

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 285

02/04/2013 Authored by Lesch, Schoen and Savick

The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

04/08/2013 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act
 1.2 relating to public safety; providing for the transfer of civil commitment data to a
 1.3 federal background check system; modifying the lawful possession and transfer
 1.4 of firearms; amending Minnesota Statutes 2012, sections 253B.24; 299C.17;
 1.5 624.712, subdivision 5, by adding a subdivision; 624.713, subdivisions 1, 2;
 1.6 proposing coding for new law in Minnesota Statutes, chapter 624.

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

1.8 Section 1. Minnesota Statutes 2012, section 253B.24, is amended to read:

1.9 **253B.24 TRANSMITTAL OF DATA TO NATIONAL INSTANT CRIMINAL**
 1.10 **BACKGROUND CHECK SYSTEM.**

1.11 (a) When a court:

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

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

1.16 (3) restores a person's ability to possess a firearm under section 609.165, subdivision
 1.17 1d, or 624.713, subdivision 4,

1.18 the court shall ensure that this information is electronically transmitted as soon as
 1.19 practicable within three business days to the National Instant Criminal Background
 1.20 Check System.

1.21 (b) No later than January 1, 2014, the state court administrator must transfer to
 1.22 the National Instant Criminal Background Check System, in electronic data format, the
 1.23 name and type of commitment for persons who were civilly committed under this chapter
 1.24 since August 1, 2005.

2.1 (c) No later than July 1, 2015, the state court administrator must transfer to the
2.2 National Instant Criminal Background Check System, in electronic data format, the name
2.3 and type of commitment for persons who were civilly committed under this chapter since
2.4 August 1, 1994.

2.5 Sec. 2. Minnesota Statutes 2012, section 299C.17, is amended to read:

2.6 **299C.17 REPORT BY COURT ADMINISTRATOR.**

2.7 The superintendent shall ~~have power to~~ require the court administrator ~~of any~~
2.8 ~~county~~ of every court which sentences a defendant for a felony, gross misdemeanor, or
2.9 targeted misdemeanor to file with the department, at such time as the superintendent may
2.10 designate, electronically transmit within three business days of the disposition of the
2.11 case a report, upon such in a form as prescribed by the superintendent may prescribe,
2.12 furnishing such providing information as required by the superintendent may require with
2.13 regard to the prosecution and disposition of criminal cases. A copy of the report shall be
2.14 kept on file in the office of the court administrator.

2.15 Sec. 3. Minnesota Statutes 2012, section 624.712, subdivision 5, is amended to read:

2.16 Subd. 5. **Crime of violence.** "Crime of violence" means: felony convictions of
2.17 the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder
2.18 in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in
2.19 the first degree); 609.205 (manslaughter in the second degree); 609.215 (aiding suicide
2.20 and aiding attempted suicide); 609.221 (assault in the first degree); 609.222 (assault
2.21 in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the
2.22 fourth degree); 609.224, subdivision 4 (felony assault in the fifth degree); 609.2242,
2.23 subdivision 4 (felony domestic assault); 609.2247 (domestic assault by strangulation);
2.24 609.229 (crimes committed for the benefit of a gang); 609.235 (use of drugs to injure
2.25 or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25
2.26 (kidnapping); 609.255 (false imprisonment); 609.322 (solicitation, inducement, and
2.27 promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first
2.28 degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual
2.29 conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree);
2.30 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child);
2.31 609.486 (commission of crime while wearing or possessing a bullet-resistant vest);
2.32 609.52 (involving theft of a firearm, theft involving the intentional taking or driving of a
2.33 motor vehicle without the consent of the owner or authorized agent of the owner, theft
2.34 involving the taking of property from a burning, abandoned, or vacant building, or from

3.1 an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle,
3.2 and theft involving the theft of a controlled substance, an explosive, or an incendiary
3.3 device); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.582,
3.4 subdivision 1, 2, or 3 (burglary in the first through third degrees); 609.66, subdivision 1e
3.5 (drive-by shooting); 609.67 (unlawfully owning, possessing, operating a machine gun or
3.6 short-barreled shotgun); 609.71 (riot); 609.713 (terroristic threats); 609.749 (stalking);
3.7 609.855, subdivision 5 (shooting at a public transit vehicle or facility); and chapter 152
3.8 (drugs, controlled substances); and an attempt to commit any of these offenses. The term
3.9 also includes a second or subsequent conviction or delinquency adjudication for a violation
3.10 of section 624.713, subdivision 2, paragraph (a) (certain juveniles not to possess firearms).

3.11 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes
3.12 committed on or after that date.

3.13 Sec. 4. Minnesota Statutes 2012, section 624.712, is amended by adding a subdivision
3.14 to read:

3.15 Subd. 12. **Ammunition.** "Ammunition" means ammunition or cartridge cases,
3.16 primers, bullets, or propellant powder designed for use in any firearm.

3.17 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes
3.18 committed on or after that date.

