

236.4 Hearings — temporary orders.

1. Not less than five and not more than fifteen days after commencing a proceeding and upon notice to the other party, a hearing shall be held at which the plaintiff must prove the allegation of domestic abuse by a preponderance of the evidence.

2. The court may enter any temporary order it deems necessary to protect the plaintiff from domestic abuse prior to the hearing, including temporary custody or visitation orders pursuant to subsection 3, upon good cause shown in an ex parte proceeding. Present danger of domestic abuse to the plaintiff constitutes good cause for purposes of this subsection. A temporary order issued pursuant to this subsection shall specifically include notice that the person may be required to relinquish all firearms, offensive weapons, and ammunition upon the issuance of a permanent order pursuant to section 236.5.

3. The court may award temporary custody of or establish temporary visitation rights with regard to children under eighteen years of age. In awarding temporary custody or temporary visitation rights, the court shall give primary consideration to the safety of the alleged victim and the children. If the court finds that the safety of the alleged victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall set conditions or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court shall also determine whether any other existing orders awarding custody or visitation should be modified.

4. If a hearing is continued, the court may make or extend any temporary order under subsection 2 or 3 that it deems necessary.

5. Upon application of a party, the court shall issue subpoenas requiring attendance and testimony of witnesses and production of papers.

6. The court shall advise the defendant of a right to be represented by counsel of the defendant's choosing and to have a continuance to secure counsel.

7. Prior to the entry of a temporary order under this section that involves a child-custody determination as defined in section 598B.102, the plaintiff shall furnish information to the court in compliance with section 598B.209.

8. Hearings shall be recorded.

[C81, §236.4]

93 Acts, ch 157, §3; 2010 Acts, ch 1083, §1; 2010 Acts, ch 1159, §1 – 4

Referred to in §232.8, 236.6, 915.50