

1.1 CONFERENCE COMMITTEE REPORT ON S.F. No. 722

1.2 A bill for an act

1.3 relating to public safety; requiring that information on persons civilly committed,
1.4 found not guilty by reason of mental illness, or incompetent to stand trial be
1.5 transmitted to the federal National Instant Criminal Background Check System;
1.6 authorizing certain persons prohibited under state law from possessing a firearm
1.7 to petition a court for restoration of this right; amending Minnesota Statutes
1.8 2008, section 624.713, subdivision 1, by adding a subdivision; proposing coding
1.9 for new law in Minnesota Statutes, chapter 253B.

1.10 May 16, 2009

1.11 The Honorable James P. Metzen
1.12 President of the Senate

1.13 The Honorable Margaret Anderson Kelliher
1.14 Speaker of the House of Representatives

1.15 We, the undersigned conferees for S.F. No. 722 report that we have agreed upon the
1.16 items in dispute and recommend as follows:

1.17 That the House recede from its amendment and that S.F. No. 722 be further amended
1.18 as follows:

1.19 Delete everything after the enacting clause and insert:

1.20 "Section 1. [253B.24] TRANSMITTAL OF DATA TO NATIONAL INSTANT
1.21 CRIMINAL BACKGROUND CHECK SYSTEM.

1.22 When a court:

1.23 (1) commits a person under this chapter as being mentally ill, developmentally
1.24 disabled, mentally ill and dangerous, or chemically dependent;

1.25 (2) determines in a criminal case that a person is incompetent to stand trial or not
1.26 guilty by reason of mental illness; or

1.27 (3) restores a person's ability to possess a firearm under section 609.165, subdivision
1.28 1d, or 624.713, subdivision 4,

1.29 the court shall ensure that this information is transmitted as soon as practicable to the
1.30 National Instant Criminal Background Check System.

2.1 Sec. 2. Minnesota Statutes 2008, section 624.713, subdivision 1, is amended to read:

2.2 Subdivision 1. **Ineligible persons.** The following persons shall not be entitled to
2.3 possess a pistol or semiautomatic military-style assault weapon or, except for clause (1),
2.4 any other firearm:

2.5 (1) a person under the age of 18 years except that a person under 18 may carry or
2.6 possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence
2.7 or under the direct supervision of the person's parent or guardian, (ii) for the purpose
2.8 of military drill under the auspices of a legally recognized military organization and
2.9 under competent supervision, (iii) for the purpose of instruction, competition, or target
2.10 practice on a firing range approved by the chief of police or county sheriff in whose
2.11 jurisdiction the range is located and under direct supervision; or (iv) if the person has
2.12 successfully completed a course designed to teach marksmanship and safety with a pistol
2.13 or semiautomatic military-style assault weapon and approved by the commissioner of
2.14 natural resources;

2.15 (2) except as otherwise provided in clause (9), a person who has been convicted of,
2.16 or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing,
2.17 in this state or elsewhere, a crime of violence. For purposes of this section, crime of
2.18 violence includes crimes in other states or jurisdictions which would have been crimes of
2.19 violence as herein defined if they had been committed in this state;

2.20 (3) a person who is or has ever been ~~confined~~ committed in Minnesota or elsewhere
2.21 ~~as a~~ by a judicial determination that the person who is mentally ill, developmentally
2.22 disabled, or mentally ill and dangerous to the public, as defined in section 253B.02, to
2.23 a treatment facility, or who has ever been found incompetent to stand trial or not guilty
2.24 by reason of mental illness, unless the ~~person possesses a certificate of a medical doctor~~
2.25 ~~or psychiatrist licensed in Minnesota, or other satisfactory proof that the person is no~~
2.26 ~~longer suffering from this disability~~ person's ability to possess a firearm has been restored
2.27 under subdivision 4;

2.28 (4) a person who has been convicted in Minnesota or elsewhere of a misdemeanor
2.29 or gross misdemeanor violation of chapter 152, ~~or a person who is or has ever been~~
2.30 ~~hospitalized or committed for treatment for the habitual use of a controlled substance~~
2.31 ~~or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a~~
2.32 ~~certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory~~
2.33 ~~proof, that the person has not abused a controlled substance or marijuana during the~~
2.34 ~~previous two years~~ unless three years have elapsed since the date of conviction and,
2.35 during that time, the person has not been convicted of any other such violation of chapter
2.36 152 or a similar law of another state; or a person who is or has ever been committed by

