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State of Minnesota

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**HOUSE OF REPRESENTATIVES**

**EIGHTY-EIGHTH SESSION**

**H. F. No. 3238**

- 03/20/2014 Authored by Schoen; Simonson; Slocum; Dehn, R., and Loeffler  
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy
- 03/26/2014 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Policy
- 03/28/2014 Adoption of Report: Amended and Placed on the General Register  
Read Second Time
- 04/30/2014 Calendar for the Day, Amended  
Read Third Time as Amended  
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1 A bill for an act  
1.2 relating to public safety; prohibiting persons subject to domestic violence  
1.3 restraining orders from possessing weapons; requiring persons convicted of  
1.4 domestic violence offenses to surrender their firearms while they are prohibited  
1.5 from possessing firearms; providing penalties; amending Minnesota Statutes  
1.6 2012, sections 260C.201, subdivision 3; 518B.01, subdivision 6; 609.2242,  
1.7 subdivision 3; 609.749, subdivision 8; 624.713, subdivision 1; proposing coding  
1.8 for new law in Minnesota Statutes, chapter 624.

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

1.10 Section 1. Minnesota Statutes 2012, section 260C.201, subdivision 3, is amended to  
1.11 read:

1.12 Subd. 3. **Domestic child abuse.** (a) If the court finds that the child is a victim of  
1.13 domestic child abuse, as defined in section 260C.007, subdivision 13, it may order any of  
1.14 the following dispositions of the case in addition to or as alternatives to the dispositions  
1.15 authorized under subdivision 1:

1.16 (1) restrain any party from committing acts of domestic child abuse;

1.17 (2) exclude the abusing party from the dwelling which the family or household  
1.18 members share or from the residence of the child;

1.19 (3) on the same basis as is provided in chapter 518, establish temporary visitation  
1.20 with regard to minor children of the adult family or household members;

1.21 (4) on the same basis as is provided in chapter 518 or 518A, establish temporary  
1.22 support or maintenance for a period of 30 days for minor children or a spouse;

1.23 (5) provide counseling or other social services for the family or household members;

1.24 or

1.25 (6) order the abusing party to participate in treatment or counseling services.

2.1 Any relief granted by the order for protection shall be for a fixed period not to  
2.2 exceed one year.

2.3 (b) No order excluding the abusing party from the dwelling may be issued unless  
2.4 the court finds that:

2.5 (1) the order is in the best interests of the child or children remaining in the dwelling;

2.6 (2) a remaining adult family or household member is able to care adequately for the  
2.7 child or children in the absence of the excluded party; and

2.8 (3) the local welfare agency has developed a plan to provide appropriate social  
2.9 services to the remaining family or household members.

2.10 (c) Upon a finding that the remaining parent is able to care adequately for the child  
2.11 and enforce an order excluding the abusing party from the home and that the provision of  
2.12 supportive services by the responsible social services agency is no longer necessary, the  
2.13 responsible social services agency may be dismissed as a party to the proceedings. Orders  
2.14 entered regarding the abusing party remain in full force and effect and may be renewed by  
2.15 the remaining parent as necessary for the continued protection of the child for specified  
2.16 periods of time, not to exceed one year.

2.17 (d) An order granting relief that was issued after a hearing of which the abusing party  
2.18 received actual notice and at which the abusing party had the opportunity to participate,  
2.19 shall prohibit the abusing party from possessing firearms for the length the order is in  
2.20 effect if the order (1) restrains the abusing party from harassing, stalking, or threatening  
2.21 the child or restrains the abusing party from engaging in other conduct that would place the  
2.22 child in reasonable fear of bodily injury, and (2) includes a finding that the abusing party  
2.23 represents a credible threat to the physical safety of the child or prohibits the abusing party  
2.24 from using, attempting to use, or threatening to use physical force against the child. The  
2.25 order shall inform the abusing party of that party's prohibited status. Except as provided  
2.26 in paragraph (f), the court shall order the abusing party to transfer any firearms that the  
2.27 person possesses, within three business days, to a federally licensed firearms dealer, a law  
2.28 enforcement agency, or a third party who may lawfully receive them. The transfer may be  
2.29 permanent or temporary. A temporary firearm transfer only entitles the receiving party to  
2.30 possess the firearm. A temporary transfer does not transfer ownership or title. An abusing  
2.31 party may not transfer firearms to a third party who resides with the abusing party. If an  
2.32 abusing party makes a temporary transfer, a federally licensed firearms dealer or law  
2.33 enforcement agency may charge the abusing party a reasonable fee to store the person's  
2.34 firearms and may establish policies for disposal of abandoned firearms, provided such  
2.35 policies require that the person be notified via certified mail prior to disposal of abandoned  
2.36 firearms. For temporary firearms transfers under this paragraph, a law enforcement

3.1 agency, federally licensed firearms dealer, or third party shall exercise due care to preserve  
3.2 the quality and function of the transferred firearms and shall return the transferred firearms  
3.3 to the person upon request after the expiration of the prohibiting time period, provided the  
3.4 person is not otherwise prohibited from possessing firearms under state or federal law.

