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State of Minnesota
HOUSE OF REPRESENTATIVES
EIGHTY-EIGHTH SESSION
H. F. No. 240

01/31/2013 Authored by Schoen, Simonson, Paymar, Isaacson and Dehn, R.,
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; firearms; improving mental health screening for persons
1.3 applying for firearms permits; amending Minnesota Statutes 2012, sections
1.4 624.7131, subdivisions 2, 4; 624.7132, subdivisions 2, 3, 5, 13; 624.714,
1.5 subdivisions 2, 6, 12, 16.

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

1.7 Section 1. Minnesota Statutes 2012, section 624.7131, subdivision 2, is amended to read:
1.8 Subd. 2. **Investigation.** (a) The chief of police or sheriff shall check criminal
1.9 histories, records and warrant information relating to the applicant through the Minnesota
1.10 Crime Information System, the national criminal record repository, and the National
1.11 Instant Criminal Background Check System. The chief of police or sheriff shall also make
1.12 a reasonable effort to check other available state and local record-keeping systems. The
1.13 chief of police or sheriff shall obtain commitment information from the commissioner of
1.14 human services as provided in section 245.041.

1.15 (b) When the applicant has had past police contacts that indicate dangerous or violent
1.16 behavior, chemical dependency, serious mental illness, or a physical condition involving
1.17 mental incompetence, the chief of police or sheriff, as a condition of granting the permit,
1.18 may require that the applicant obtain a letter from a state licensed primary care physician
1.19 or state certified mental health professional, or both, affirming that, in the person's
1.20 professional opinion, the applicant is not seriously mentally ill or chemically dependent,
1.21 and does not have a physical condition involving mental incompetence such that the person
1.22 would be likely to be violent or a danger to self or others. The chief of police or sheriff must
1.23 take the letter under consideration but is not required to treat the letter as determinative
1.24 or conclusive in the decision to issue or deny the permit. Any such requirement by the

2.1 chief of police or sheriff suspends the count on the waiting period beginning at the time
2.2 the requirement is determined until the required letter or letters are provided.

2.3 Sec. 2. Minnesota Statutes 2012, section 624.7131, subdivision 4, is amended to read:

2.4 Subd. 4. **Grounds for disqualification.** A determination by the chief of police or
2.5 sheriff that the applicant is prohibited by section 624.713 from possessing a pistol or
2.6 semiautomatic military-style assault weapon, or as provided in subdivision 2, paragraph
2.7 (b), shall be the only basis for refusal to grant a transferee permit.

2.8 Sec. 3. Minnesota Statutes 2012, section 624.7132, subdivision 2, is amended to read:

2.9 Subd. 2. **Investigation.** (a) Upon receipt of a transfer report, the chief of police
2.10 or sheriff shall check criminal histories, records and warrant information relating to the
2.11 proposed transferee through the Minnesota Crime Information System, the national
2.12 criminal record repository, and the National Instant Criminal Background Check System.
2.13 The chief of police or sheriff shall also make a reasonable effort to check other available
2.14 state and local record-keeping systems. The chief of police or sheriff shall obtain
2.15 commitment information from the commissioner of human services as provided in section
2.16 245.041.

2.17 (b) When the applicant has had past police contacts that indicate dangerous or violent
2.18 behavior, chemical dependency, serious mental illness, or a physical condition involving
2.19 mental incompetence, the chief of police or sheriff, as a condition of granting the permit,
2.20 may require that the applicant obtain a letter from a state licensed primary care physician
2.21 or state certified mental health professional, or both, affirming that, in the person's
2.22 professional opinion, the applicant is not seriously mentally ill or chemically dependent,
2.23 and does not have a physical condition involving mental incompetence such that the person
2.24 would be likely to be violent or a danger to self or others. The chief of police or sheriff must
2.25 take the letter under consideration but is not required to treat the letter as determinative
2.26 or conclusive in the decision to issue or deny the permit. Any such requirement by the
2.27 chief of police or sheriff suspends the count on the waiting period beginning at the time
2.28 the requirement is determined until the required letter or letters are provided.

2.29 Sec. 4. Minnesota Statutes 2012, section 624.7132, subdivision 3, is amended to read:

2.30 Subd. 3. **Notification.** The chief of police or sheriff shall notify the transferor and
2.31 proposed transferee in writing as soon as possible if the chief or sheriff determines that
2.32 the proposed transferee is prohibited by section 624.713 or as provided in subdivision 2,
2.33 paragraph (b), from possessing a pistol or semiautomatic military-style assault weapon.

3.1 The notification to the transferee shall specify the grounds for the disqualification of the
3.2 proposed transferee and shall set forth in detail the transferee's right of appeal under
3.3 subdivision 13.

3.4 Sec. 5. Minnesota Statutes 2012, section 624.7132, subdivision 5, is amended to read:

3.5 Subd. 5. **Grounds for disqualification.** A determination by the chief of police or
3.6 sheriff that the proposed transferee is prohibited by section 624.713 or as provided in
3.7 subdivision 2, paragraph (b), from possessing a pistol or semiautomatic military-style
3.8 assault weapon shall be the sole basis for a notification of disqualification under this section.

