

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 520

(SENATE AUTHORS: LATZ and Sheran)

DATE	D-PG	OFFICIAL STATUS
02/18/2013	274	Introduction and first reading Referred to Judiciary

A bill for an act

1.1 relating to public safety; firearms; requiring the commissioner of human services
 1.2 to create and maintain a centralized register of individuals who voluntarily
 1.3 wish to be ineligible to purchase firearms for a self-determined period of time;
 1.4 mandating chiefs of police and sheriffs to accept the voluntary surrender of
 1.5 firearms and ammunition from persons on the voluntary register, and to establish
 1.6 procedures for return of the firearms and ammunition upon request; amending
 1.7 Minnesota Statutes 2012, sections 245.041; 624.713, by adding a subdivision;
 1.8 624.7131, subdivisions 1, 2; 624.7132, subdivisions 1, 2; 624.714, subdivisions
 1.9 3, 4; proposing coding for new law in Minnesota Statutes, chapters 214; 245.
 1.10

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

1.12 Section 1. **[214.165] VOLUNTARY REGISTRY; INFORMATION.**

1.13 Mental health professionals, as defined in section 245.462, subdivision 18,
 1.14 physicians licensed under chapter 147, and nurses licensed under sections 148.171 to
 1.15 148.285 who are issued a credential by one of the health-related licensing boards shall
 1.16 provide to each patient or client the information sheet established by the commissioner of
 1.17 human services under section 245.0412 that:

1.18 (1) describes the process by which the client or patient may voluntarily request
 1.19 placement of the person's own name on the registry to be denied a firearms permit and be
 1.20 prohibited from purchasing firearms; and

1.21 (2) informs the client or patient that the person may voluntarily surrender some or all
 1.22 of their firearms and ammunition to a chief of police or sheriff.

1.23 Sec. 2. Minnesota Statutes 2012, section 245.041, is amended to read:

1.24 **245.041 PROVISION OF FIREARMS AND EXPLOSIVES BACKGROUND**
 1.25 **CHECK INFORMATION.**

2.1 (a) Notwithstanding section 253B.23, subdivision 9, the commissioner of human
2.2 services shall provide commitment information to local law enforcement agencies on an
2.3 individual request basis by means of electronic data transfer from the Department of
2.4 Human Services through the Minnesota Crime Information System for the sole purpose of
2.5 facilitating a firearms background check under section 624.7131, 624.7132, or 624.714,
2.6 or an explosives background check under section 299F.73, 299F.74, 299F.75, 299F.77,
2.7 or 299F.785. The information to be provided is limited to whether the person has been
2.8 committed under chapter 253B and, if so, the type of commitment.

2.9 (b) The commissioner of human services shall provide the identities of adult
2.10 individuals who have voluntarily placed their names on the commissioner's voluntary
2.11 registry of individuals who wish to be denied a firearms permit and be prohibited from
2.12 purchasing firearms, in accordance with section 245.0411, to local law enforcement
2.13 agencies on an individual request basis by means of electronic data transfer from the
2.14 Department of Human Services through the Minnesota Crime Information System for the
2.15 purpose of facilitating a firearms background check under section 624.7131, 624.7132, or
2.16 624.714, or an explosives background check under section 299F.73, 299F.74, 299F.75,
2.17 299F.77, or 299F.785. The information to be provided is limited to whether the person has
2.18 voluntarily submitted a request to be listed.

2.19 **Sec. 3. [245.0411] VOLUNTARY REGISTRY FOR FIREARMS PERMIT**
2.20 **DENIAL.**

2.21 Subdivision 1. **Central registry; establishment.** The commissioner of human
2.22 services shall establish and maintain an electronic central registry of the names of adult
2.23 persons who voluntarily submit a request to be denied a firearms permit and be prohibited
2.24 from purchasing firearms. The commissioner shall establish a process for individuals to
2.25 submit the request and to affirm their identity.

