A bill for an act

relating to firearms; directing the commissioner of human services to report mental health commitment information to the National Instant Criminal Background Check System for the purpose of facilitating firearms background checks; creating a reporting requirement; extending time period for renewal of permit to purchase a pistol from a federally licensed dealer; providing for an annual background check; requiring courts to report certain data to the National Instant Criminal Background Check System for the purpose of firearms background checks; clarifying and delimiting the authority of public officials to disarm individuals at any time; clarifying law on use of force in defense of home and person; codifying and extending Minnesota's self-defense and defense of home laws; eliminating the common law duty to retreat in cases of self defense outside the home; expanding the boundaries of dwelling for purposes of self-defense; creating a presumption in the case of a person entering a dwelling or occupied vehicle by stealth or force; extending the rights available to a person in that person's dwelling to a person defending against entry of that person's occupied vehicle; providing for the recognition by Minnesota of other states' permits to carry a pistol within and under the laws of Minnesota; amending Minnesota Statutes 2010, sections 245.041; 609.065; 624.713, by adding a subdivision; 624.7131, subdivisions 2, 6, 8; 624.714, subdivision 16; proposing coding for new law in Minnesota Statutes, chapter 624.

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

ARTICLE 1

PERMIT TO PURCHASE RENEWAL AND BACKGROUND CHECKS

Section 1. Minnesota Statutes 2010, section 245.041, is amended to read:

245.041 PROVISION OF FIREARMS BACKGROUND CHECK INFORMATION.

Notwithstanding section 253B.23, subdivision 9, the commissioner of human services shall provide commitment information to ~~local~~ law enforcement agencies on an individual request basis by means of electronic data transfer from the Department of

Human Services through the Minnesota Crime Information System and the National Instant Criminal Background Check System for the ~~sole~~ purpose of facilitating a firearms background check under section 624.7131, 624.7132, or 624.714. The information to be provided is limited to whether the person has been committed under chapter 253B and, if so, the type of commitment. No later than August 1, 2011, the commissioner must make available in electronic data format the commitment information required by this section for commitments occurring since August 1, 1994.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2010, section 624.713, is amended by adding a subdivision to read:

Subd. 5. **Provision of firearms background check information.** (a) When a court places a person, including a person under the jurisdiction of the juvenile court, who is charged with committing a crime of violence, into a pretrial diversion program before disposition, the court must ensure that information regarding the person's placement in that program and the ordered expiration date of that placement is transmitted as soon as practicable to the National Instant Criminal Background Check System. When a person successfully completes or discontinues the program, the court must also report that fact as soon as practicable to the National Instant Criminal Background Check System.

(b) The court must report the conviction and duration of the firearms disqualification imposed as soon as practicable to the National Instant Criminal Background Check System when a person is convicted of a gross misdemeanor that disqualifies the person from possessing firearms under the following sections:

(1) 518B.01, subdivision 14;

(2) 609.224, subdivision 3;

(3) 609.2242, subdivision 3;

(4) 609.749, subdivision 8;

(5) 624.713, subdivision 1, clause (11); or

(6) 629.715, subdivision 2.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 3. Minnesota Statutes 2010, section 624.7131, subdivision 2, is amended to read:

Subd. 2. **Investigation.** The chief of police or sheriff shall check criminal histories, records and warrant information relating to the applicant through the Minnesota Crime Information System, the national criminal record repository, and the National Instant

Criminal Background Check System. The chief of police or sheriff shall also make a reasonable effort to check other available state and local record-keeping systems. The chief of police or sheriff shall obtain commitment information from the commissioner of human services as provided in section 245.041. The chief of police or sheriff must conduct a background check by means of electronic data transfer on a permit holder through the Minnesota Crime Information System and the National Instant Criminal Background Check System at least yearly to ensure continuing eligibility.

EFFECTIVE DATE. This section is effective August 1, 2011, for all valid transferee permits issued by the chief of police or sheriff on or after August 1, 2010.

