

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1218

03/04/2013 Authored by Lesch; Franson; Dehn, R.; Cornish; Radinovich and others

The bill was read for the first time and referred to the Committee on Early Childhood and Youth Development Policy

1.1 A bill for an act
1.2 relating to judiciary; modifying registration of a juvenile as a predatory offender;
1.3 modifying access to juvenile records; modifying provisions governing hearings
1.4 in juvenile court proceedings; amending Minnesota Statutes 2012, sections
1.5 243.166, subdivisions 1b, 2, 6; 260B.163, subdivision 1; 260B.171, subdivisions
1.6 1, 4; 260B.198, subdivision 7.

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

1.8 Section 1. Minnesota Statutes 2012, section 243.166, subdivision 1b, is amended to read:

1.9 Subd. 1b. **Registration required.** (a) A person shall register under this section if
1.10 the person is an adult or a child certified under section 260B.125 and:

1.11 (1) the person was charged with or petitioned for a felony violation of or attempt to
1.12 violate, or aiding, abetting, or conspiracy to commit, any of the following, and convicted
1.13 of ~~or adjudicated delinquent for~~ that offense or another offense arising out of the same
1.14 set of circumstances:

1.15 (i) murder under section 609.185, paragraph (a), clause (2);

1.16 (ii) kidnapping under section 609.25;

1.17 (iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345;
1.18 609.3451, subdivision 3; or 609.3453; or

1.19 (iv) indecent exposure under section 617.23, subdivision 3;

1.20 (2) the person was charged with ~~or petitioned for~~ a violation of, or attempt to
1.21 violate, or aiding, abetting, or conspiring to commit criminal abuse in violation of section
1.22 609.2325, subdivision 1, paragraph (b), false imprisonment in violation of section
1.23 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of section
1.24 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of
1.25 section 609.352; using a minor in a sexual performance in violation of section 617.246;

or possessing pornographic work involving a minor in violation of section 617.247, and convicted of ~~or adjudicated delinquent~~ for that offense or another offense arising out of the same set of circumstances;

(3) the person was sentenced as a patterned sex offender under section 609.3455, subdivision 3a; or

(4) the person was convicted of or adjudicated delinquent for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3).

(b) A person also shall register under this section if the person is an adult or a child certified under section 260B.125 and:

(1) the person was convicted ~~of or adjudicated delinquent~~ in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;

(2) the person enters this state to reside, work, or attend school, or enters this state and remains for 14 days or longer; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of ~~or adjudicated delinquent~~ for the offense that triggers registration, unless the person is subject to a longer registration period under the laws of another state in which the person has been convicted or adjudicated, or is subject to lifetime registration.

If a person described in this paragraph is subject to a longer registration period in another state or is subject to lifetime registration, the person shall register for that time period regardless of when the person was released from confinement, convicted, or adjudicated delinquent.

(c) A person also shall register under this section if the person is an adult or a child certified under section 260B.125 and was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.

(d) A person also shall register under this section if the person is an adult or a child certified under section 260B.125 and:

(1) the person was charged with ~~or petitioned for~~ a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with ~~or petitioned for~~ a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;

(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and

(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.

(e) A child who is not certified under section 260B.125 shall register under this section if:

(1) the child was 14 years of age or older when the child committed any of the offenses under paragraph (a) or a similar law of another state or the United States;

(2) the child was adjudicated delinquent or convicted as an extended jurisdiction juvenile of any of the offenses requiring registration under this subdivision;

(3) the court, in its discretion and upon motion of the prosecuting attorney, finds that the circumstances of the offense require the child to register; and

(4) the court considers the following factors when determining whether the child should register:

(i) the degree to which the child used force, threat, or intimidation in committing the offense;

(ii) impact on the victim;

(iii) age and maturity of the child;

(iv) the difference in age of the victim and child;

(v) the child's history of delinquency; and

(vi) any other aggravating or mitigating factor that the court determines relevant to the particular case which may include any or all of the following: compliance on probation, progress in treatment, and risk assessments and evaluations.