3.5 The return of temporarily transferred firearms to an abusing party shall comply with state  
3.6 and federal law. If an abusing party permanently transfers the abusing party's firearms to a  
3.7 law enforcement agency, the agency is not required to compensate the abusing party and  
3.8 may charge the abusing party a reasonable processing fee. A law enforcement agency is  
3.9 not required to accept an abusing party's firearm under this paragraph.

3.10 (e) An abusing party who is ordered to transfer firearms under paragraph (d) must  
3.11 file proof of transfer as provided for in this paragraph. If the transfer is made to a third  
3.12 party, the third party must sign an affidavit under oath before a notary public either  
3.13 acknowledging that the abusing party permanently transferred the abusing party's firearms  
3.14 to the third party or agreeing to temporarily store the abusing party's firearms until such  
3.15 time as the abusing party is legally permitted to possess firearms. The affidavit shall  
3.16 indicate the serial number, make, and model of all firearms transferred by the abusing  
3.17 party to the third party. The third party shall acknowledge in the affidavit that the third  
3.18 party may be held criminally and civilly responsible under section 624.7144 if the abusing  
3.19 party gains access to a transferred firearm while the firearm is in the custody of the third  
3.20 party. If the transfer is to a law enforcement agency or federally licensed firearms dealer,  
3.21 the law enforcement agency or federally licensed firearms dealer shall provide proof of  
3.22 transfer to the abusing party. The proof of transfer must specify whether the firearms were  
3.23 permanently or temporarily transferred and include the name of the abusing party, date of  
3.24 transfer, and the serial number, make, and model of all transferred firearms. The abusing  
3.25 party shall provide the court with a signed and notarized affidavit or proof of transfer as  
3.26 described in this section within two business days of the firearms transfer. The court shall  
3.27 seal affidavits and proofs of transfer filed pursuant to this paragraph.

3.28 (f) When a court issues an order containing a firearms restriction provided for in  
3.29 paragraph (d), the court shall determine by a preponderance of evidence if an abusing party  
3.30 poses an imminent risk of causing another person substantial bodily harm. Upon a finding  
3.31 of imminent risk, the court shall order that the local law enforcement agency take immediate  
3.32 possession of all firearms in the abusing party's possession. The local law enforcement  
3.33 agency shall exercise due care to preserve the quality and function of the abusing party's  
3.34 firearms and shall return the firearms to the person upon request after the expiration of the  
3.35 prohibiting time period, provided the person is not otherwise prohibited from possessing  
3.36 firearms under state or federal law. The local law enforcement agency shall, upon written

4.1 notice from the abusing party, transfer the firearms to a federally licensed firearms dealer  
4.2 or a third party who may lawfully receive them. Before a local law enforcement agency  
4.3 transfers a firearm under this paragraph, the agency shall require the third party or federally  
4.4 licensed firearms dealer receiving the firearm to submit an affidavit or proof of transfer that  
4.5 complies with the requirements for affidavits or proofs of transfer established in paragraph  
4.6 (e). The agency shall file all affidavits or proofs of transfer received with the court within  
4.7 two business days of the transfer. The court shall seal all affidavits or proofs of transfer  
4.8 filed pursuant to this paragraph. A federally licensed firearms dealer or third party who  
4.9 accepts a firearm transfer pursuant to this paragraph shall comply with paragraphs (d) and  
4.10 (e) as if accepting transfer from the abusing party. If the law enforcement agency does not  
4.11 receive written notice from the abusing party within three business days, the agency may  
4.12 charge a reasonable fee to store the abusing party's firearms. A law enforcement agency  
4.13 may establish policies for disposal of abandoned firearms, provided such policies require  
4.14 that the abusing party be notified via certified mail prior to disposal of abandoned firearms.

4.15 Sec. 2. Minnesota Statutes 2012, section 518B.01, subdivision 6, is amended to read:

4.16 Subd. 6. **Relief by court.** (a) Upon notice and hearing, the court may provide  
4.17 relief as follows:

4.18 (1) restrain the abusing party from committing acts of domestic abuse;

4.19 (2) exclude the abusing party from the dwelling which the parties share or from the  
4.20 residence of the petitioner;

4.21 (3) exclude the abusing party from a reasonable area surrounding the dwelling or  
4.22 residence, which area shall be described specifically in the order;

