

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 1298

(SENATE AUTHORS: OUMOU VERBETEN, Boldon, Mohamed and Pha)
DATE 02/06/2023 D-PG 675 OFFICIAL STATUS
Introduction and first reading
Referred to Housing and Homelessness Prevention

1.1 A bill for an act
1.2 relating to housing; amending provisions related to residential housing evictions;
1.3 amending summons and complaint provisions related to residential housing
1.4 evictions; amending Minnesota Statutes 2022, sections 504B.001, subdivision 4;
1.5 504B.285, subdivision 5; 504B.291, subdivision 1; 504B.321; 504B.331; 504B.335;
1.6 504B.345, subdivision 1, by adding a subdivision; 504B.361, subdivision 1;
1.7 504B.365, subdivision 1; 504B.371, subdivisions 3, 4, 5, 7; repealing Minnesota
1.8 Statutes 2022, section 504B.341.

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

1.10 Section 1. Minnesota Statutes 2022, section 504B.001, subdivision 4, is amended to read:

1.11 Subd. 4. **Evict or eviction.** "Evict" or "eviction" means a summary court proceeding to
1.12 remove a tenant or occupant from or otherwise recover possession of real property by the
1.13 process of law set out in this chapter.

1.14 Sec. 2. Minnesota Statutes 2022, section 504B.285, subdivision 5, is amended to read:

1.15 Subd. 5. **Combining allegations.** (a) An action for recovery of the premises may combine
1.16 the allegation of nonpayment of rent and the allegation of material violation of the lease,
1.17 which shall be heard as alternative grounds.

1.18 ~~(b) In cases where rent is outstanding, a tenant is not required to pay into court the~~
1.19 ~~amount of rent in arrears, interest, and costs as required under section 504B.291 to defend~~
1.20 ~~against an allegation by the landlord that the tenant has committed a material violation of~~
1.21 ~~the lease.~~

1.22 ~~(e)~~ (b) If the landlord does not prevail in proving material violation of the lease, and the
1.23 landlord has also alleged that rent is due, the tenant shall be permitted to present defenses

2.1 to the court that the rent is not owing. The tenant shall be given up to ~~seven~~ 15 days of
 2.2 additional time to pay any rent determined by the court to be due. ~~The court may order the~~
 2.3 ~~tenant to pay rent and any costs determined to be due directly to the landlord or to be~~
 2.4 ~~deposited with the court.~~

2.5 Sec. 3. Minnesota Statutes 2022, section 504B.291, subdivision 1, is amended to read:

2.6 Subdivision 1. **Action to recover.** (a) A landlord may bring an eviction action for
 2.7 nonpayment of rent irrespective of whether the lease contains a right of reentry clause. Such
 2.8 an eviction action is equivalent to a demand for the rent. There is a rebuttable presumption
 2.9 that the rent has been paid if the tenant produces a copy or copies of one or more money
 2.10 orders or produces one or more original receipt stubs evidencing the purchase of a money
 2.11 order, if the documents: (i) total the amount of the rent; (ii) include a date or dates
 2.12 approximately corresponding with the date rent was due; and (iii) in the case of copies of
 2.13 money orders, are made payable to the landlord. This presumption is rebutted if the landlord
 2.14 produces a business record that shows that the tenant has not paid the rent. The landlord is
 2.15 not precluded from introducing other evidence that rebuts this presumption. In such an
 2.16 action, unless the landlord has also sought to evict the tenant by alleging a material violation
 2.17 of the lease under section 504B.285, subdivision 5, the tenant may, ~~at any time before~~
 2.18 ~~possession has been delivered,~~ redeem the tenancy and be restored to possession by paying
 2.19 to the landlord or bringing to court the amount of the rent that is in arrears, with interest,
 2.20 costs of the action, and an attorney's fee not to exceed \$5, and by performing any other
 2.21 covenants of the lease within 15 business days.

