful conduct authorized by federal, state or tribal law.

**Subd. 8. Stalking; firearms.** Technical changes. [H.F. 3090]

- 9** **Maximum bail; six times fine.** Deletes the current statutory cap for maximum bail set in nonfelony domestic abuse cases and moves them to **section 10**. (Currently, the maximum cash bail that may be required is six times the highest cash fine that may be imposed.) [H.F. 3089]
- 10** **Maximum bail; ten times fine.** Creates a new maximum bail provision for nonfelony domestic abuse offenses. Sets the maximum cash bail at ten times the highest cash fine. For misdemeanors and gross misdemeanors, the maximum cash bail would be \$10,000 and \$30,000, respectively. [H.F. 3089]
- 11** **Definitions.** Conforming change. See **section 13**. [H.F. 3089]
- 12** **Electronic monitoring; condition of pretrial release.** Permits a judicial district to convene an advisory group consisting of representatives from law enforcement, probation, prosecutors, defense attorneys, court administrators, judges, and battered women's organizations. The group may develop standards for the use of electronic monitoring devices to protect victims of domestic abuse and for evaluating the effectiveness of the program, and report its results to the chief judge of the district and the legislature.
- Authorizes a chief judge of a judicial district to establish a pilot project allowing judges in the judicial district or in a county in the district to order electronic monitoring of domestic abuse offenders on pretrial release. If a pilot project is conducted, the chief judge must convene an advisory group with the same representatives to evaluate the pilot, and report results to state court administration and the legislature.
- The amendments expire January 15, 2013. [H.F. 2864]
- 13** **Domestic abuse no contact orders.** Recodifies and amends the criminal domestic abuse no contact order (DANCO) law which is currently in the Civil Domestic Abuse Act (ch. 518B). Adds language that provides that a DANCO is independent of any condition of pretrial release or probation. Provides that an order may be made in juvenile delinquency as well as adult criminal cases. Specifies when the order may be made. In the probationary setting, allows an order for crimes arising from the same set of circumstances as those crimes specifically listed in the law. Conforming changes. [H.F. 3089]
- 14** **Revisor's instruction.** Directs the Revisor to make corrections in statute and rule based on the recodification of the domestic abuse no contact order law in **section 13** and in statute for

those necessitated by the changes made to the harassment/stalking crime in **section 8**. [H.F. 3089, 3090]

- 15**      **Repealer.** Repeals the current domestic abuse no contact order law. Recodified and amended in **section 13**. [H.F. 3089]