Sec. 4. Minnesota Statutes 2010, section 624.7131, subdivision 6, is amended to read:

Subd. 6. **Permits valid statewide for five years.** Transferee permits issued pursuant to this section are valid statewide and shall expire after ~~one year~~ five years. A transferee permit may be renewed in the same manner and subject to the same provisions by which the original permit was obtained, except that all renewed permits must comply with the standards adopted by the commissioner under section 624.7151. Permits issued pursuant to this section are not transferable. A person who transfers a permit in violation of this subdivision is guilty of a misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2011, for transferee permits issued under section 624.7131 or 624.7132, on or after August 1, 2010.

Sec. 5. Minnesota Statutes 2010, section 624.7131, subdivision 8, is amended to read:

Subd. 8. ~~**Hearing upon denial**~~ **Petition for relief.** Any person aggrieved by a violation of this section or by denial of a transferee permit may ~~appeal the denial~~ petition for relief to the district court having jurisdiction over the county or municipality in which the ~~denial~~ act occurred. The court shall grant an appeal if the applicant is not a person prohibited from possessing a pistol or semiautomatic military-style assault weapon by section 624.713. If the court grants relief under this subdivision, the court must award the petitioner reasonable costs and expenses including attorney fees.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to appeals brought on or after that date.

Sec. 6. **REPORTING REQUIREMENT.**

By February 1, 2012, and each year thereafter on that date, the commissioner of human services must report to the chairs and ranking minority members of the committees

of the senate and house of representatives having jurisdiction over criminal justice funding and policy, on the commissioner's progress in meeting the requirement in section 1.

EFFECTIVE DATE. This section is effective the day following final enactment.

ARTICLE 2

AUTHORITY TO SEIZE WEAPONS

Section 1. **[624.7192] AUTHORITY TO SEIZE AND CONFISCATE FIREARMS.**

(a) A peace officer who is acting in the lawful discharge of the officer's official duties may disarm a lawfully detained individual only temporarily and only if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual. Before releasing the individual, the peace officer must return to the individual any seized firearms and ammunition, and components thereof, any firearms accessories and ammunition reloading equipment and supplies, and any other personal weapons taken from the individual, unless the officer takes the individual into physical custody for engaging in criminal activity, or seizes the items as evidence pursuant to an investigation for the commission of a crime.

(b) Notwithstanding any other law to the contrary, no governmental unit, government official, government employee, peace officer, or other person or body acting under governmental authority or color of law may undertake any of the following actions with regard to any firearms and ammunition, and components thereof; any firearms accessories and ammunition reloading equipment and supplies; and any other personal weapons:

(1) prohibit, regulate, or curtail the otherwise lawful possession, carrying, transportation, transfer, defensive use, or other lawful use of any of these items;

(2) seize, commandeer, or confiscate any of these items in any manner, except as expressly authorized in paragraph (a);

(3) suspend or revoke a valid permit issued pursuant to section 624.7131 or 624.714, except as expressly authorized in those sections; or

(4) close or limit the operating hours of businesses that lawfully sell or service any of these items.

(c) No provision of law relating to a public disorder or disaster emergency proclamation by the governor or any other governmental or quasi-governmental official, including but not limited to emergency management powers pursuant to chapters 9 and 12, shall be construed as authorizing the governor or any other governmental or quasi-governmental official of this state or any of its political subdivisions acting at

the direction of the governor or another official to act in violation of this paragraph or paragraphs (a) and (b).

(d)(1) An individual aggrieved by a violation of this section may seek relief in an action at law or in equity or in any other proper proceeding for damages, injunctive relief, or other appropriate redress against a person who commits or causes the commission of this violation. Venue shall be in the district court having jurisdiction over the county in which the aggrieved individual resides or in which the violation occurred.

(2) In addition to any other remedy available at law or in equity, an individual aggrieved by the seizure or confiscation of an item listed in paragraph (b) in violation of this section may make application for the immediate return of the items in the office of the clerk of court for the county in which the items were seized and, except as provided in paragraph (a), the court shall order the immediate return of the items by the seizing or confiscating governmental office and that office's employed officials.

(3) In an action or proceeding to enforce this section, the court shall award the prevailing plaintiff reasonable court costs and expenses, including attorney fees.