2.26 Subd. 2. **Duties of commissioner.** (a) The commissioner shall establish forms to be
2.27 submitted by individuals who wish to have their names entered into the voluntary registry
2.28 in order to be denied a firearms permit and be prohibited from purchasing firearms. The
2.29 commissioner shall make the forms available to health care providers, mental health
2.30 providers, and to the public.

2.31 (b) The commissioner shall develop an information sheet to be distributed to
2.32 patients by health care and mental health professionals that describes how the patient can
2.33 voluntarily have the patient's name placed on the commissioner's voluntary registry.

2.34 (c) The commissioner shall establish a retention schedule and a process by which
2.35 individuals can have their name removed from the voluntary registry.

3.1 (d) The commissioner shall provide access to the names reported under this section,
3.2 through electronic data transfer from the Department of Human Services to the Minnesota
3.3 Crime Information System for the sole purpose of facilitating firearms background checks
3.4 under section 624.7131, 624.7132, or 624.714, or an explosives background check under
3.5 section 299F.73, 299F.74, 299F.75, 299F.77, or 299F.785. Data shall not be released at
3.6 any time for any other purpose.

3.7 (e) The commissioner shall adopt rules to administer the voluntary registry and
3.8 make information available through electronic data transfer to the Minnesota Crime
3.9 Information System.

3.10 Subd. 3. **Data.** Data on individuals collected by the commissioner under this section
3.11 are private data on individuals as defined in section 13.02, subdivision 12, and may be
3.12 used only for the purposes specified in subdivision 2 and section 245.041, paragraph (b),
3.13 according to rules adopted by the commissioner.

3.14 Sec. 4. **[245.0412] VOLUNTARY FIREARM SURRENDER; LAW**
3.15 **ENFORCEMENT ROLE.**

3.16 (a) Any person who has voluntarily requested and been granted inclusion in the
3.17 voluntary registry created by the commissioner of human services under section 245.0411,
3.18 subdivision 2, may surrender any number or amount of firearms and ammunition owned
3.19 or possessed by the person to the chief of police or sheriff in any jurisdiction. A chief
3.20 or sheriff must accept the voluntary surrender of firearms and ammunition from any
3.21 person residing in the same or another jurisdiction. Any surrender of such items under this
3.22 provision is a voluntary act, and may be reversed upon request by the person in accordance
3.23 with policies developed by the chief or sheriff. Unless a reversal of the surrender and
3.24 return of the items is requested in writing by the person, the surrender is limited to and
3.25 may not exceed in duration the fixed or contingent time period specified by the person at
3.26 the time of the surrender, plus any voluntary written renewal or extension of that term
3.27 provided to the chief or sheriff by the person.

3.28 (b) A chief or sheriff accepting firearms and ammunition surrendered by a person
3.29 under section 245.0411, subdivision 2, must develop and implement policies to provide
3.30 for the secure storage and safekeeping of those items in a place and manner suitable for
3.31 preserving their physical quality and value, as well as to ensure their eventual return to the
3.32 person or the person's assignee.

3.33 (c) Upon the voluntary surrender of any firearms and ammunition by a person acting
3.34 under section 245.0411, subdivision 2, the chief of police or sheriff must issue the person
3.35 a detailed receipt for the items and, if necessary, must label the items in a manner designed

4.1 to preserve record of ownership. At any time, the person may request that the firearms and
4.2 ammunition be returned to that person by the chief or sheriff, or that they be assigned to
4.3 another person. The person is not eligible for return of the firearms and ammunition until
4.4 the person's name is removed from the voluntary registry. Before releasing any voluntarily
4.5 surrendered items to the person or the person's assignee, the chief or sheriff must perform
4.6 a check of the person or assignee's criminal and mental health commitment history and,
4.7 if the background check shows the intended recipient of the items is prohibited by any
4.8 federal or state law from possessing firearms and ammunition, the chief or sheriff is
4.9 prohibited from returning them to the prohibited person or the assignee. Proof that an
4.10 assignee is validly licensed as a federal firearms dealer under United State Code, title
4.11 18, section 923, is sufficient evidence that the assignee is not prohibited by law from
4.12 possessing firearms for purposes of this section. No fee may be charged by the chief or
4.13 sheriff for the handling and storage of firearms or ammunition voluntarily surrendered by
4.14 a person in accordance with section 245.0411, subdivision 2.