The prosecuting attorney may file a motion for registration at any time during which the juvenile is within the jurisdiction of the court for the offense that is the basis for the motion.

Sec. 2. Minnesota Statutes 2012, section 243.166, subdivision 2, is amended to read:

Subd. 2. **Notice.** When a person who is required to register under subdivision 1b, ~~paragraph~~ paragraphs (a) and (e), is sentenced or becomes subject to a juvenile court disposition order, the court shall tell the person of the duty to register under this section and that, if the person fails to comply with the registration requirements, information about the offender may be made available to the public through electronic, computerized, or other accessible means. The court may not modify the person's duty to register in the pronounced sentence or disposition order. The court shall require the person to read and

sign a form stating that the duty of the person to register under this section has been explained. The court shall forward the signed sex offender registration form, the complaint, and sentencing documents to the bureau. If a person required to register under subdivision 1b, paragraph (a) or (e), was not notified by the court of the registration requirement at the time of sentencing or disposition, the assigned corrections agent shall notify the person of the requirements of this section. When a person who is required to register under subdivision 1b, paragraph (c) or (d), is released from commitment, the treatment facility shall notify the person of the requirements of this section. The treatment facility shall also obtain the registration information required under this section and forward it to the bureau.

Sec. 3. Minnesota Statutes 2012, section 243.166, subdivision 6, is amended to read:

Subd. 6. Registration period. (a) Notwithstanding the provisions of section 609.165, subdivision 1, and except as provided in paragraphs (b), (c), and (d), a person required to register under this section shall continue to comply with this section until ten years have elapsed since the person initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs later. For a person required to register under this section who is committed under section 253B.18 or 253B.185, the ten-year registration period does not include the period of commitment.

(b) If a person required to register under this section fails to provide the person's primary address as required by subdivision 3, paragraph (b), fails to comply with the requirements of subdivision 3a, fails to provide information as required by subdivision 4a, or fails to return the verification form referenced in subdivision 4 within ten days, the commissioner of public safety may require the person to continue to register for an additional period of five years. This five-year period is added to the end of the offender's registration period.

(c) If a person required to register under this section is subsequently incarcerated following a conviction for a new offense or following a revocation of probation, supervised release, or conditional release for any offense, the person shall continue to register until ten years have elapsed since the person was last released from incarceration or until the person's probation, supervised release, or conditional release period expires, whichever occurs later.

(d) A person shall continue to comply with this section for the life of that person:

(1) if the person is convicted of ~~or adjudicated delinquent for~~ any offense for which registration is required under subdivision 1b, or convicted of or adjudicated delinquent for any offense from another state or any federal offense similar to the offenses described in subdivision 1b, and the person has a prior conviction or adjudication for an offense for

which registration was or would have been required under subdivision 1b, or an offense from another state or a federal offense similar to an offense described in subdivision 1b;

(2) if the person is required to register based upon a conviction ~~or delinquency adjudication~~ for an offense under section 609.185, paragraph (a), clause (2), or convicted of or adjudicated delinquent for a similar statute from another state or the United States;

(3) if the person is required to register based upon a conviction for an offense under section 609.342, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.343, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.344, subdivision 1, paragraph (a), (c), or (g); or 609.345, subdivision 1, paragraph (a), (c), or (g); or convicted of or adjudicated delinquent for a statute from another state or the United States similar to the offenses described in this clause; or

(4) if the person is required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States.

(e) A person described in subdivision 1b, paragraph (b), who is required to register under the laws of a state in which the person has been previously convicted or adjudicated delinquent, shall register under this section for the time period required by the state of conviction or adjudication unless a longer time period is required elsewhere in this section.