4.23 (4) award temporary custody or establish temporary parenting time with regard to  
4.24 minor children of the parties on a basis which gives primary consideration to the safety of  
4.25 the victim and the children. In addition to the primary safety considerations, the court  
4.26 may consider particular best interest factors that are found to be relevant to the temporary  
4.27 custody and parenting time award. Findings under section 257.025, 518.17, or 518.175  
4.28 are not required with respect to the particular best interest factors not considered by the  
4.29 court. If the court finds that the safety of the victim or the children will be jeopardized by  
4.30 unsupervised or unrestricted parenting time, the court shall condition or restrict parenting  
4.31 time as to time, place, duration, or supervision, or deny parenting time entirely, as needed  
4.32 to guard the safety of the victim and the children. The court's decision on custody and  
4.33 parenting time shall in no way delay the issuance of an order for protection granting other  
4.34 relief provided for in this section. The court must not enter a parenting plan under section  
4.35 518.1705 as part of an action for an order for protection;

5.1 (5) on the same basis as is provided in chapter 518 or 518A, establish temporary  
5.2 support for minor children or a spouse, and order the withholding of support from the  
5.3 income of the person obligated to pay the support according to chapter 518A;

5.4 (6) provide upon request of the petitioner counseling or other social services for the  
5.5 parties, if married, or if there are minor children;

5.6 (7) order the abusing party to participate in treatment or counseling services,  
5.7 including requiring the abusing party to successfully complete a domestic abuse  
5.8 counseling program or educational program under section 518B.02;

5.9 (8) award temporary use and possession of property and restrain one or both parties  
5.10 from transferring, encumbering, concealing, or disposing of property except in the usual  
5.11 course of business or for the necessities of life, and to account to the court for all such  
5.12 transfers, encumbrances, dispositions, and expenditures made after the order is served or  
5.13 communicated to the party restrained in open court;

5.14 (9) exclude the abusing party from the place of employment of the petitioner, or  
5.15 otherwise limit access to the petitioner by the abusing party at the petitioner's place of  
5.16 employment;

5.17 (10) order the abusing party to have no contact with the petitioner whether in  
5.18 person, by telephone, mail, or electronic mail or messaging, through a third party, or  
5.19 by any other means;

5.20 (11) order the abusing party to pay restitution to the petitioner;

5.21 (12) order the continuance of all currently available insurance coverage without  
5.22 change in coverage or beneficiary designation;

5.23 (13) order, in its discretion, other relief as it deems necessary for the protection of  
5.24 a family or household member, including orders or directives to the sheriff or other law  
5.25 enforcement or corrections officer as provided by this section;

5.26 (14) direct the care, possession, or control of a pet or companion animal owned,  
5.27 possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent;  
5.28 and

5.29 (15) direct the respondent to refrain from physically abusing or injuring any pet or  
5.30 companion animal, without legal justification, known to be owned, possessed, kept, or  
5.31 held by either party or a minor child residing in the residence or household of either party  
5.32 as an indirect means of intentionally threatening the safety of such person.

5.33 (b) Any relief granted by the order for protection shall be for a period not to exceed  
5.34 two years, except when the court determines a longer period is appropriate. When a  
5.35 referee presides at the hearing on the petition, the order granting relief becomes effective  
5.36 upon the referee's signature.

6.1 (c) An order granting the relief authorized in paragraph (a), clause (1), may not be  
6.2 vacated or modified in a proceeding for dissolution of marriage or legal separation, except  
6.3 that the court may hear a motion for modification of an order for protection concurrently  
6.4 with a proceeding for dissolution of marriage upon notice of motion and motion. The  
6.5 notice required by court rule shall not be waived. If the proceedings are consolidated  
6.6 and the motion to modify is granted, a separate order for modification of an order for  
6.7 protection shall be issued.

6.8 (d) An order granting the relief authorized in paragraph (a), clause (2) or (3), is not  
6.9 voided by the admittance of the abusing party into the dwelling from which the abusing  
6.10 party is excluded.

6.11 (e) If a proceeding for dissolution of marriage or legal separation is pending between  
6.12 the parties, the court shall provide a copy of the order for protection to the court with  
6.13 jurisdiction over the dissolution or separation proceeding for inclusion in its file.

6.14 (f) An order for restitution issued under this subdivision is enforceable as civil  
6.15 judgment.

6.16 (g) An order granting relief shall prohibit the abusing party from possessing firearms  
6.17 for the length the order is in effect if the order (1) restrains the abusing party from  
6.18 harassing, stalking, or threatening the petitioner or restrains the abusing party from  
6.19 engaging in other conduct that would place the petitioner in reasonable fear of bodily  
6.20 injury, and (2) includes a finding that the abusing party represents a credible threat to the  
6.21 physical safety of the petitioner or prohibits the abusing party from using, attempting to  
6.22 use, or threatening to use physical force against the petitioner. The order shall inform the  
6.23 abusing party of that party's prohibited status. Except as provided in paragraph (i), the  
6.24 court shall order the abusing party to transfer any firearms that the person possesses,  
6.25 within three business days, to a federally licensed firearms dealer, a law enforcement  
6.26 agency, or a third party who may lawfully receive them. The transfer may be permanent  
6.27 or temporary. A temporary firearm transfer only entitles the receiving party to possess  
6.28 the firearm. A temporary transfer does not transfer ownership or title. An abusing party  
6.29 may not transfer firearms to a third party who resides with the abusing party. If an abusing  
6.30 party makes a temporary transfer, a federally licensed firearms dealer or law enforcement  
6.31 agency may charge the abusing party a reasonable fee to store the person's firearms and  
6.32 may establish policies for disposal of abandoned firearms, provided such policies require  
6.33 that the person be notified via certified mail prior to disposal of abandoned firearms. For  
6.34 temporary firearms transfers under this paragraph, a law enforcement agency, federally  
6.35 licensed firearms dealer, or third party shall exercise due care to preserve the quality and  
6.36 function of the transferred firearms and shall return the transferred firearms to the person