3.9 Sec. 6. Minnesota Statutes 2012, section 624.7132, subdivision 13, is amended to read:

3.10 Subd. 13. **Appeal.** A person aggrieved by the ~~determination of a chief of police~~
3.11 ~~or sheriff that the person is prohibited by section 624.713 from possessing a pistol or~~
3.12 ~~semiautomatic military-style assault weapon denial of a transferee permit~~ may appeal the
3.13 determination as provided in this subdivision. the denial to the district court shall have
3.14 having jurisdiction of proceedings under this subdivision over the county or municipality
3.15 in which the denial occurred.

3.16 On review pursuant to this subdivision, the court shall be limited to a determination
3.17 of whether the proposed transferee is a person prohibited from possessing a pistol or
3.18 semiautomatic military-style assault weapon by section 624.713.

3.19 Sec. 7. Minnesota Statutes 2012, section 624.714, subdivision 2, is amended to read:

3.20 Subd. 2. **Where application made; authority to issue permit; criteria; scope.**

3.21 (a) Applications by Minnesota residents for permits to carry shall be made to the county
3.22 sheriff where the applicant resides. Nonresidents, as defined in section 171.01, subdivision
3.23 42, may apply to any sheriff are not eligible to apply for a permit.

3.24 (b) Unless a sheriff denies a permit under the exception set forth in subdivision 6,
3.25 paragraph (a), clause (3), a sheriff must issue a permit to an applicant if the person:

3.26 (1) has training in the safe use of a pistol;

3.27 (2) is at least 21 years old and a citizen or a permanent resident of the United States;

3.28 (3) completes an application for a permit;

3.29 (4) is not prohibited from possessing a firearm under the following sections: any
3.30 state or federal law; and

3.31 (i) 518B.01, subdivision 14;

3.32 (ii) 609.224, subdivision 3;

3.33 (iii) 609.2242, subdivision 3;

4.1 (iv) ~~609.749~~, subdivision 8;
4.2 (v) ~~624.713~~;
4.3 (vi) ~~624.719~~;
4.4 (vii) ~~629.715~~, subdivision 2;
4.5 (viii) ~~629.72~~, subdivision 2; or
4.6 (ix) any federal law; and
4.7 (5) is not listed in the criminal gang investigative data system under section 299C.091.

4.8 (c) A permit to carry a pistol issued or recognized under this section is a state permit
4.9 and is effective throughout the state.

4.10 (d) A sheriff may contract with a police chief to process permit applications under
4.11 this section. If a sheriff contracts with a police chief, the sheriff remains the issuing
4.12 authority and the police chief acts as the sheriff's agent. If a sheriff contracts with a police
4.13 chief, all of the provisions of this section will apply.

4.14 Sec. 8. Minnesota Statutes 2012, section 624.714, subdivision 6, is amended to read:

4.15 Subd. 6. **Granting and denial of permits.** (a) The sheriff must, within 30 days
4.16 after the date of receipt of the application packet described in subdivision 3:

4.17 (1) issue the permit to carry;

4.18 (2) deny the application for a permit to carry solely on the grounds that the applicant
4.19 failed to qualify under the criteria described in subdivision 2, paragraph (b); or

4.20 (3) deny the application on the grounds that there exists a substantial likelihood that
4.21 the applicant is a danger to self or the public if authorized to carry a pistol under a permit.

4.22 When the applicant has had past police contacts that indicate dangerous or violent
4.23 behavior, chemical dependency, serious mental illness, or a physical condition involving
4.24 mental incompetence, the sheriff, as a condition of granting the permit, may require that
4.25 the applicant obtain a letter from a state licensed primary care physician or state certified
4.26 mental health professional, or both, affirming that, in the person's professional opinion,
4.27 the applicant is not seriously mentally ill or chemically dependent, and does not have a
4.28 physical condition involving mental incompetence such that the person would be likely to
4.29 be violent or a danger to self or others. The sheriff must take the letter under consideration
4.30 but is not required to treat the letter as determinative or conclusive in the decision to
4.31 issue or deny the permit. Any such requirement by the sheriff suspends the count on the
4.32 waiting period beginning at the time the requirement is determined until the required
4.33 letter or letters are provided.

4.34 (b) Except when the sheriff has notified the applicant of a requirement to obtain a
4.35 letter from a professional physician or mental health professional in accordance with

5.1 paragraph (a), failure of the sheriff to notify the applicant of the denial of the application
5.2 within 30 days after the date of receipt of the application packet constitutes issuance of the
5.3 permit to carry and the sheriff must promptly fulfill the requirements under paragraph (c).
5.4 To deny the application, the sheriff must provide the applicant with written notification
5.5 and the specific factual basis justifying the denial under paragraph (a), clause (2) or (3),
5.6 including the source of the factual basis. The sheriff must inform the applicant of the
5.7 applicant's right to submit, within 20 business days, any additional documentation relating
5.8 to the propriety of the denial. Upon receiving any additional documentation, the sheriff
5.9 must reconsider the denial and inform the applicant within 15 business days of the result
5.10 of the reconsideration. Any denial after reconsideration must be in the same form and
5.11 substance as the original denial and must specifically address any continued deficiencies
5.12 in light of the additional documentation submitted by the applicant. The applicant must be
5.13 informed of the right to seek de novo review of the denial as provided in subdivision 12.