3.19 Sec. 5. Minnesota Statutes 2012, section 624.713, subdivision 1, is amended to read:

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

3.23 (1) a person under the age of 18 years except that a person under 18 may possess
3.24 ammunition designed for use in a firearm that the person may lawfully possess and may
3.25 carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual
3.26 presence or under the direct supervision of the person's parent or guardian, (ii) for the
3.27 purpose of military drill under the auspices of a legally recognized military organization
3.28 and under competent supervision, (iii) for the purpose of instruction, competition, or target
3.29 practice on a firing range approved by the chief of police or county sheriff in whose
3.30 jurisdiction the range is located and under direct supervision; or (iv) if the person has
3.31 successfully completed a course designed to teach marksmanship and safety with a pistol
3.32 or semiautomatic military-style assault weapon and approved by the commissioner of
3.33 natural resources;

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

4.6 (3) a person who is or has ever been ordered committed in Minnesota or elsewhere
4.7 by a judicial determination that the person is mentally ill, developmentally disabled, or
4.8 mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment
4.9 facility, whether or not the order was stayed, or who has ever been found incompetent to
4.10 stand trial or not guilty by reason of mental illness, unless the person's ability to possess a
4.11 firearm and ammunition has been restored under subdivision 4;

4.12 (4) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or
4.13 gross misdemeanor violation of chapter 152, unless three years have elapsed since the
4.14 date of conviction and, during that time, the person has not been convicted of any other
4.15 such violation of chapter 152 or a similar law of another state; or a person who is or has
4.16 ever been committed by a judicial determination for treatment for the habitual use of a
4.17 controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the
4.18 person's ability to possess a firearm and ammunition has been restored under subdivision 4;

4.19 (5) a person who is or has ever been committed to a treatment facility in Minnesota
4.20 or elsewhere by a judicial determination that the person is chemically dependent as defined
4.21 in section 253B.02, unless the person has completed treatment or the person's ability to
4.22 possess a firearm and ammunition has been restored under subdivision 4. Property rights
4.23 may not be abated but access may be restricted by the courts;

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

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

4.33 (8) except as otherwise provided in clause (9), a person who has been convicted in
4.34 another state of committing an offense similar to the offense described in section 609.224,
4.35 subdivision 3, against a family or household member or section 609.2242, subdivision
4.36 3, unless three years have elapsed since the date of conviction and, during that time, the

5.1 person has not been convicted of any other violation of section 609.224, subdivision 3, or
5.2 609.2242, subdivision 3, or a similar law of another state;

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

5.7 (10) a person who:

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

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

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

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

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

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

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

5.20 or

5.21 (11) a person who has been convicted of the following offenses at the gross
5.22 misdemeanor level, unless three years have elapsed since the date of conviction and, during
5.23 that time, the person has not been convicted of any other violation of these sections: section
5.24 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults
5.25 motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a
5.26 child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring
5.27 gun); 609.71 (riot); or 609.749 (stalking). For purposes of this paragraph, the specified
5.28 gross misdemeanor convictions include crimes committed in other states or jurisdictions
5.29 which would have been gross misdemeanors if conviction occurred in this state.

5.30 A person who issues a certificate pursuant to this section in good faith is not
5.31 liable for damages resulting or arising from the actions or misconduct with a firearm or
5.32 ammunition committed by the individual who is the subject of the certificate.

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

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

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

6.7 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes
6.8 committed on or after that date.

6.9 Sec. 6. Minnesota Statutes 2012, section 624.713, subdivision 2, is amended to read:

6.10 Subd. 2. **Penalties.** (a) A person named in subdivision 1, clause (1), who possesses
6.11 ammunition, or a pistol or semiautomatic military-style assault weapon is guilty of a
6.12 felony and may be sentenced to imprisonment for not more than five years or to payment
6.13 of a fine of not more than \$10,000, or both.

6.14 (b) A person named in subdivision 1, clause (2), who possesses any type of firearm
6.15 or ammunition is guilty of a felony and may be sentenced to imprisonment for not more
6.16 than 15 years or to payment of a fine of not more than \$30,000, or both. This paragraph
6.17 does not apply to any person who has received a relief of disability under United States
6.18 Code, title 18, section 925, or whose ability to possess firearms and ammunition has been
6.19 restored under section 609.165, subdivision 1d.

6.20 (c) A person named in any other clause of subdivision 1 who possesses any type of
6.21 firearm or ammunition is guilty of a gross misdemeanor.

6.22 (d) A person is criminally liable for a crime committed by another under this section
6.23 if the person intentionally assists, advises, hires, counsels, commands, or otherwise
6.24 procures the other to commit the crime.

6.25 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes
6.26 committed on or after that date.

6.27 Sec. 7. **[624.7133] GUN SHOWS; TRANSFERS OF PISTOLS AND**
6.28 **SEMIAUTOMATIC MILITARY-STYLE ASSAULT WEAPONS.**

6.29 Subdivision 1. **Definitions.** For the purposes of this section, "gun show" means the
6.30 entire premises open to the public for an event or function, that is sponsored and has the
6.31 primary purpose of facilitating the purchase, sale, or offer for sale, of firearms at which 25
6.32 or more firearms are offered for transfer, and ten or more persons are offering one or more

7.1 firearms for transfer. The "entire premises" includes, but is not limited to, parking areas
7.2 and areas open to the public that are used by attendees during the event or function.

7.3 Subd. 2. **Transfers; proof of eligibility required.** (a) No person shall transfer a
7.4 pistol or semiautomatic military-style assault weapon at a gun show unless the transferor
7.5 or the transferee is a federally licensed firearms dealer except as provided in this section.

7.6 (b) When two parties, neither of whom is a federally licensed firearms dealer,
7.7 desire to transfer a pistol or semiautomatic military-style assault weapon at a gun
7.8 show, the transferee must present the transferor a valid permit to purchase issued under
7.9 section 624.7131 or a valid permit to carry a pistol issued under section 624.714 prior to
7.10 completing the transfer.

7.11 Subd. 3. **Exclusion.** This section does not apply to transfers of antique firearms as
7.12 defined in section 624.712, subdivision 3.

7.13 **EFFECTIVE DATE.** This section is effective August 1, 2013.