7.1 upon request after the expiration of the prohibiting time period, provided the person is not  
7.2 otherwise prohibited from possessing firearms under state or federal law. The return of  
7.3 temporarily transferred firearms to an abusing party shall comply with state and federal  
7.4 law. If an abusing party permanently transfers the abusing party's firearms to a law  
7.5 enforcement agency, the agency is not required to compensate the abusing party and may  
7.6 charge the abusing party a reasonable processing fee. A law enforcement agency is not  
7.7 required to accept an abusing party's firearm under this paragraph.

7.8 (h) An abusing party who is ordered to transfer firearms under paragraph (g) must  
7.9 file proof of transfer as provided for in this paragraph. If the transfer is made to a third  
7.10 party, the third party must sign an affidavit under oath before a notary public either  
7.11 acknowledging that the abusing party permanently transferred the abusing party's firearms  
7.12 to the third party or agreeing to temporarily store the abusing party's firearms until such  
7.13 time as the abusing party is legally permitted to possess firearms. The affidavit shall  
7.14 indicate the serial number, make, and model of all firearms transferred by the abusing  
7.15 party to the third party. The third party shall acknowledge in the affidavit that the third  
7.16 party may be held criminally and civilly responsible under section 624.7144 if the abusing  
7.17 party gains access to a transferred firearm while the firearm is in the custody of the third  
7.18 party. If the transfer is to a law enforcement agency or federally licensed firearms dealer,  
7.19 the law enforcement agency or federally licensed firearms dealer shall provide proof of  
7.20 transfer to the abusing party. The proof of transfer must specify whether the firearms were  
7.21 permanently or temporarily transferred and include the name of the abusing party, date of  
7.22 transfer, and the serial number, make, and model of all transferred firearms. The abusing  
7.23 party shall provide the court with a signed and notarized affidavit or proof of transfer as  
7.24 described in this section within two business days of the firearms transfer. The court shall  
7.25 seal affidavits and proofs of transfer filed pursuant to this paragraph.

7.26 (i) When a court issues an order containing a firearms restriction provided for in  
7.27 paragraph (g), the court shall determine by a preponderance of evidence if an abusing party  
7.28 poses an imminent risk of causing another person substantial bodily harm. Upon a finding  
7.29 of imminent risk, the court shall order that the local law enforcement agency take immediate  
7.30 possession of all firearms in the abusing party's possession. The local law enforcement  
7.31 agency shall exercise due care to preserve the quality and function of the abusing party's  
7.32 firearms and shall return the firearms to the person upon request after the expiration of the  
7.33 prohibiting time period, provided the person is not otherwise prohibited from possessing  
7.34 firearms under state or federal law. The local law enforcement agency shall, upon written  
7.35 notice from the abusing party, transfer the firearms to a federally licensed firearms dealer  
7.36 or a third party who may lawfully receive them. Before a local law enforcement agency

8.1 transfers a firearm under this paragraph, the agency shall require the third party or federally  
8.2 licensed firearms dealer receiving the firearm to submit an affidavit or proof of transfer that  
8.3 complies with the requirements for affidavits or proofs of transfer established in paragraph  
8.4 (h). The agency shall file all affidavits or proofs of transfer received with the court within  
8.5 two business days of the transfer. The court shall seal all affidavits or proofs of transfer  
8.6 filed pursuant to this paragraph. A federally licensed firearms dealer or third party who  
8.7 accepts a firearm transfer pursuant to this paragraph shall comply with paragraphs (g) and  
8.8 (h) as if accepting transfer from the abusing party. If the law enforcement agency does not  
8.9 receive written notice from the abusing party within three business days, the agency may  
8.10 charge a reasonable fee to store the abusing party's firearms. A law enforcement agency  
8.11 may establish policies for disposal of abandoned firearms, provided such policies require  
8.12 that the abusing party be notified via certified mail prior to disposal of abandoned firearms.