3.1 a judicial determination for treatment for the habitual use of a controlled substance or
3.2 marijuana, as defined in sections 152.01 and 152.02, unless the person's ability to possess
3.3 a firearm has been restored under subdivision 4;

3.4 (5) a person who has been ~~confined or~~ committed to a treatment facility in Minnesota
3.5 or elsewhere ~~as~~ by a judicial determination that the person is chemically dependent as
3.6 defined in section 253B.02, unless the person has completed treatment or the person's
3.7 ability to possess a firearm has been restored under subdivision 4. Property rights may
3.8 not be abated but access may be restricted by the courts;

3.9 (6) a peace officer who is informally admitted to a treatment facility pursuant to
3.10 section 253B.04 for chemical dependency, unless the officer possesses a certificate from
3.11 the head of the treatment facility discharging or provisionally discharging the officer from
3.12 the treatment facility. Property rights may not be abated but access may be restricted
3.13 by the courts;

3.14 (7) a person, including a person under the jurisdiction of the juvenile court, who
3.15 has been charged with committing a crime of violence and has been placed in a pretrial
3.16 diversion program by the court before disposition, until the person has completed the
3.17 diversion program and the charge of committing the crime of violence has been dismissed;

3.18 (8) except as otherwise provided in clause (9), a person who has been convicted in
3.19 another state of committing an offense similar to the offense described in section 609.224,
3.20 subdivision 3, against a family or household member or section 609.2242, subdivision
3.21 3, unless three years have elapsed since the date of conviction and, during that time, the
3.22 person has not been convicted of any other violation of section 609.224, subdivision 3, or
3.23 609.2242, subdivision 3, or a similar law of another state;

3.24 (9) a person who has been convicted in this state or elsewhere of assaulting a family
3.25 or household member and who was found by the court to have used a firearm in any way
3.26 during commission of the assault is prohibited from possessing any type of firearm for the
3.27 period determined by the sentencing court;

3.28 (10) a person who:

3.29 (i) has been convicted in any court of a crime punishable by imprisonment for a
3.30 term exceeding one year;

3.31 (ii) is a fugitive from justice as a result of having fled from any state to avoid
3.32 prosecution for a crime or to avoid giving testimony in any criminal proceeding;

3.33 (iii) is an unlawful user of any controlled substance as defined in chapter 152;

3.34 (iv) has been judicially committed to a treatment facility in Minnesota or elsewhere
3.35 as a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to
3.36 the public, as defined in section 253B.02;

4.1 (v) is an alien who is illegally or unlawfully in the United States;

4.2 (vi) has been discharged from the armed forces of the United States under
4.3 dishonorable conditions; or

4.4 (vii) has renounced the person's citizenship having been a citizen of the United
4.5 States; or

4.6 (11) a person who has been convicted of the following offenses at the gross
4.7 misdemeanor level, unless three years have elapsed since the date of conviction and,
4.8 during that time, the person has not been convicted of any other violation of these sections:
4.9 section 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision
4.10 4 (assaults motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or
4.11 endangerment of a child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665
4.12 (setting a spring gun); 609.71 (riot); or 609.749 (harassment and stalking). For purposes
4.13 of this paragraph, the specified gross misdemeanor convictions include crimes committed
4.14 in other states or jurisdictions which would have been gross misdemeanors if conviction
4.15 occurred in this state.

4.16 A person who issues a certificate pursuant to this ~~subdivision~~ section in good faith is
4.17 not liable for damages resulting or arising from the actions or misconduct with a firearm
4.18 committed by the individual who is the subject of the certificate.

4.19 The prohibition in this subdivision relating to the possession of firearms other than
4.20 pistols and semiautomatic military-style assault weapons does not apply retroactively
4.21 to persons who are prohibited from possessing a pistol or semiautomatic military-style
4.22 assault weapon under this subdivision before August 1, 1994.

4.23 The lifetime prohibition on possessing, receiving, shipping, or transporting firearms
4.24 for persons convicted or adjudicated delinquent of a crime of violence in clause (2),
4.25 applies only to offenders who are discharged from sentence or court supervision for a
4.26 crime of violence on or after August 1, 1993.

4.27 For purposes of this section, "judicial determination" means a court proceeding
4.28 pursuant to sections 253B.07 through 253B.09 or a comparable law from another state.

4.29 Sec. 3. Minnesota Statutes 2008, section 624.713, is amended by adding a subdivision
4.30 to read:

4.31 Subd. 4. **Restoration of firearms eligibility to civilly committed person; petition**
4.32 **authorized.** (a) A person who is prohibited from possessing a firearm under subdivision
4.33 1, due to commitment resulting from a judicial determination that the person is mentally
4.34 ill, developmentally disabled, mentally ill and dangerous, or chemically dependent, may
4.35 petition a court to restore the person's ability to possess a firearm.

