

CHAPTER 537—S.F.No. 1619

An act relating to crimes; enhancing penalties for an assault against a family or household member; requiring courts to take possession of any firearm used in the commission of such an assault; disqualifying persons convicted of fifth degree domestic assault from possessing a pistol under certain circumstances; requiring persons convicted of crimes of violence to be notified that they are prohibited from possessing pistols for ten years after restored to civil rights; amending Minnesota Statutes 1990, sections 609.224, subdivision 2, and by adding a subdivision; and 624.713, by adding a subdivision.

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

Section 1. Minnesota Statutes 1990, section 609.224, subdivision 2, is amended to read:

Subd. 2. **GROSS MISDEMEANOR.** (a) Whoever violates the provisions of subdivision 1 against the same victim within five years of a previous conviction under subdivision 1 or sections 609.221 to 609.2231 may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than \$3,000, or both. Whoever violates the provisions of subdivision 1 against a family or household member as defined in section 518B.01, subdivision 2, within five years of a previous conviction under subdivision 1 or sections 609.221 to 609.2231 against a family or household member, may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(b) Whoever violates the provisions of subdivision 1 within two years of a previous conviction under subdivision 1 or sections 609.221 to 609.2231 may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Sec. 2. Minnesota Statutes 1990, section 609.224, is amended by adding a subdivision to read:

Subd. 3. DOMESTIC ASSAULTS; FIREARMS. (a) When a person is convicted of a violation of this section, the court shall determine and make written findings on the record as to whether:

(1) the assault was a family or household member, as defined in section 518B.01, subdivision 2;

(2) the defendant owns or possesses a firearm; and

(3) the firearm was used in any way during the commission of the assault.

(b) If the court determines that the assault was of a family or household member, and that the offender owns or possesses a firearm and used it in any way during the commission of the assault, it shall order the defendant to relinquish possession of the firearm and give it to the local law enforcement agency. Notwithstanding section 609.531, subdivision 1, paragraph (f), clause (1), the court shall determine whether the firearm shall be forfeited under section 609.5316, subdivision 3, or retained by the local law enforcement agency for a

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period of three years. If the owner has not been convicted of any crime of violence as defined in section 624.712, subdivision 5, or 609.224 against a family or household member within that period, the law enforcement agency shall return the firearm.

(c) When a person is convicted of a violation of this section and the court determines that the victim was a family or household member, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for a period of three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(d) A person is not entitled to possess a pistol if:

(1) the person has been convicted after August 1, 1992 of assault in the fifth degree if the offense was committed within three years of a previous conviction under sections 609.221 to 609.224; or

(2) the person has been convicted after August 1, 1992 of assault in the fifth degree under section 609.224 and the assault victim was a family or household member as defined in section 518B.01, subdivision 2, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this subdivision is guilty of a gross misdemeanor.

Sec. 3. Minnesota Statutes 1990, section 624.713, is amended by adding a subdivision to read:

Subd. 3. NOTICE TO CONVICTED PERSONS. When a person is convicted of a crime of violence as defined in section 624.712, subdivision 5, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for a period of ten years after the person was restored to civil rights or since the sentence has expired, whichever occurs first, and that it is a felony offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the felony penalty to that defendant.

Sec. 4. EFFECTIVE DATE.

Sections 1 to 3 are effective August 1, 1992, and apply to crimes committed on or after that date.

Presented to the governor April 17, 1992

Signed by the governor April 27, 1992, 1:56 p.m.

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