8.13 Sec. 3. Minnesota Statutes 2012, section 609.2242, subdivision 3, is amended to read:

8.14 Subd. 3. **Domestic assaults; firearms.** (a) When a person is convicted of a violation  
8.15 of this section or section 609.221, 609.222, 609.223, 609.224, or 609.2247, the court shall  
8.16 determine and make written findings on the record as to whether:

8.17 (1) the assault was committed against a family or household member, as defined in  
8.18 section 518B.01, subdivision 2;

8.19 (2) the defendant owns or possesses a firearm; and

8.20 (3) the firearm was used in any way during the commission of the assault.

8.21 (b) If the court determines that the assault was of a family or household member,  
8.22 and that the offender owns or possesses a firearm and used it in any way during the  
8.23 commission of the assault, it shall order that the firearm be summarily forfeited under  
8.24 section 609.5316, subdivision 3.

8.25 (c) When a person is convicted of assaulting a family or household member and is  
8.26 determined by the court to have used a firearm in any way during commission of the assault,  
8.27 the court may order that the person is prohibited from possessing any type of firearm for  
8.28 any period longer than three years or for the remainder of the person's life. A person who  
8.29 violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the  
8.30 court shall inform the defendant ~~whether~~ and for how long the defendant is prohibited from  
8.31 possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure  
8.32 of the court to provide this information to a defendant does not affect the applicability of  
8.33 the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

8.34 (d) Except as otherwise provided in paragraph (c), when a person is convicted of a  
8.35 violation of this section or section 609.224 and the court determines that the victim was a

9.1 family or household member, the court shall inform the defendant that the defendant is  
9.2 prohibited from possessing a ~~pistol~~ firearm for three years from the date of conviction and  
9.3 that it is a gross misdemeanor offense to violate this prohibition. The failure of the court  
9.4 to provide this information to a defendant does not affect the applicability of the ~~pistol~~  
9.5 firearm possession prohibition or the gross misdemeanor penalty to that defendant.

9.6 (e) Except as otherwise provided in paragraph (c), a person is not entitled to possess  
9.7 a pistol if the person has been convicted after August 1, 1992, or a firearm if a person has  
9.8 been convicted on or after the effective date of this act, of domestic assault under this  
9.9 section or assault in the fifth degree under section 609.224 and the assault victim was a  
9.10 family or household member as defined in section 518B.01, subdivision 2, unless three  
9.11 years have elapsed from the date of conviction and, during that time, the person has not  
9.12 been convicted of any other violation of this section or section 609.224. Property rights  
9.13 may not be abated but access may be restricted by the courts. A person who possesses a  
9.14 ~~pistol~~ firearm in violation of this paragraph is guilty of a gross misdemeanor.

9.15 (f) Except as otherwise provided in paragraphs (b) and (h), when a person is convicted  
9.16 of a violation of this section or section 609.221, 609.222, 609.223, 609.224, or 609.2247  
9.17 and the court determines that the assault was against a family or household member, the  
9.18 court shall order the defendant to transfer any firearms that the person possesses, within  
9.19 three business days, to a federally licensed firearms dealer, a law enforcement agency, or a  
9.20 third party who may lawfully receive them. The transfer may be permanent or temporary,  
9.21 unless the court prohibits the person from possessing a firearm for the remainder of the  
9.22 person's life under paragraph (c). A temporary firearm transfer only entitles the receiving  
9.23 party to possess the firearm. A temporary transfer does not transfer ownership or title.  
9.24 A defendant may not transfer firearms to a third party who resides with the defendant.  
9.25 If a defendant makes a temporary transfer, a federally licensed firearms dealer or law  
9.26 enforcement agency may charge the defendant a reasonable fee to store the person's  
9.27 firearms and may establish policies for disposal of abandoned firearms, provided such  
9.28 policies require that the person be notified by certified mail prior to disposal of abandoned  
9.29 firearms. For temporary firearms transfers under this paragraph, a law enforcement agency,  
9.30 federally licensed firearms dealer, or third party shall exercise due care to preserve the  
9.31 quality and function of the transferred firearms and shall return the transferred firearms to  
9.32 the person upon request after the expiration of the prohibiting time period imposed under  
9.33 this subdivision, provided the person is not otherwise prohibited from possessing firearms  
9.34 under state or federal law. The return of temporarily transferred firearms to a person shall  
9.35 comply with state and federal law. If a defendant permanently transfers the defendant's  
9.36 firearms to a law enforcement agency, the agency is not required to compensate the

10.1 defendant and may charge the defendant a reasonable processing fee. A law enforcement  
10.2 agency is not required to accept a person's firearm under this paragraph. The court shall  
10.3 order that the person surrender all permits to carry and purchase firearms to the sheriff.