2.22 ~~(b) If the tenant has paid to the landlord or brought into court the amount of rent in~~
 2.23 ~~arrears but is unable to pay the interest, costs of the action, and attorney's fees required by~~
 2.24 ~~paragraph (a), the court may permit the tenant to pay these amounts into court and be restored~~
 2.25 ~~to possession within the same period of time, if any, for which the court stays the issuance~~
 2.26 ~~of the order to vacate under section 504B.345.~~

2.27 ~~(e)~~ (b) Prior to or after commencement of an action to recover possession for nonpayment
 2.28 of rent, the parties may agree only in writing that partial payment of rent in arrears which
 2.29 is accepted by the landlord prior to issuance of the order granting restitution of the premises
 2.30 pursuant to section 504B.345 may be applied to the balance due and does not waive the
 2.31 landlord's action to recover possession of the premises for nonpayment of rent.

2.32 ~~(d)~~ (c) Rental payments under this subdivision must first be applied to rent claimed as
 2.33 due in the complaint from prior rental periods before applying any payment toward rent

3.1 claimed in the complaint for the current rental period, unless the court finds that under the
3.2 circumstances the claim for rent from prior rental periods has been waived.

3.3 Sec. 4. Minnesota Statutes 2022, section 504B.321, is amended to read:

3.4 **504B.321 COMPLAINT AND SUMMONS.**

3.5 Subdivision 1. **Procedure.** (a) To bring an eviction action, the person complaining shall
3.6 file a complaint with the court, stating the full name and date of birth of the person against
3.7 whom the complaint is made, unless it is not known, describing the premises of which
3.8 possession is claimed, stating the facts which authorize the recovery of possession, and
3.9 asking for recovery thereof.

3.10 (b) The lack of the full name and date of birth of the person against whom the complaint
3.11 is made does not deprive the court of jurisdiction or make the complaint invalid.

3.12 ~~(c) The court shall issue a summons, commanding the person against whom the complaint
3.13 is made to appear before the court on a day and at a place stated in the summons.~~

3.14 ~~(d) The appearance shall be not less than seven nor more than 14 days from the day of
3.15 issuing the summons, except as provided by subdivision 2.~~

3.16 ~~(e) A copy of the complaint shall be attached to the summons, which shall state that the
3.17 copy is attached and that the original has been filed.~~

3.18 Subd. 2. **Expedited procedure.** (a) In an eviction action brought under section 504B.171
3.19 ~~or on the basis that the tenant is causing a nuisance or other illegal behavior that seriously~~
3.20 ~~endangers the safety of other residents, their property, or the landlord's property, the person~~
3.21 filing the complaint shall file an affidavit stating specific facts and instances in support of
3.22 why an expedited hearing is required.

3.23 (b) The complaint and affidavit shall be reviewed by a referee or judge and scheduled
3.24 for an expedited hearing only if sufficient supporting facts are stated and they meet the
3.25 requirements of this paragraph. In determining whether there are sufficient supporting facts,
3.26 the court shall not consider whether there are other separate allegations of owed rent, breach
3.27 of the lease, or holding over the unit under section 504B.285. The court may only consider
3.28 facts and instances under section 504B.171. The court must consider whether the allegations
3.29 as stated in the complaint present the threat of an ongoing violation of section 504B.171.
3.30 If the allegations do not present a threat of an ongoing violation of section 504B.171, the
3.31 court shall deny the request for an expedited hearing.

4.1 (c) The appearance in an expedited hearing shall be not less than five days nor more
4.2 than seven days from the date the summons is issued. The summons, in an expedited hearing,
4.3 shall be served upon the tenant within 24 hours of issuance unless the court orders otherwise
4.4 for good cause shown.

4.5 (d) If the court determines that the person seeking an expedited hearing did so without
4.6 sufficient basis under the requirements of this subdivision, the court shall impose a civil
4.7 penalty of up to \$500 for abuse of the expedited hearing process.

4.8 (e) The court may only consider allegations under section 504B.171 during an expedited
4.9 hearing. The court may not consolidate claims heard under the expedited procedure with
4.10 any additional claims, including but not limited to breach of lease, holding over under section
4.11 504B.285, or nonpayment of rent under section 504B.291.

