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## FISCAL IMPACT REPORT

**ORIGINAL DATE**  
**LAST UPDATED** 02/08/12    **HB** 294

**SPONSOR** King

**SHORT TITLE** Protection Order Filing By Minors    **SB** \_\_\_\_\_

**ANALYST** Jorgensen

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Unknown	Unknown	Unknown	Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Children, Youth, and Families Department (CYFD)

Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of Bill

House Bill 294 amends the Family Violence Protection Act (FVPA) to allow, in the event of a situation involving domestic violence, (1) a child age 14 or older to file for an order of protection restraining a person; (2) another person to file for an order of protection to restrain a child age 14 or older; (3) the court to include child custody determinations in an immediate order of protection; and (4) a court to include determinations regarding the protection of pets in an order of protection. The bill requires that, when the court is including child custody determinations in an immediate order, the consideration must include the best interest of the child. The bill also expands the definition of domestic abuse to include damage to jointly owned property.

### FISCAL IMPLICATIONS

CYFD reports that there will be no fiscal impact on the agency. The AOC has stated that there may be a fiscal impact, and that the extent of the fiscal impact will be directly related to petitions filed for orders of protection as a result of the enactment of this legislation.

### SIGNIFICANT ISSUES

Amendments in Section 1 of the FVPA include:

The following items are added to the domestic abuse definition: battery; false imprisonment; interference with communications; larceny or deprivation of property with the intent to intimidate, threaten or harass; and cruelty to a domestic pet with intent to intimidate, threaten or harass.

Within the domestic abuse definition, the existing criminal damage to property item is expanded to include “damage to jointly owned or community property when done with the intent to intimidate, threaten or harass

Amendments to Section 3 include:

The finding required for an emergency order of protection is changed from “reasonable grounds” to “probable cause.” This will match the finding required elsewhere in the statute for an emergency order of protection or a temporary order of protection.

Amendments to Section 4 include:

Clarification that the court may in a temporary order of protection: 1) enjoin acts or threats of acts of domestic abuse; 2) enjoin contact or communication; 3) award temporary custody/visitation considering safety of the protected party and best interests of the child. Visitation can be unsupervised, supervised or prohibited.

Amendments to Section 5 include:

A best interest of the child standard to the temporary custody/visitation provision. Also, adds that the court may grant unsupervised, supervised or no visitation to the restrained party where children are involved.

The following provision: “An order of protection may be issued against a party restrained by a temporary order of protection if, without good cause and after being served with notice or receiving actual notice, the restrained party fails to appear at the hearing to determine whether an order of protection should be issued. If an order of protection is thus issued, a copy of the order shall be mailed to the restrained party.”

Amendments to Section 7 include:

A proposal to add a new section to the FVPA providing that an order of protection may be issued to protect or restrain a minor.

A minor 14 years old or older may petition for an order of protection on their own behalf if the minor files the petition for protection 1) against a co-parent; 2) against someone with whom the minor has had a continuing personal relationship; 3) containing allegations of sexual assault or stalking.

This new section of the FVPA recognizes that a minor taken into CYFD emergency custody due to allegations of abuse or neglect shall be placed according to the Abuse and Neglect Act.

Amendments to Section 8 include:

A provision that law enforcement shall upon request of a victim provide or arrange for transportation to a family advocacy center (in addition to a medical facility or a shelter).

A provision that law enforcement shall assist in the enforcement of the terms of an order of protection including placing a party in possession of a residence and placing any minor child with the party awarded custody in accordance with the order.

## **OTHER SUBSTANTIVE ISSUES**

CYFD reports that “allowing the target of an order of protection to be a child could potentially

be used as a retaliatory measure; or misused in custody battles or other domestic matters.”

Currently 33 states and the District of Columbia allow victims of dating violence to file for a protection order. Nineteen of those states allow teens to file without an adult.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

NCJ/lj