10.4 (g) A defendant who is ordered to transfer firearms under paragraph (f) must file  
10.5 proof of transfer as provided for in this paragraph. If the transfer is made to a third  
10.6 party, the third party must sign an affidavit under oath before a notary public either  
10.7 acknowledging that the defendant permanently transferred the defendant's firearms to  
10.8 the third party or agreeing to temporarily store the defendant's firearms until such time  
10.9 as the defendant is legally permitted to possess firearms. The affidavit shall indicate  
10.10 the serial number, make, and model of all firearms transferred by the defendant to the  
10.11 third party. The third party shall acknowledge in the affidavit that the third party may be  
10.12 held criminally and civilly responsible under section 624.7144 if the defendant gains  
10.13 access to a transferred firearm while the firearm is in the custody of the third party. If the  
10.14 transfer is to a law enforcement agency or federally licensed firearms dealer, the law  
10.15 enforcement agency or federally licensed firearms dealer shall provide proof of transfer to  
10.16 the defendant. The proof of transfer must specify whether the firearms were permanently  
10.17 or temporarily transferred and include the name of the defendant, date of transfer, and the  
10.18 serial number, make, and model of all transferred firearms. The defendant shall provide  
10.19 the court with a signed and notarized affidavit or proof of transfer as described in this  
10.20 section within two business days of the firearms transfer. The court shall seal affidavits  
10.21 and proofs of transfer filed pursuant to this paragraph.

10.22 (h) When a person is convicted of a violation of this section or section 609.221,  
10.23 609.222, 609.223, 609.224, or 609.2247, and the court determines that the assault was  
10.24 against a family or household member, the court shall determine by a preponderance of  
10.25 the evidence if the person poses an imminent risk of causing another person substantial  
10.26 bodily harm. Upon a finding of imminent risk, the court shall order that the local law  
10.27 enforcement agency take immediate possession of all firearms in the person's possession.  
10.28 The local law enforcement agency shall exercise due care to preserve the quality and  
10.29 function of the defendant's firearms and shall return the firearms to the person upon  
10.30 request after the expiration of the prohibiting time period, provided the person is not  
10.31 otherwise prohibited from possessing firearms under state or federal law. The local law  
10.32 enforcement agency shall, upon written notice from the person, transfer the firearms to a  
10.33 federally licensed firearms dealer or a third party who may lawfully receive them. Before  
10.34 a local law enforcement agency transfers a firearm under this paragraph, the agency  
10.35 shall require the third party or federally licensed firearms dealer receiving the firearm to  
10.36 submit an affidavit or proof of transfer that complies with the requirements for affidavits

11.1 or proofs of transfer established in paragraph (g). The agency shall file all affidavits or  
11.2 proofs of transfer received with the court within two business days of the transfer. The  
11.3 court shall seal all affidavits or proofs of transfer filed pursuant to this paragraph. A  
11.4 federally licensed firearms dealer or third party who accepts a firearm transfer pursuant  
11.5 to this paragraph shall comply with paragraphs (f) and (g) as if accepting transfer from  
11.6 the defendant. If the law enforcement agency does not receive written notice from the  
11.7 defendant within three business days, the agency may charge a reasonable fee to store the  
11.8 defendant's firearms. A law enforcement agency may establish policies for disposal of  
11.9 abandoned firearms, provided such policies require that the person be notified via certified  
11.10 mail prior to disposal of abandoned firearms.

11.11 Sec. 4. Minnesota Statutes 2012, section 609.749, subdivision 8, is amended to read:

11.12 Subd. 8. **Stalking; firearms.** (a) When a person is convicted of a stalking crime  
11.13 under this section and the court determines that the person used a firearm in any way  
11.14 during commission of the crime, the court may order that the person is prohibited from  
11.15 possessing any type of firearm for any period longer than three years or for the remainder  
11.16 of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor.  
11.17 At the time of the conviction, the court shall inform the defendant ~~whether~~ and for  
11.18 how long the defendant is prohibited from possessing a firearm and that it is a gross  
11.19 misdemeanor to violate this paragraph. The failure of the court to provide this information  
11.20 to a defendant does not affect the applicability of the firearm possession prohibition or the  
11.21 gross misdemeanor penalty to that defendant.

11.22 (b) Except as otherwise provided in paragraph (a), when a person is convicted of a  
11.23 stalking crime under this section, the court shall inform the defendant that the defendant is  
11.24 prohibited from possessing a ~~pistol~~ firearm for three years from the date of conviction and  
11.25 that it is a gross misdemeanor offense to violate this prohibition. The failure of the court  
11.26 to provide this information to a defendant does not affect the applicability of the ~~pistol~~  
11.27 firearm possession prohibition or the gross misdemeanor penalty to that defendant.

11.28 (c) Except as otherwise provided in paragraph (a), a person is not entitled to possess  
11.29 a pistol if the person has been convicted after August 1, 1996, of a stalking crime under  
11.30 this section, or to possess a firearm if the person has been convicted on or after the  
11.31 effective date of a stalking crime under this section, unless three years have elapsed from  
11.32 the date of conviction and, during that time, the person has not been convicted of any other  
11.33 violation of this section. Property rights may not be abated but access may be restricted  
11.34 by the courts. A person who possesses a ~~pistol~~ firearm in violation of this paragraph is  
11.35 guilty of a gross misdemeanor.