4.12 Subd. 3. Contents of complaint. The person bringing a complaint under this section
4.13 must:

4.14 (1) attach the current written lease, or most recent written lease in existence, and any
4.15 relevant lease addenda;

4.16 (2) if alleging nonpayment of rent, attach a detailed ledger or accounting of the amount
4.17 owed at the time of filing;

4.18 (3) if alleging a breach of lease, identify the clause of the lease which is the basis of the
4.19 allegation, the nature of the conduct constituting the alleged breach of lease, the dates on
4.20 which the alleged conduct took place, and the clause granting the right to evict based on
4.21 the alleged conduct;

4.22 (4) if alleging a violation of section 504B.171, specify the nature of the conduct
4.23 constituting the alleged violation and the dates on which the alleged conduct took place;

4.24 (5) if alleging a violation of section 504B.285, subdivision 1, attach a copy of any notice
4.25 to vacate or notice to quit; and

4.26 (6) state in the complaint whether the tenancy is affected by a federal or state housing
4.27 subsidy program through project-based federal assistance payments; the Section 8 program;
4.28 as defined in section 469.002, subdivision 24; the low-income housing tax credit program;
4.29 or any other similar program, and include the name of the agency that administers the
4.30 housing subsidy program.

4.31 Subd. 4. Summons. The court shall issue a summons, commanding the person against
4.32 whom the complaint is made to appear before the court on the day and at the place stated

5.1 in the summons. A copy of the complaint must be attached to the summons. The summons
 5.2 must include, at a minimum:

5.3 (1) the full name of the person against whom the complaint is brought;

5.4 (2) the date, time, and location of the hearing;

5.5 (3) information about the methods for participating in the court appearance, including,
 5.6 if applicable, information for appearing by telephone or computer and contact information
 5.7 for the court regarding remote participation;

5.8 (4) the following statement: You have the right to seek legal help or request a reasonable
 5.9 accommodation from the court for your hearing. Contact the court as soon as possible if
 5.10 you need an accommodation. If you can't afford a lawyer, free legal help may be available.
 5.11 Contact Legal Aid or visit www.LawHelpMN.org to know your rights and find your local
 5.12 Legal Aid office;

5.13 (5) the following statement: To apply for financial help, contact your local county or
 5.14 Tribal social services office, apply online at MNBenefits.mn.gov, or call the United Way
 5.15 toll-free information line by dialing 2-1-1 or 800-543-7709; and

5.16 (6) notification that a copy of the complaint is attached and has been filed with the court.

5.17 Subd. 5. **Hearing.** The court appearance described in this section shall not be less than
 5.18 14 days from the day of issuing the summons, except as provided by subdivision 2.

5.19 Subd. 6. **Defective filing or service.** The court must dismiss and expunge the record of
 5.20 any action if the person bringing the action fails to comply with this section.

5.21 Subd. 7. **Nonpublic record.** An eviction action is not accessible to the public until the
 5.22 court enters a final judgment. The eviction action will remain nonpublic unless a writ of
 5.23 recovery is issued.

5.24 Sec. 5. Minnesota Statutes 2022, section 504B.331, is amended to read:

5.25 **504B.331 SUMMONS; HOW SERVED.**

5.26 (a) The summons and complaint must be served at least ~~seven~~ 14 days before the date
 5.27 of the court appearance specified in section 504B.321, in the manner provided for service
 5.28 of a summons in a civil action in district court. ~~It may be served by any person not named~~
 5.29 ~~a party to the action.~~

5.30 (b) If the defendant cannot be found in the county, the summons and complaint may be
 5.31 served at least ~~seven~~ 14 days before the date of the court appearance by:

6.1 (1) leaving a copy at the defendant's last usual place of abode with a person of suitable
6.2 age and discretion residing there; or

6.3 (2) if the defendant had no place of abode, by leaving a copy at the property described
6.4 in the complaint with a person of suitable age and discretion occupying the premises.

6.5 (c) Failure of the sheriff to serve the defendant is prima facie proof that the defendant
6.6 cannot be found in the county.