5.1 (b) The court may grant the relief sought in paragraph (a) in accordance with
5.2 the principles of due process if the circumstances regarding the person's disqualifying
5.3 condition and the person's record and reputation are determined to be such that:

5.4 (1) the person is not likely to act in a manner that is dangerous to public safety; and

5.5 (2) the granting of relief would not be contrary to the public interest.

5.6 (c) When determining whether a person has met the requirement of paragraph (b),
5.7 clause (1), the court may consider evidence from a licensed medical doctor or clinical
5.8 psychologist that the person is no longer suffering from the disease or condition that
5.9 caused the disability or that the disease or condition has been successfully treated for a
5.10 period of three consecutive years.

5.11 (d) Review on appeal shall be de novo.

5.12 Sec. 4. Minnesota Statutes 2008, section 624.7131, subdivision 2, is amended to read:

5.13 Subd. 2. **Investigation.** The chief of police or sheriff shall check criminal histories,
5.14 records and warrant information relating to the applicant through the Minnesota crime
5.15 information system ~~and~~ the national criminal record repository ~~and~~, and the National
5.16 Instant Criminal Background Check System. The chief of police or sheriff shall also make
5.17 a reasonable effort to check other available state and local record-keeping systems. The
5.18 chief of police or sheriff shall obtain commitment information from the commissioner of
5.19 human services as provided in section 245.041.

5.20 Sec. 5. Minnesota Statutes 2008, section 624.7132, subdivision 2, is amended to read:

5.21 Subd. 2. **Investigation.** Upon receipt of a transfer report, the chief of police or
5.22 sheriff shall check criminal histories, records and warrant information relating to the
5.23 proposed transferee through the Minnesota crime information system ~~and~~ the national
5.24 criminal record repository, and the National Instant Criminal Background Check System.
5.25 ~~and~~ The chief of police or sheriff shall also make a reasonable effort to check other
5.26 available state and local record-keeping systems. The chief of police or sheriff shall
5.27 obtain commitment information from the commissioner of human services as provided
5.28 in section 245.041.

5.29 Sec. 6. Minnesota Statutes 2008, section 624.714, subdivision 4, is amended to read:

5.30 Subd. 4. **Investigation.** (a) The sheriff must check, by means of electronic data
5.31 transfer, criminal records, histories, and warrant information on each applicant through the
5.32 Minnesota Crime Information System ~~and, to the extent necessary,~~ the National Instant
5.33 Criminal Background Check System. The sheriff shall also make a reasonable effort to
5.34 check other available and relevant federal, state, or local record-keeping systems. The

6.1 sheriff must obtain commitment information from the commissioner of human services as
6.2 provided in section 245.041 or, if the information is reasonably available, as provided by a
6.3 similar statute from another state.

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

6.7 (c) The sheriff must conduct a background check by means of electronic data
6.8 transfer on a permit holder through the Minnesota Crime Information System and, ~~to the~~
6.9 ~~extent necessary,~~ the National Instant Criminal Background Check System at least yearly
6.10 to ensure continuing eligibility. The sheriff may also conduct additional background
6.11 checks by means of electronic data transfer on a permit holder at any time during the
6.12 period that a permit is in effect.

6.13 Sec. 7. **EFFECTIVE DATE.**

6.14 Section 1 is effective July 1, 2010."

6.15 Delete the title and insert:

6.16 "A bill for an act

6.17 relating to public safety; requiring that information on persons civilly committed,
6.18 found not guilty by reason of mental illness, or incompetent to stand trial be
6.19 transmitted to the federal National Instant Criminal Background Check System;
6.20 authorizing certain persons prohibited under state law from possessing a firearm
6.21 to petition a court for restoration of this right; amending Minnesota Statutes 2008,
6.22 sections 624.713, subdivision 1, by adding a subdivision; 624.7131, subdivision
6.23 2; 624.7132, subdivision 2; 624.714, subdivision 4; proposing coding for new
6.24 law in Minnesota Statutes, chapter 253B."

7.1 We request the adoption of this report and repassage of the bill.

7.2 Senate Conferees: (Signed)

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7.4 Kenneth Kelash

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7.6 Bill Ingebrigtsen

7.7 House Conferees: (Signed)

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7.9 John Lesch

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Kim Norton

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7.11 Tony Cornish