12.1 (d) If the court determines that a person convicted of a stalking crime under this  
12.2 section owns or possesses a firearm and used it in any way during the commission of  
12.3 the crime, it shall order that the firearm be summarily forfeited under section 609.5316,  
12.4 subdivision 3.

12.5 (e) Except as otherwise provided in paragraphs (d) and (g), when a person is  
12.6 convicted of a stalking crime under this section, the court shall order the defendant to  
12.7 transfer any firearms that the person possesses, within three business days, to a federally  
12.8 licensed firearms dealer, a law enforcement agency, or a third party who may lawfully  
12.9 receive them. The transfer may be permanent or temporary. A temporary firearm transfer  
12.10 only entitles the receiving party to possess the firearm. A temporary transfer does not  
12.11 transfer ownership or title. A defendant may not transfer firearms to a third party who  
12.12 resides with the defendant. If a defendant makes a temporary transfer, a federally licensed  
12.13 firearms dealer or law enforcement agency may charge the defendant a reasonable  
12.14 fee to store the person's firearms and may establish policies for disposal of abandoned  
12.15 firearms, provided such policies require that the person be notified via certified mail  
12.16 prior to disposal of abandoned firearms. For temporary firearms transfers under this  
12.17 paragraph, a law enforcement agency, federally licensed firearms dealer, or third party  
12.18 shall exercise due care to preserve the quality and function of the transferred firearms and  
12.19 shall return the transferred firearms to the person upon request after the expiration of  
12.20 the prohibiting time period imposed under this subdivision, provided the person is not  
12.21 otherwise prohibited from possessing firearms under state or federal law. The return of  
12.22 temporarily transferred firearms to a defendant shall comply with state and federal law. If  
12.23 a defendant permanently transfers the defendant's firearms to a law enforcement agency,  
12.24 the agency is not required to compensate the defendant and may charge the defendant a  
12.25 reasonable processing fee. A law enforcement agency is not required to accept a person's  
12.26 firearm under this paragraph. The court shall order that the person surrender all permits to  
12.27 carry and purchase firearms to the sheriff.

12.28 (f) A defendant who is ordered to transfer firearms under paragraph (e) must file  
12.29 proof of transfer as provided for in this paragraph. If the transfer is made to a third  
12.30 party, the third party must sign an affidavit under oath before a notary public either  
12.31 acknowledging that the defendant permanently transferred the defendant's firearms to  
12.32 the third party or agreeing to temporarily store the defendant's firearms until such time  
12.33 as the defendant is legally permitted to possess firearms. The affidavit shall indicate  
12.34 the serial number, make, and model of all firearms transferred by the defendant to the  
12.35 third party. The third party shall acknowledge in the affidavit that the third party may be  
12.36 held criminally and civilly responsible under section 624.7144 if the defendant gains

13.1 access to a transferred firearm while the firearm is in the custody of the third party. If the  
13.2 transfer is to a law enforcement agency or federally licensed firearms dealer, the law  
13.3 enforcement agency or federally licensed firearms dealer shall provide proof of transfer to  
13.4 the defendant. The proof of transfer must specify whether the firearms were permanently  
13.5 or temporarily transferred and include the name of the defendant, date of transfer, and the  
13.6 serial number, make, and model of all transferred firearms. The defendant shall provide  
13.7 the court with a signed and notarized affidavit or proof of transfer as described in this  
13.8 section within two business days of the firearms transfer. The court shall seal affidavits  
13.9 and proofs of transfer filed pursuant to this paragraph.

13.10 (g) When a person is convicted of a stalking crime under this section, the court  
13.11 shall determine by a preponderance of the evidence if the person poses an imminent risk  
13.12 of causing another person substantial bodily harm. Upon a finding of imminent risk, the  
13.13 court shall order that the local law enforcement agency take immediate possession of all  
13.14 firearms in the person's possession. The local law enforcement agency shall exercise due  
13.15 care to preserve the quality and function of the defendant's firearms and shall return the  
13.16 firearms to the person upon request after the expiration of the prohibiting time period,  
13.17 provided the person is not otherwise prohibited from possessing firearms under state or  
13.18 federal law. The local law enforcement agency shall, upon written notice from the person,  
13.19 transfer the firearms to a federally licensed firearms dealer or a third party who may  
13.20 lawfully receive them. Before a local law enforcement agency transfers a firearm under  
13.21 this paragraph, the agency shall require the third party or federally licensed firearms dealer  
13.22 receiving the firearm to submit an affidavit or proof of transfer that complies with the  
13.23 requirements for affidavits or proofs of transfer established in paragraph (f). The agency  
13.24 shall file all affidavits or proofs of transfer received with the court within two business  
13.25 days of the transfer. The court shall seal all affidavits or proofs of transfer filed pursuant to  
13.26 this paragraph. A federally licensed firearms dealer or third party who accepts a firearm  
13.27 transfer pursuant to this paragraph shall comply with paragraphs (e) and (f) as if accepting  
13.28 transfer from the defendant. If the law enforcement agency does not receive written notice  
13.29 from the defendant within three business days, the agency may charge a reasonable fee  
13.30 to store the defendant's firearms. A law enforcement agency may establish policies for  
13.31 disposal of abandoned firearms, provided such policies require that the person be notified  
13.32 via certified mail prior to disposal of abandoned firearms.