Sec. 4. Minnesota Statutes 2012, section 260B.163, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) Except for hearings arising under section 260B.425, hearings on any matter shall be without a jury and may be conducted in an informal manner, except that a child who is prosecuted as an extended jurisdiction juvenile has the right to a jury trial on the issue of guilt. The rules of evidence promulgated pursuant to section 480.0591 and the law of evidence shall apply in adjudicatory proceedings involving a child alleged to be delinquent, an extended jurisdiction juvenile, or a juvenile petty offender, and hearings conducted pursuant to section 260B.125 except to the extent that the rules themselves provide that they do not apply.

(b) When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260B.001 to 260B.421.

(c) Except as otherwise provided in this ~~paragraph~~ subdivision, the court shall exclude the general public from hearings under this chapter and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court. The court shall permit the victim of a child's delinquent act to attend any related delinquency proceeding, except that the court may exclude the victim:

(1) as a witness under the Rules of Criminal Procedure; ~~and~~ or
(2) from portions of a ~~certification~~ hearing to discuss psychological material or other evidence that would not be accessible to the public in an adult proceeding.

(d) The court shall open the hearings to the public ~~in delinquency or extended jurisdiction juvenile proceedings where~~ if the child is alleged to have committed an offense or has been proven to have committed an offense that would be a felony if committed by an adult ~~and~~, the child was at least 16 years of age at the time of the offense, ~~except that~~ and:

- (1) the hearing is a certification proceeding;
- (2) the hearing is an extended juvenile jurisdiction proceeding and the prosecutor has requested that the hearing be open; or
- (3) the court determines that, due to the violent or serious nature of the alleged offense, the benefit to public safety of holding an open hearing outweighs the potential consequences for the child due to the resulting public record.

The court may exclude the public from portions of a ~~certification~~ hearing to discuss psychological material or other evidence that would not be accessible to the public in an adult proceeding.

~~(d)~~ (e) In all delinquency cases a person named in the charging clause of the petition as a person directly damaged in person or property shall be entitled, upon request, to be notified by the court administrator in writing, at the named person's last known address, of
(1) the date of the certification or adjudicatory hearings, and (2) the disposition of the case.

Sec. 5. Minnesota Statutes 2012, section 260B.171, subdivision 1, is amended to read:

Subdivision 1. **Records required to be kept.** (a) The juvenile court judge shall keep such minutes and in such manner as the court deems necessary and proper. Except as provided in paragraph (b), the court shall keep and maintain records pertaining to delinquent adjudications until the person reaches the age of 28 years and shall release the records on an individual to another juvenile court that has jurisdiction of the juvenile, to a requesting adult court for purposes of sentencing, or to an adult court or juvenile court as required by the right of confrontation of either the United States Constitution or the Minnesota Constitution. The court shall not allow public electronic access to any records pertaining to delinquency hearings or adjudications after the person reaches the age of 28 years. The juvenile court shall provide, upon the request of any other juvenile court, copies of the records concerning adjudications involving the particular child. The court also may provide copies of records concerning delinquency adjudications, on request, to law enforcement agencies, probation officers, and corrections agents if the court finds that providing these records serves public safety or is in the best interests of the child. Juvenile

7.1 court delinquency proceeding records of adjudications, court transcripts, and delinquency
7.2 petitions, including any probable cause attachments that have been filed or police officer
7.3 reports relating to a petition, must be released to requesting law enforcement agencies and
7.4 prosecuting authorities for purposes of investigating and prosecuting violations of section
7.5 609.229, provided that psychological or mental health reports may not be included with
7.6 those records. The agency receiving the records may release the records only as permitted
7.7 under this section or authorized by law.

7.8 The court shall also keep an index in which files pertaining to juvenile matters shall
7.9 be indexed under the name of the child. After the name of each file shall be shown the
7.10 file number and, if ordered by the court, the book and page of the register in which the
7.11 documents pertaining to such file are listed. The court shall also keep a register properly
7.12 indexed in which shall be listed under the name of the child all documents filed pertaining
7.13 to the child and in the order filed. The list shall show the name of the document and the
7.14 date of filing thereof. The juvenile court legal records shall be deposited in files and
7.15 shall include the petition, summons, notice, findings, orders, decrees, judgments, and
7.16 motions and such other matters as the court deems necessary and proper. Unless otherwise
7.17 provided by law, all court records shall be open at all reasonable times to the inspection of
7.18 any child to whom the records relate, and to the child's parent and guardian.