6.7 (d) Where the defendant cannot be found in the county, service of the summons and
6.8 complaint may be made upon the defendant by posting the summons in a conspicuous place
6.9 on the property for not less than ~~one week~~ 14 days if:

6.10 (1) the property described in the complaint is:

6.11 (i) nonresidential and no person actually occupies the property; or

6.12 (ii) residential and service has been attempted at least twice on different days, with at
6.13 least one of the attempts having been made between the hours of 6:00 p.m. and 10:00 p.m.;
6.14 and

6.15 (2) the plaintiff or the plaintiff's attorney has signed and filed with the court an affidavit
6.16 stating that:

6.17 (i) the defendant cannot be found, or that the plaintiff or the plaintiff's attorney believes
6.18 that the defendant is not in the state; ~~and~~

6.19 (ii) a copy of the summons has been mailed to the defendant at the defendant's last known
6.20 address if any is known to the plaintiff; or

6.21 (iii) the plaintiff or plaintiff's attorney has communicated to the defendant that an eviction
6.22 hearing has been scheduled, including the date, time, and place of the hearing specified in
6.23 the summons, by all forms of written communication the plaintiff regularly uses to
6.24 communicate with the defendant, including email, text message, or online tenant portal.

6.25 ~~(e) If the defendant or the defendant's attorney does not appear in court on the date of~~
6.26 ~~the appearance, the trial shall proceed.~~

6.27 Sec. 6. Minnesota Statutes 2022, section 504B.335, is amended to read:

6.28 **504B.335 ANSWER; TRIAL.**

6.29 (a) At the court appearance specified in the summons, the defendant may answer the
6.30 complaint, either orally or in writing, and the court shall ~~hear and decide the action, unless~~
6.31 ~~it grants a continuance of the trial as provided in section 504B.341.;~~

- 7.1 (1) dismiss the action;
- 7.2 (2) approve a settlement between the parties;
- 7.3 (3) schedule a trial for no fewer than ten days after the appearance; or
- 7.4 (4) continue the matter for such other hearings the court deems appropriate.
- 7.5 (b) If any defendant fails to appear at the scheduled court appearance, the court shall
- 7.6 review the court records and determine whether the complaint was properly served under
- 7.7 section 504B.331, and the court shall:
- 7.8 (1) dismiss the case for improper service;
- 7.9 (2) proceed with a trial on the allegations in the complaint; or
- 7.10 (3) schedule and provide notice to all parties of the date and time of a trial.
- 7.11 ~~(b)~~ (c) Either party may demand a trial by jury.
- 7.12 ~~(e)~~ (d) The proceedings in the action are the same as in other civil actions, except as
- 7.13 provided in sections 504B.281 to 504B.371.
- 7.14 ~~(d) The court, in scheduling appearances and hearings under this section, shall give~~
- 7.15 ~~priority to any eviction brought under section 504B.171, or on the basis that the defendant~~
- 7.16 ~~is a tenant and is causing a nuisance or seriously endangers the safety of other residents,~~
- 7.17 ~~their property, or the landlord's property.~~
- 7.18 (e) If the case is contested, the court may not conduct any trial or evidentiary hearing
- 7.19 on the merits of the case at the initial court appearance. When scheduling a trial date, the
- 7.20 court must select a date that allows for a fair and thorough adjudication of the merits of the
- 7.21 case, including any affirmative defenses, and must consider all aspects of the case, including
- 7.22 the complexity of the matter; the need for parties to obtain discovery; the need for parties
- 7.23 to secure the presence of witnesses; the opportunity for the defendant to seek legal counsel,
- 7.24 apply for any emergency financial assistance that may be available, or both; and any
- 7.25 extenuating factors enumerated under section 504B.171.
- 7.26 (f) The parties shall cooperate with reasonable informal discovery requests by another
- 7.27 party.
- 7.28 (g) Nothing in this section affects the rights of a landlord under section 504B.321,
- 7.29 subdivision 2.
- 7.30 (h) The court may not require the defendant to pay any amount of money into court,
- 7.31 post a bond, make a payment directly to a landlord, or by any other means post security for

8.1 any purpose prior to final disposition of an action, except for appeals as provided in section
 8.2 504B.371.