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

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

14.4           (1) a person under the age of 18 years except that a person under 18 may carry or  
14.5 possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence  
14.6 or under the direct supervision of the person's parent or guardian, (ii) for the purpose  
14.7 of military drill under the auspices of a legally recognized military organization and  
14.8 under competent supervision, (iii) for the purpose of instruction, competition, or target  
14.9 practice on a firing range approved by the chief of police or county sheriff in whose  
14.10 jurisdiction the range is located and under direct supervision; or (iv) if the person has  
14.11 successfully completed a course designed to teach marksmanship and safety with a pistol  
14.12 or semiautomatic military-style assault weapon and approved by the commissioner of  
14.13 natural resources;

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

14.19           (3) a person who is or has ever been committed in Minnesota or elsewhere by a  
14.20 judicial determination that the person is mentally ill, developmentally disabled, or mentally  
14.21 ill and dangerous to the public, as defined in section 253B.02, to a treatment facility, or who  
14.22 has ever been found incompetent to stand trial or not guilty by reason of mental illness,  
14.23 unless the person's ability to possess a firearm has been restored under subdivision 4;

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

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

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

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

15.10 (8) except as otherwise provided in clause (9), a person who has been convicted in  
15.11 another state of committing an offense similar to the offense described in section 609.224,  
15.12 subdivision 3, against a family or household member or section 609.2242, subdivision  
15.13 3, unless three years have elapsed since the date of conviction and, during that time, the  
15.14 person has not been convicted of any other violation of section 609.224, subdivision 3, or  
15.15 609.2242, subdivision 3, or a similar law of another state;

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

15.20 (10) a person who:

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

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

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

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

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

15.30 (vi) has been discharged from the armed forces of the United States under  
15.31 dishonorable conditions; ~~or~~

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

15.34 (viii) is disqualified from possessing a firearm under United States Code, title 18,  
15.35 section 922(g)(8) or (9), as amended through March 1, 2014; ~~or~~

16.1 (11) a person who has been convicted of the following offenses at the gross  
16.2 misdemeanor level, unless three years have elapsed since the date of conviction and, during  
16.3 that time, the person has not been convicted of any other violation of these sections: section  
16.4 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults  
16.5 motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a  
16.6 child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring  
16.7 gun); 609.71 (riot); or 609.749 (stalking). For purposes of this paragraph, the specified  
16.8 gross misdemeanor convictions include crimes committed in other states or jurisdictions  
16.9 which would have been gross misdemeanors if conviction occurred in this state;

16.10 (12) a person who has been convicted of a violation of section 609.224 if the court  
16.11 determined that the assault was against a family or household member in accordance with  
16.12 section 609.2242, subdivision 8 (domestic assault), unless three years have elapsed since  
16.13 the date of conviction and, during that time, the person has not been convicted of another  
16.14 violation of section 609.224 or a violation of a section listed in clause (11); or

16.15 (13) a person who is subject to an order for protection as described in section  
16.16 260C.201, subdivision 3, paragraph (d), or section 518B.01, subdivision 6, paragraph (g).

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

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

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

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

16.30 **Sec. 6. [624.7144] ALLOWING AN INELIGIBLE PERSON ACCESS TO**  
16.31 **FIREARMS.**

16.32 A person who accepts a transferred firearm from an abusing party or offender  
16.33 pursuant to section 260C.201, subdivision 3; section 518B.01, subdivision 6; section  
16.34 609.2242, subdivision 3; or section 609.749, subdivision 8, is guilty of a gross  
16.35 misdemeanor if the abusing party or offender obtains possession of the transferred firearm

17.1 while the person is prohibited from possessing firearms. It is an affirmative defense to a  
17.2 violation of this section that the third party who accepted the transferred firearm exercised  
17.3 due care to ensure that the abusing party or offender could not access the firearm. The  
17.4 third party shall not return the firearm to the abusing party or offender until the prohibiting  
17.5 time period imposed under section 260C.201, subdivision 3; section 518B.01, subdivision  
17.6 6; section 609.2242, subdivision 3; or section 609.749, subdivision 8, has expired and the  
17.7 abusing party or offender presents a current, valid transferee permit or passes a federal  
17.8 background check through the National Instant Criminal Background Check System. The  
17.9 third party may rely on a court order describing the length of the prohibiting time period  
17.10 as conclusive evidence that the prohibiting time period has expired, unless otherwise  
17.11 notified by the court.