7.19 (b) The court shall retain records of the court finding that a juvenile committed an
7.20 act that would be a felony- or gross misdemeanor level offense until the offender reaches
7.21 the age of 28. If the offender commits a felony as an adult, or the court convicts a child as
7.22 an extended jurisdiction juvenile, the court shall retain the juvenile records for as long as
7.23 the records would have been retained if the offender had been an adult at the time of the
7.24 juvenile offense. This paragraph does not apply unless the juvenile was provided counsel
7.25 as required by section 260B.163, subdivision 2.

7.26 Sec. 6. Minnesota Statutes 2012, section 260B.171, subdivision 4, is amended to read:

7.27 Subd. 4. **Public inspection of records.** (a) Legal records arising from proceedings
7.28 or portions of proceedings that are public under section 260B.163, subdivision 1, are
7.29 open to public inspection.

7.30 (b) Except as otherwise provided by this section, none of the records of the juvenile
7.31 court and none of the records relating to an appeal from a nonpublic juvenile court
7.32 proceeding, except the written appellate opinion, shall be open to public inspection or
7.33 their contents disclosed except:

7.34 (1) by order of a court; or

(2) as required by chapter 245C or ~~sections~~ section 245A.04, if the proceedings resulted in adjudication of a crime that would constitute a background check crime as defined in section 299C.61, subdivision 2, or crimes against vulnerable adults as defined in section 609.232, or as required by sections 611A.03, 611A.04, 611A.06, and 629.73.

(c) The victim of any alleged delinquent act may, upon the victim's request, obtain the following information, unless it reasonably appears that the request is prompted by a desire on the part of the requester to engage in unlawful activities:

(1) the name and age of the juvenile;

(2) the act for which the juvenile was petitioned and date of the offense; and

(3) the disposition, including, but not limited to, dismissal of the petition, diversion, probation and conditions of probation, detention, fines, or restitution.

(d) The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. Court services data relating to delinquent acts that are contained in records of the juvenile court may be released as allowed under section 13.84, subdivision 6. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court, except that this subdivision does not apply to proceedings under section 260B.335 or 260B.425 when the proceeding involves an adult defendant. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.

(e) When a judge of a juvenile court, or duly authorized agent of the court, determines under a proceeding under this chapter that a child has violated a state or local law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets and highways, except parking violations, the judge or agent shall immediately report the violation to the commissioner of public safety. The report must be made on a form provided by the Department of Public Safety and must contain the information required under section 169.95.

(f) A county attorney may give a law enforcement agency that referred a delinquency matter to the county attorney a summary of the results of that referral, including the details of any juvenile court disposition.

Sec. 7. Minnesota Statutes 2012, section 260B.198, subdivision 7, is amended to read:

Subd. 7. **Continuance.** When it is in the best interests of the child to do so and when the child has admitted the allegations contained in the petition before the judge or

9.1 referee, or when a hearing has been held as provided for in section 260B.163 and the
9.2 allegations contained in the petition have been duly proven but, in either case, before a
9.3 finding of delinquency has been entered, the court may continue the case for a period
9.4 not to exceed ~~90~~ 180 days on any one order. Such a continuance may be extended for
9.5 one additional successive period not to exceed ~~90~~ 180 days and only after the court has
9.6 reviewed the case and entered its order for an additional continuance without a finding of
9.7 delinquency. During this continuance the court may enter an order in accordance with the
9.8 provisions of subdivision 1, ~~clause (1) or (2)~~ except clauses (3) and (4), or enter an order
9.9 to hold the child in detention for a period not to exceed 15 days on any one order for the
9.10 purpose of completing any consideration, or any investigation or examination ordered in
9.11 accordance with the provisions of section 260B.157. This subdivision does not apply to an
9.12 extended jurisdiction juvenile proceeding.