
Judiciary Committee

HB 2487

Title: An act relating to vulnerable adult protection orders.

Brief Description: Concerning vulnerable adult protection orders.

Sponsors: Representative Moeller.

Brief Summary of Bill

- Amends the alternative service standards and processes applicable to vulnerable adult protection orders.
- Requires the court clerk to forward a vulnerable adult protection order to law enforcement for entry into the state database.
- Specifies that the court check the Judicial Information System for competing orders before issuing a vulnerable adult protection order.

Hearing Date: 1/15/08

Staff: Edie Adams (786-7180).

Background:

The Abuse of Vulnerable Adults Act provides a number of protections for vulnerable adults, including procedures for a vulnerable adult to obtain a vulnerable adult protection order. A vulnerable adult who is suffering from abandonment, abuse, financial exploitation, or neglect may petition the superior court for an order for protection. In addition, a person who is interested in the welfare of a vulnerable adult may file a petition for an order for protection. A protection order may extend for a specified period up to five years and may include any relief the court deems necessary to protect the vulnerable adult, such as restraining the respondent from contact or further acts of abuse, neglect, or financial exploitation, or restraining the sale of the vulnerable adult's property.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Last session the Legislature amended the vulnerable adult protection order process to require the development and use of standard petition and order for protection forms and instructions in actions for vulnerable adult protection orders. This requirement is similar to the required use of standard petition and order for protection forms in petitions for domestic violence protection orders.

Service of Notice: Notice of all hearings relating to a petition for a vulnerable adult protection order must be personally served on the respondent, and on the vulnerable adult if a person other than the vulnerable adult files the petition. The court may allow alternative service of the notice by mail or by publication when good faith attempts at personal service have been unsuccessful. The statute does not specify the method for providing service by publication or mail.

Entry of Protection Orders Into the State Database: Provisions of the law governing most types of protection orders require the court clerk to forward to the appropriate law enforcement agency a notice that a protection order has been entered. The law enforcement agency must enter the protection order into the computerized system used by law enforcement to list outstanding warrants. There is no requirement that vulnerable adult protection orders be entered into this state database.

Judicial Information System: The Judicial Information System (JIS) must include information relating to all protection orders issued in a variety of proceedings, including proceedings involving domestic violence, sexual assault, anti-harassment, family law, and vulnerable adults. The information must include the names of the parties, the cause number, the criminal histories of the parties, and any other relevant information necessary to assist courts. The stated purpose for having this information available in the JIS is to prevent the issuance of competing protection orders and to provide courts with needed information for issuance of protection orders.

Summary of Bill:

The vulnerable adult protection order process is amended to change the standards for alternative service of notice, encourage courts to check the JIS prior to issuing a protection order, and require the inclusion of protection orders in the state database containing protection order information.

Service of Notice: The standards under which a court may allow service of the petition and notice of hearing by publication or mail are changed. The court may order service by publication, instead of personal service, under the following circumstances:

- The person attempting service files an affidavit that he or she is unable to complete personal service;
- The petitioner files an affidavit that he or she believes the party to be served is hiding or being hidden to avoid service;
- The server has mailed the summons, notice of hearing, and ex parte order to the last known address of the party to be served; and
- The court finds there are reasonable grounds to believe the party to be served is concealing himself/herself, or is being concealed, to avoid service, and further attempts at personal service would be futile or unduly burdensome.

If the court allows service by publication, the court must re-issue any temporary order for protection for a period not to exceed 24 days. The method of complying with service by publication and the required components of the summons are established.

The court may authorize service by mail under the same circumstances justifying service by publication if the court determines that service by mail is just as likely to give actual notice as service by publication and the serving party can't afford the costs of service by publication. Service by mail is made by mailing two copies to the person's last known address; one copy by first-class mail and the other by a method requiring a signed receipt.

These changes make the alternative service standards under the vulnerable adult protection order chapter consistent with alternative service standards under the domestic violence chapter.

Entry of Protection Orders Into the State Database: The clerk of the court must forward a copy of any vulnerable adult protection order entered by the court to the appropriate law enforcement agency specified in the order. The law enforcement agency must enter the order into the computerized system used by law enforcement to list outstanding warrants. The order is fully enforceable in any county in the state and entry of the order constitutes notice to all law enforcement agencies of the existence of the order. The order remains in the database for the period stated in the order and may be expunged from the database only if the order has expired, or been vacated or superseded.

Judicial Information System: Before issuing a vulnerable adult protection order, the court should conduct a check of the JIS for the existence of other orders affecting the parties to the petition, criminal history of the parties, and other relevant information necessary to assist the court in issuing the order. A party includes an interested person who is filing the petition on behalf of a vulnerable adult, other than the vulnerable adult's court-appointed guardian or a representative of the Department of Social and Health Services.

Appropriation: None.

Fiscal Note: Requested on 1/10/08.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.