

One Hundred Second Legislature - Second Session - 2012

Introducer's Statement of Intent

LB920

Chairperson: Senator Brad Ashford

Committee: Judiciary

Date of Hearing: January 26, 2012

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Under the current Neb. Rev. Stat. Sections 42-924 and 42-925, a respondent cannot be charged with violation of a protection order if that order was not personally served.

LB 920 provides that a respondent can be charged with violation of a protection order absent personal service if the respondent has actual knowledge of both the existence of the protection order and the substance of the protection order.

Under the current statutory scheme, a hearing is required in every protection order case. This mandatory hearing requirement creates a heavy burden for judges and victims in these cases.

LB 920 provides that, if a protection order is issued through an ex parte proceeding, the court shall provide notice to the respondent and provide a form to the respondent with which the respondent may request a hearing on the matter. Such a hearing may also be requested by the petitioner or may be scheduled on the court's own motion.

LB 920 provides that a victim's protection order petition and affidavit may be offered as evidence and considered by the judge in the issuance of an ex parte protection order. There are instances when a victim is not present at a hearing, perhaps for safety reasons, and this provision would allow for the documents to be considered as evidence in lieu of the victim's testimony.

LB 920 revises Neb. Rev. Stat. Section 42-924 as it relates to relief that a judge or court may issue in a protection order proceeding. LB 920 adds a provision that would allow a judge or court to enjoin a respondent from possessing or purchasing a fire arm. This revision aligns with 18 U.S.C. 922(d)(8) and (g)(8), which provides that it is unlawful for an individual subject to a protection order to possess a firearm and it is unlawful to sell or transfer a firearm to an individual that is subject to a protection order.

Principal Introducer: _____

Senator Amanda McGill