4.15 (d) If a person acting in accordance with section 245.0411, subdivision 2, surrenders
4.16 firearms and ammunition owned by another person, the lawful owner may request the
4.17 return of the items to that owner or an assignee. In processing such request, the chief or
4.18 sheriff must follow the same background check procedures as would be required for return
4.19 of the items to the person having made the surrender.

4.20 (e) All information related to the voluntary surrender of firearms and ammunition to a
4.21 chief of police or sheriff in accordance with this section and section 245.0411, subdivision
4.22 2, is private data on individuals, in accordance with section 13.02, subdivision 12.

4.23 (f) A chief of police or sheriff acting in good faith and with reasonable prudence under
4.24 this section is not liable for any damage or deterioration due to transportation or storage of
4.25 any firearms or ammunition accepted and held pursuant to section 245.0411, subdivision 2.

4.26 (g) Nothing in this section is intended to supersede any other state or federal law
4.27 governing the seizure and confiscation of firearms for just cause.

4.28 Sec. 5. Minnesota Statutes 2012, section 624.713, is amended by adding a subdivision
4.29 to read:

4.30 Subd. 5. **Voluntary registry; ineligible to possess.** Notwithstanding any penalty
4.31 provided in this section or any other section of statutes related to the possession or
4.32 attempted purchase of firearms or ammunition, a person who is prohibited from purchasing
4.33 firearms solely as a result of having voluntarily requested listing in the voluntary register
4.34 established by the commissioner of human services according to section 245.0411, is
4.35 prohibited from purchasing any firearm and ammunition during the duration of the listing.

5.1 Sec. 6. Minnesota Statutes 2012, section 624.7131, subdivision 1, is amended to read:

5.2 Subdivision 1. **Information.** Any person may apply for a transferee permit by
5.3 providing the following information in writing to the chief of police of an organized full
5.4 time police department of the municipality in which the person resides or to the county
5.5 sheriff if there is no such local chief of police:

5.6 (1) the name, residence, telephone number, and driver's license number or
5.7 nonqualification certificate number, if any, of the proposed transferee;

5.8 (2) the sex, date of birth, height, weight, and color of eyes, and distinguishing
5.9 physical characteristics, if any, of the proposed transferee;

5.10 (3) a statement that the proposed transferee authorizes the release to the local
5.11 police authority of commitment information and information contained in the voluntary
5.12 registry established by section 245.0411 about the proposed transferee maintained by the
5.13 commissioner of human services as provided in section 245.041, to the extent that the
5.14 information relates to the proposed transferee's eligibility to possess or purchase a pistol or
5.15 semiautomatic military-style assault weapon under section 624.713, subdivision 1 or 5; and

5.16 (4) a statement by the proposed transferee that the proposed transferee is not
5.17 prohibited by section 624.713 from possessing a pistol or semiautomatic military-style
5.18 assault weapon.

5.19 The statements shall be signed and dated by the person applying for a permit. At
5.20 the time of application, the local police authority shall provide the applicant with a
5.21 dated receipt for the application. The statement under clause (3) must comply with any
5.22 applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35,
5.23 with respect to consent to disclosure of alcohol or drug abuse patient records.

5.24 Sec. 7. Minnesota Statutes 2012, section 624.7131, subdivision 2, is amended to read:

5.25 Subd. 2. **Investigation.** The chief of police or sheriff shall check criminal histories,
5.26 records and warrant information relating to the applicant through the Minnesota Crime
5.27 Information System, the national criminal record repository, and the National Instant
5.28 Criminal Background Check System. The chief of police or sheriff shall also make a
5.29 reasonable effort to check other available state and local record-keeping systems. The
5.30 chief of police or sheriff shall obtain commitment information and information contained
5.31 in the voluntary registry established by section 245.0411 from the commissioner of human
5.32 services as provided in section 245.041.