EFFECTIVE DATE. This section is effective August 1, 2011.

ARTICLE 3

SELF-DEFENSE: USE OF FORCE

Section 1. Minnesota Statutes 2010, section 609.065, is amended to read:

609.065 JUSTIFIABLE ~~TAKING OF LIFE~~ USE OF DEADLY FORCE IN DEFENSE OF HOME AND PERSON.

Subdivision 1. **Definitions.** ~~The intentional taking of the life of another is not authorized by section 609.06, except when necessary in resisting or preventing an offense which the actor reasonably believes exposes the actor or another to great bodily harm or death, or preventing the commission of a felony in the actor's place of abode.~~ (a) For purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Court order" means an order for protection issued under section 518B.01, a restraining order issued under section 609.748, a no contact order issued under section 518B.01 or 629.75, or a substantively similar order issued by any court in this state, another state, the United States, or any subordinate jurisdiction of the United States.

(c) "Deadly force" means force used by an individual with the purpose of causing, or which the individual should reasonably know creates a substantial risk of causing, great bodily harm or death. The intentional discharge of a firearm by an individual at another person, or at a vehicle in which another person is believed to be, constitutes

deadly force. A threat to cause great bodily harm or death, by the production of a weapon or otherwise, constitutes reasonable force and not deadly force, when the individual's objective is limited to creating an expectation that the individual will use deadly force only if authorized by law.

(d) "Dwelling" means a building defined under section 609.556, subdivision 3, an overnight stopping accommodation of any kind, or a place of abode, that an individual temporarily or permanently is occupying or intending to occupy as a habitation or home. A dwelling may include, but is not limited to, a building or conveyance and that building's or conveyance's curtilage and any attached or adjacent deck, porch, appurtenance, or other structure, whether the building or conveyance is used temporarily or permanently for these purposes, is mobile or immobile, or is a motor vehicle, watercraft, motor home, tent, or the equivalent.

(e) "Forcible felony" means any crime punishable by imprisonment exceeding one year the elements of which include the use or threatened use of physical force or a deadly weapon against the person of another.

(f) "Great bodily harm" has the meaning given in section 609.02, subdivision 7a.

(g) "Substantial bodily harm" has the meaning given in section 609.02, subdivision 8.

(h) "Vehicle" means a conveyance of any type, including but not limited to a motor vehicle, boat, train, or airplane; a person-powered or animal-powered buggy, wagon, carriage, sled, or sleigh; a bicycle, pedicab, or Segway; or any other conveyance device.

Subd. 2. **Circumstances when authorized.** (a) The use of deadly force by an individual is justified under this section when the act is undertaken:

(1) to resist or prevent the commission of a felony in the individual's dwelling;

(2) to resist or prevent what the individual reasonably believes is an offense or attempted offense that imminently exposes the individual or another person to substantial bodily harm, great bodily harm, or death; or

(3) to resist or prevent what the individual reasonably believes is the commission or imminent commission of a forcible felony.

(b) The use of deadly force is not authorized under this section if the individual knows that the person against whom force is being used is a licensed peace officer from this state, another state, the United States, or any subordinate jurisdiction of the United States, who is acting lawfully.

Subd. 3. **Degree of force; retreat.** An individual taking defensive action pursuant to subdivision 2 may use all force and means, including deadly force, that the individual honestly and in good faith believes is required to succeed in defense. The individual may meet force with superior force when the individual's objective is defensive; the individual

is not required to retreat; and the individual may continue defensive actions against an assailant until the danger is eliminated.

Subd. 4. **Presumptions.** (a) An individual using deadly force is presumed to possess a reasonable belief that there exists an imminent threat of substantial bodily harm, great bodily harm, or death to the individual or another person, if the individual knows or has reason to know that:

(1) the person against whom the defensive action is being taken is entering or attempting to enter by force or by stealth, or has entered by force or by stealth and remains within, the dwelling or occupied vehicle of the individual; or

(2) the person against whom the defensive action is being taken is in the process of removing, or attempting to remove, the individual or another person from the dwelling or occupied vehicle of the individual.