8.3 Sec. 7. Minnesota Statutes 2022, section 504B.345, subdivision 1, is amended to read:

8.4 Subdivision 1. **General.** (a) If the court or jury finds for the plaintiff, the court shall
 8.5 immediately enter judgment that the plaintiff shall have recovery of the premises, and shall
 8.6 tax the costs against the defendant. The court shall issue execution in favor of the plaintiff
 8.7 for the costs and also immediately issue a writ of recovery of premises and order to vacate.

8.8 (b) The court shall give priority in issuing a writ of recovery of premises and order to
 8.9 vacate for an eviction action brought under section 504B.171 or on the basis that the tenant
 8.10 is causing a nuisance or seriously endangers the safety of other residents, their property, or
 8.11 the landlord's property.

8.12 (c) If the court or jury finds for the defendant, then the court:

8.13 (1) ~~the court~~ shall enter judgment for the defendant, tax the costs against the plaintiff,
 8.14 and issue execution in favor of the defendant; ~~and~~

8.15 (2) ~~the court may~~ shall expunge the records relating to the action under the provisions
 8.16 of section 484.014 or under the court's inherent authority at the time judgment is entered
 8.17 or after that time upon motion of the defendant; and

8.18 (3) may order relief as provided in section 504B.425, including retroactive rent abatement.

8.19 (d) Except in actions brought: (1) under section 504B.291 ~~as required by section~~
 8.20 ~~609.5317, subdivision 1;~~ (2) under section 504B.171; or (3) on the basis that the tenant is
 8.21 causing a nuisance or seriously endangers the safety of other residents, their property, or
 8.22 the landlord's property, ~~upon a showing by the defendant that immediate restitution of the~~
 8.23 ~~premises would work a substantial hardship upon the defendant or the defendant's family,~~
 8.24 the court shall stay the writ of recovery of premises and order to vacate for ~~a reasonable~~
 8.25 ~~period, not to exceed seven days~~ a minimum of seven days. In establishing the period of
 8.26 the stay, the court must consider extenuating circumstances or any hardships that would be
 8.27 suffered by the defendant.

8.28 (e) In actions brought under section 504B.291, the court shall stay the writ of recovery
 8.29 of premises and order to vacate for 15 business days.

9.1 Sec. 8. Minnesota Statutes 2022, section 504B.345, is amended by adding a subdivision
9.2 to read:

9.3 Subd. 3. **Motion to vacate judgment.** Any party may bring a motion to vacate a judgment
9.4 in an eviction action. An order denying a motion to vacate a judgment is considered a
9.5 judgment for purposes of appeal under section 504B.371.

9.6 Sec. 9. Minnesota Statutes 2022, section 504B.361, subdivision 1, is amended to read:

9.7 Subdivision 1. **Summons and writ.** The state court administrator shall develop a uniform
9.8 form for the summons and writ of recovery of premises and order to vacate. The summons
9.9 shall conform to the requirements enumerated under section 504B.321, subdivision 3. The
9.10 writ for recovery of premises and order to vacate must include:

9.11 (1) the following statement: You have the right to seek legal help. If you can't afford a
9.12 lawyer, free legal help may be available. Contact Legal Aid or visit www.LawHelpMN.org
9.13 to know your rights and find your local Legal Aid office; and

9.14 (2) the following statement: To apply for financial help, contact your local county or
9.15 Tribal social services office, apply online at MNBenefits.mn.gov, or call the United Way
9.16 toll-free information line by dialing 2-1-1 or 800-543-7709.

9.17 Sec. 10. Minnesota Statutes 2022, section 504B.365, subdivision 1, is amended to read:

9.18 Subdivision 1. **General.** (a) The officer who holds the order to vacate shall execute it
9.19 by demanding that the defendant, if found in the county, any adult member of the defendant's
9.20 family who is occupying the premises, or any other person in charge, relinquish possession
9.21 and leave, taking family and all personal property from the premises within ~~24 hours~~ five
9.22 business days.

9.23 (b) If the defendant fails to comply with the demand, then the officer shall bring, if
9.24 necessary, the force of the county and any necessary assistance, at the cost of the plaintiff.
9.25 The officer shall remove the defendant, family, and all personal property from the premises
9.26 and place the plaintiff in possession.