5.33 Sec. 8. Minnesota Statutes 2012, section 624.7132, subdivision 1, is amended to read:

6.1 Subdivision 1. **Required information.** Except as provided in this section and section
6.2 624.7131, every person who agrees to transfer a pistol or semiautomatic military-style
6.3 assault weapon shall report the following information in writing to the chief of police of the
6.4 organized full-time police department of the municipality where the proposed transferee
6.5 resides or to the appropriate county sheriff if there is no such local chief of police:

6.6 (1) the name, residence, telephone number, and driver's license number or
6.7 nonqualification certificate number, if any, of the proposed transferee;

6.8 (2) the sex, date of birth, height, weight, and color of eyes, and distinguishing
6.9 physical characteristics, if any, of the proposed transferee;

6.10 (3) a statement that the proposed transferee authorizes the release to the local
6.11 police authority of commitment information and information contained in the voluntary
6.12 registry established by section 245.0411 about the proposed transferee maintained by the
6.13 commissioner of human services as provided in section 245.041, to the extent that the
6.14 information relates to the proposed transferee's eligibility to possess or purchase a pistol or
6.15 semiautomatic military-style assault weapon under section 624.713, subdivision 1 or 5;

6.16 (4) a statement by the proposed transferee that the transferee is not prohibited by
6.17 section 624.713 from possessing a pistol or semiautomatic military-style assault weapon;
6.18 and

6.19 (5) the address of the place of business of the transferor.

6.20 The report shall be signed and dated by the transferor and the proposed transferee.
6.21 The report shall be delivered by the transferor to the chief of police or sheriff no later
6.22 than three days after the date of the agreement to transfer, excluding weekends and legal
6.23 holidays. The statement under clause (3) must comply with any applicable requirements
6.24 of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to
6.25 disclosure of alcohol or drug abuse patient records.

6.26 Sec. 9. Minnesota Statutes 2012, section 624.7132, subdivision 2, is amended to read:

6.27 Subd. 2. **Investigation.** Upon receipt of a transfer report, the chief of police or sheriff
6.28 shall check criminal histories, records and warrant information relating to the proposed
6.29 transferee through the Minnesota Crime Information System, the national criminal record
6.30 repository, and the National Instant Criminal Background Check System. The chief of
6.31 police or sheriff shall also make a reasonable effort to check other available state and
6.32 local record-keeping systems. The chief of police or sheriff shall obtain commitment
6.33 information and information contained in the voluntary registry established by section
6.34 245.0411 from the commissioner of human services as provided in section 245.041.

7.1 Sec. 10. Minnesota Statutes 2012, section 624.714, subdivision 3, is amended to read:

7.2 Subd. 3. **Form and contents of application.** (a) Applications for permits to carry
7.3 must be an official, standardized application form, adopted under section 624.7151, and
7.4 must set forth in writing only the following information:

7.5 (1) the applicant's name, residence, telephone number, if any, and driver's license
7.6 number or state identification card number;

7.7 (2) the applicant's sex, date of birth, height, weight, and color of eyes and hair, and
7.8 distinguishing physical characteristics, if any;

7.9 (3) the township or statutory city or home rule charter city, and county, of all
7.10 Minnesota residences of the applicant in the last five years, though not including specific
7.11 addresses;

7.12 (4) the township or city, county, and state of all non-Minnesota residences of the
7.13 applicant in the last five years, though not including specific addresses;

7.14 (5) a statement that the applicant authorizes the release to the sheriff of commitment
7.15 information and information contained in the voluntary registry established by section
7.16 245.0411 about the applicant maintained by the commissioner of human services as
7.17 provided in section 245.041 or any similar agency or department of another state where
7.18 the applicant has resided, to the extent that the information relates to the applicant's
7.19 eligibility to possess a firearm; and

7.20 (6) a statement by the applicant that, to the best of the applicant's knowledge and
7.21 belief, the applicant is not prohibited by law from possessing a firearm.