5.14 (c) Upon issuing a permit to carry, the sheriff must provide a laminated permit
5.15 card to the applicant by first class mail unless personal delivery has been made. Within
5.16 five business days, the sheriff must submit the information specified in subdivision 7,
5.17 paragraph (a), to the commissioner for inclusion solely in the database required under
5.18 subdivision 15, paragraph (a). The sheriff must transmit the information in a manner and
5.19 format prescribed by the commissioner.

5.20 (d) Within five business days of learning that a permit to carry has been suspended
5.21 or revoked, the sheriff must submit information to the commissioner regarding the
5.22 suspension or revocation for inclusion solely in the databases required or permitted under
5.23 subdivision 15.

5.24 (e) Notwithstanding paragraphs (a) and (b), the sheriff may suspend the application
5.25 process if a charge is pending against the applicant that, if resulting in conviction, will
5.26 prohibit the applicant from possessing a firearm.

5.27 Sec. 9. Minnesota Statutes 2012, section 624.714, subdivision 12, is amended to read:

5.28 Subd. 12. **Hearing upon denial or revocation.** (a) Any person aggrieved by denial
5.29 or revocation of a permit to carry may appeal by petition to the district court having
5.30 jurisdiction over the county or municipality where the application was submitted. The
5.31 petition must list the sheriff as the respondent. The district court must hold a hearing at
5.32 the earliest practicable date and in any event no later than 60 days following the filing of
5.33 the petition for review. The court may not grant or deny any relief before the completion
5.34 of the hearing. The record of the hearing must be sealed. The matter must be heard de
5.35 novo without a jury.

6.1 (b) The court must issue written findings of fact and conclusions of law regarding
6.2 the issues submitted by the parties. The court must issue its writ of mandamus directing
6.3 that the permit be issued and order other appropriate relief unless the sheriff establishes:

6.4 (1) by clear and convincing evidence:

6.5 (1) that the applicant is disqualified under the criteria described in subdivision 2,
6.6 paragraph (b); or

6.7 (2) by a preponderance of the evidence that there exists a ~~substantial~~ likelihood
6.8 that the applicant is a danger to self or the public if authorized to carry a pistol under a
6.9 permit. Incidents of alleged criminal misconduct that are not ~~investigated and~~ documented
6.10 may not be considered.

6.11 (c) If an applicant is denied a permit on the grounds that the applicant is listed in
6.12 the criminal gang investigative data system under section 299C.091, the person may
6.13 challenge the denial, after disclosure under court supervision of the reason for that listing,
6.14 based on grounds that the person:

6.15 (1) was erroneously identified as a person in the data system;

6.16 (2) was improperly included in the data system according to the criteria outlined in
6.17 section 299C.091, subdivision 2, paragraph (b); or

6.18 (3) has demonstrably withdrawn from the activities and associations that led to
6.19 inclusion in the data system.

6.20 (d) If the court grants a petition brought under paragraph (a), the court must award
6.21 the applicant or permit holder reasonable costs and expenses including attorney fees.

6.22 Sec. 10. Minnesota Statutes 2012, section 624.714, subdivision 16, is amended to read:

6.23 Subd. 16. **Recognition of permits from other states.** (a) The commissioner must
6.24 annually establish and publish a list of other states that have laws governing the issuance
6.25 of permits to carry weapons that are not substantially similar to this section. The list
6.26 must be available on the Internet. A person holding a carry permit from a state not on
6.27 the list may use the license or permit in this state subject to the rights, privileges, and
6.28 requirements of this section.

6.29 (b) Notwithstanding paragraph (a), no license or permit from another state is valid in
6.30 this state if the holder is or becomes prohibited by any state or federal law from possessing
6.31 a firearm.

6.32 (c) Any sheriff or police chief may file a petition under subdivision 12 seeking an
6.33 order suspending or revoking an out-of-state permit holder's authority to carry a pistol in
6.34 this state on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall
6.35 only be issued if the petitioner meets the burden of proof and criteria set forth in subdivision

7.1 12. If the court denies the petition, the court must award the permit holder reasonable
7.2 costs and expenses including attorney fees. The petition may be filed in any county in the
7.3 state where a person holding a license or permit from another state can be found.

7.4 (d) The commissioner must, when necessary, execute reciprocity agreements
7.5 regarding carry permits with jurisdictions whose carry permits are recognized under
7.6 paragraph (a).

7.7 Sec. 11. **EFFECTIVE DATE.**

7.8 Sections 1 to 10 are effective August 1, 2013, for applications for permits issued
7.9 on or after that date.