9.27 (c) If the defendant cannot be found in the county, and there is no person in charge of
9.28 the premises, then the officer shall enter the premises, breaking in if necessary, and remove
9.29 and store the personal property of the defendant at a place designated by the plaintiff as
9.30 provided in subdivision 3.

9.31 (d) The order may also be executed by a licensed police officer or community crime
9.32 prevention licensed police officer.

10.1 Sec. 11. Minnesota Statutes 2022, section 504B.371, subdivision 3, is amended to read:

10.2 Subd. 3. **Appeal bond.** If the party appealing remains in possession of the property, that
10.3 party must give a bond that provides that:

10.4 (1) all costs of the appeal will be paid;

10.5 (2) the party will comply with the court's order; and

10.6 (3) all the regular rent and other damages due to the party excluded from possession
10.7 during the pendency of the appeal will be paid as that rent accrues. The court may not require
10.8 a bond including bank rent, late fees, disputed charges, or any other amount in excess of
10.9 the regular rent as it accrues each month.

10.10 Sec. 12. Minnesota Statutes 2022, section 504B.371, subdivision 4, is amended to read:

10.11 Subd. 4. **Stay pending appeal.** After the appeal is taken, all further proceedings in the
10.12 case are stayed, ~~except as provided in subdivision 7.~~

10.13 Sec. 13. Minnesota Statutes 2022, section 504B.371, subdivision 5, is amended to read:

10.14 Subd. 5. **Stay of writ issued before appeal.** ~~(a) Except as provided in subdivision 7,~~ If
10.15 the court issues a writ for recovery of premises and order to vacate before an appeal is taken,
10.16 the appealing party may request that the court stay further proceedings and execution of the
10.17 writ for possession of premises and order to vacate, and the court shall grant a stay.

10.18 (b) If the party appealing remains in possession of the premises, that party must give a
10.19 bond under subdivision 3.

10.20 (c) When the officer who has the writ for possession of premises and order to vacate is
10.21 served with the order granting the stay, the officer shall cease all further proceedings. If the
10.22 writ for possession of premises and order to vacate has not been completely executed, the
10.23 defendant shall remain in possession of the premises until the appeal is decided.

10.24 Sec. 14. Minnesota Statutes 2022, section 504B.371, subdivision 7, is amended to read:

10.25 Subd. 7. **Exception.** Subdivisions 1, 4, and 6 do not apply in an action ~~on a lease, against~~
10.26 ~~a tenant holding over after the expiration of the term of the lease, or a termination of the~~
10.27 ~~lease by a notice to quit, where the plaintiff has prevailed on a claim pursuant to section~~
10.28 504B.171, subdivision 2, if the plaintiff gives a bond conditioned to pay all costs and damages
10.29 if on the appeal the judgment of restitution is reversed and a new trial ordered. In such a
10.30 case, the court shall issue a writ for recovery of premises and order to vacate notwithstanding

11.1 the notice of appeal, as if no appeal had been taken, and the appellate court shall issue all
11.2 needful writs and processes to carry out any judgment which may be rendered in the court.

11.3 Sec. 15. **REPEALER.**

11.4 Minnesota Statutes 2022, section 504B.341, is repealed.

11.5 Sec. 16. **EFFECTIVE DATE.**

11.6 Sections 1 to 15 are effective August 1, 2023, and apply to actions filed on or after that
11.7 date.

504B.341 CONTINUANCE OF TRIAL.

(a) In an eviction action, the court, in its discretion, may grant a continuance of the trial for no more than six days unless all parties consent to longer continuance.

(b) However, in all actions brought under section 504B.285, other than actions on a written lease signed by both parties, the court shall continue the trial as necessary but for no more than three months if the defendant or the defendant's agent or attorney:

(1) states under oath that the defendant cannot proceed to trial because a material witness is not present;

(2) names the witness;

(3) states under oath that the defendant has made due exertion to obtain the witness;

(4) states the belief that if the continuance is allowed the defendant will be able to procure the attendance of the witness at the trial or to obtain the witness's deposition; and

(5) gives a bond that the plaintiff will be paid all rent that accrues during the pendency of the action and all costs and damages that accrue due to the adjournment.