7.22 (b) The statement under paragraph (a), clause (5), must comply with any applicable
7.23 requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect
7.24 to consent to disclosure of alcohol or drug abuse patient records.

7.25 (c) An applicant must submit to the sheriff an application packet consisting only of
7.26 the following items:

7.27 (1) a completed application form, signed and dated by the applicant;

7.28 (2) an accurate photocopy of the certificate described in subdivision 2a, paragraph
7.29 (c), that is submitted as the applicant's evidence of training in the safe use of a pistol; and

7.30 (3) an accurate photocopy of the applicant's current driver's license, state
7.31 identification card, or the photo page of the applicant's passport.

7.32 (d) In addition to the other application materials, a person who is otherwise ineligible
7.33 for a permit due to a criminal conviction but who has obtained a pardon or expungement
7.34 setting aside the conviction, sealing the conviction, or otherwise restoring applicable
7.35 rights, must submit a copy of the relevant order.

7.36 (e) Applications must be submitted in person.

8.1 (f) The sheriff may charge a new application processing fee in an amount not
8.2 to exceed the actual and reasonable direct cost of processing the application or \$100,
8.3 whichever is less. Of this amount, \$10 must be submitted to the commissioner and
8.4 deposited into the general fund.

8.5 (g) This subdivision prescribes the complete and exclusive set of items an applicant
8.6 is required to submit in order to apply for a new or renewal permit to carry. The applicant
8.7 must not be asked or required to submit, voluntarily or involuntarily, any information, fees,
8.8 or documentation beyond that specifically required by this subdivision. This paragraph
8.9 does not apply to alternate training evidence accepted by the sheriff under subdivision
8.10 2a, paragraph (d).

8.11 (h) Forms for new and renewal applications must be available at all sheriffs' offices
8.12 and the commissioner must make the forms available on the Internet.

8.13 (i) Application forms must clearly display a notice that a permit, if granted, is
8.14 void and must be immediately returned to the sheriff if the permit holder is or becomes
8.15 prohibited by law from possessing a firearm. The notice must list the applicable state
8.16 criminal offenses and civil categories that prohibit a person from possessing a firearm.

8.17 (j) Upon receipt of an application packet and any required fee, the sheriff must
8.18 provide a signed receipt indicating the date of submission.

8.19 Sec. 11. Minnesota Statutes 2012, section 624.714, subdivision 4, is amended to read:

8.20 Subd. 4. **Investigation.** (a) The sheriff must check, by means of electronic data
8.21 transfer, criminal records, histories, and warrant information on each applicant through
8.22 the Minnesota Crime Information System and the National Instant Criminal Background
8.23 Check System. The sheriff shall also make a reasonable effort to check other available
8.24 and relevant federal, state, or local record-keeping systems. The sheriff must obtain
8.25 commitment information and information contained in the voluntary registry established
8.26 by section 245.0411 from the commissioner of human services as provided in section
8.27 245.041 or, if the information is reasonably available, as provided by a similar statute
8.28 from another state.

8.29 (b) When an application for a permit is filed under this section, the sheriff must notify
8.30 the chief of police, if any, of the municipality where the applicant resides. The police chief
8.31 may provide the sheriff with any information relevant to the issuance of the permit.

8.32 (c) The sheriff must conduct a background check by means of electronic data transfer
8.33 on a permit holder through the Minnesota Crime Information System and the National
8.34 Instant Criminal Background Check System at least yearly to ensure continuing eligibility.

9.1 The sheriff may also conduct additional background checks by means of electronic data
9.2 transfer on a permit holder at any time during the period that a permit is in effect.

9.3 Sec. 12. **EFFECTIVE DATE.**

9.4 Sections 1 to 11 are effective July 1, 2013, for firearms permit background checks
9.5 made on or after that date.