(b) The individual is not entitled to the benefit of the presumption in paragraph (a) if the individual knows that the person against whom the defensive action is being taken:

(1) is a lawful resident of the dwelling or a lawful possessor of the vehicle, or is otherwise lawfully permitted to enter the dwelling or vehicle; or

(2) is a person who has lawful custody of the person being removed from the dwelling or vehicle or whose removal from the dwelling or vehicle is being attempted.

A person who is prohibited by a court order from contacting another individual or from entering a dwelling or possessing a vehicle of another individual is not a lawful resident of that individual's dwelling and is not a lawful possessor of that individual's vehicle.

Subd. 5. **Criminal investigation; immunity from prosecution.** (a) An individual who uses force, including deadly force, according to this section or as otherwise provided by law in defense of the individual, the individual's dwelling, or another individual is justified in using such force and is immune from any civil liability or criminal prosecution for that act.

(b) A law enforcement agency may arrest an individual using force under circumstances described in this section only after considering any claims or circumstances supporting self-defense or lawful defense of another individual.

Subd. 6. **Justifiable use of force; burden of proof.** In a criminal trial, when there is any evidence of justifiable use of force under this section or section 609.06, the state has the burden of proving beyond a reasonable doubt that the defendant's actions were not justifiable.

Subd. 7. **Short title.** This section may be cited as the "Defense of Dwelling and Person Act of 2011."

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to uses of deadly force occurring on or after that date.

ARTICLE 4

RECOGNITION OF OTHER STATES' PERMITS TO CARRY

Section 1. Minnesota Statutes 2010, section 624.714, subdivision 16, is amended to read:

Subd. 16. **Recognition of permits from other states.** (a) ~~The commissioner must annually establish and publish a list of other states that have laws governing the issuance of permits to carry weapons that are not substantially similar to this section. The list must be available on the Internet.~~ A person holding a valid carry permit ~~from a~~ or license issued by another state ~~not on the list~~ or other non-Minnesota governmental jurisdiction may use the ~~license or~~ permit or license in ~~this state~~ Minnesota subject to the rights, privileges, and requirements of this section. This permit or license is a valid permit to carry a pistol within and under the laws of Minnesota for as long as that permit or license remains valid under the laws of the issuing jurisdiction, and is deemed to be a permit issued under this section for all purposes.

(b) Notwithstanding paragraph (a), no ~~license or~~ permit ~~from~~ or license issued by another state or other non-Minnesota governmental jurisdiction is valid in this state if the holder is or becomes prohibited by Minnesota law from possessing a firearm.

(c) Any sheriff, on the sheriff's initiative or at the request of a police chief of a jurisdiction located in the same county, may file a petition under subdivision 12 seeking an order suspending or revoking the authority of the holder of an out-of-state permit ~~holder's authority~~ or license to carry a pistol in ~~this state~~ Minnesota on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall ~~only~~ be issued only if the petitioner meets the burden of proof and criteria set forth in subdivision 12. If the court denies the petition, the court must award the permit or license holder reasonable costs and expenses including attorney fees. The petition may be filed in any Minnesota county ~~in the state~~ where a person holding a ~~license or~~ permit ~~from~~ or license issued by another state or other non-Minnesota governmental jurisdiction can be found.

(d) The commissioner must annually establish and publish a list of states that have reciprocity agreements with Minnesota mutually recognizing each state's permits or licenses to carry a pistol, or that otherwise recognize Minnesota permits to carry a pistol. The list must be available on the Internet.

(e) The commissioner must~~, when necessary,~~ execute reciprocity agreements regarding carry permits or licenses with jurisdictions whose carry permits or licenses are recognized under paragraph (a).

EFFECTIVE DATE. This section is effective August 1, 2011.

APPENDIX
Article locations in 11-2865

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ARTICLE 2	AUTHORITY TO SEIZE WEAPONS	Page.Ln 4.4
ARTICLE 3	SELF-DEFENSE: USE OF FORCE	Page.Ln 5.17
ARTICLE 4	RECOGNITION OF OTHER STATES' PERMITS TO CARRY	Page.Ln 8.3