

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1359

(SENATE AUTHORS: ORTMAN, Eken, Limmer, Koenen and Hann)

DATE	D-PG	OFFICIAL STATUS
03/13/2013	972	Introduction and first reading Referred to Judiciary See SF235

A bill for an act

1.1 relating to firearms; regulating the lawful possession, purchase, and transfer
1.2 of firearms and ammunition; amending the definition of crime of violence;
1.3 establishing mandatory minimum sentences; creating new criminal offenses;
1.4 providing procedures for restoring firearms rights; directing the commissioner of
1.5 human services to report mental health commitment information to the National
1.6 Instant Criminal Background Check System for the purpose of facilitating
1.7 firearms background checks; creating a reporting requirement; requiring timely
1.8 transmittal of civil commitment, law enforcement, and court data to certain
1.9 state and federal searchable databases; requiring a report; amending Minnesota
1.10 Statutes 2012, sections 241.301; 245.041; 253B.24; 299C.10, subdivisions 1, 3;
1.11 299C.11, subdivision 1; 299C.14; 299C.17; 609.165, subdivision 1b; 609.505,
1.12 by adding a subdivision; 624.712, subdivision 5, by adding a subdivision;
1.13 624.713, subdivisions 1, 2, by adding subdivisions; 624.7141, subdivisions 2,
1.14 3; proposing coding for new law in Minnesota Statutes, chapters 299C; 624;
1.15 repealing Minnesota Statutes 2012, section 624.713, subdivision 4.

1.16
1.17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.18 Section 1. Minnesota Statutes 2012, section 241.301, is amended to read:

1.19 **241.301 FINGERPRINTS OF INMATES, PAROLEES, AND PROBATIONERS**
1.20 **FROM OTHER STATES.**

1.21 The commissioner of corrections shall establish procedures so that whenever this
1.22 state receives an inmate, parolee, or probationer from another state under sections 241.28
1.23 to 241.30 or 243.1605, fingerprints and thumbprints of the inmate, parolee, or probationer
1.24 are obtained and forwarded to the ~~Bureau of Criminal Apprehension~~ by electronic entry
1.25 into a Bureau of Criminal Apprehension-managed or federal searchable database within
1.26 24 hours of receipt. The bureau shall convert the fingerprints and thumbprints into an
1.27 electronic format for entry into the appropriate searchable database within 72 hours of
1.28 receipt if the data is not entered by the commissioner.

2.1 Sec. 2. Minnesota Statutes 2012, section 245.041, is amended to read:

2.2 **245.041 PROVISION OF FIREARMS AND EXPLOSIVES BACKGROUND**
 2.3 **CHECK INFORMATION.**

2.4 Notwithstanding section 253B.23, subdivision 9, the commissioner of human
 2.5 services shall provide commitment information to local law enforcement agencies on an
 2.6 individual request basis by means of electronic data transfer from the Department of
 2.7 Human Services through the Minnesota Crime Information System and the National
 2.8 Instant Criminal Background Check System for the sole purpose of facilitating a firearms
 2.9 background check under section 624.7131, 624.7132, or 624.714, or an explosives
 2.10 background check under section 299F.73, 299F.74, 299F.75, 299F.77, or 299F.785. The
 2.11 information to be provided is limited to whether the person has been committed under
 2.12 chapter 253B and, if so, the type of commitment. No later than August 1, 2013, the
 2.13 commissioner must make available in electronic data format the commitment information
 2.14 required by this section for commitments occurring since August 1, 1994.

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

2.16 Sec. 3. Minnesota Statutes 2012, section 253B.24, is amended to read:

2.17 **253B.24 TRANSMITTAL OF DATA TO NATIONAL INSTANT CRIMINAL**
 2.18 **BACKGROUND CHECK SYSTEM.**

2.19 When a court:

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

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

2.24 (3) restores a person's ability to possess a firearm under section 609.165, subdivision
 2.25 1d, or 624.713, subdivision 4,

2.26 the court shall ensure that this information is electronically transmitted ~~as soon as~~
 2.27 ~~practicable~~ within 24 hours to the National Instant Criminal Background Check System.

2.28 Sec. 4. **[299C.089] INFORMATION RECEIVED BY BUREAU.**

2.29 Within 72 hours of receipt of data, the bureau shall convert into an electronic format
 2.30 for entry into the appropriate searchable database all data received from a criminal justice
 2.31 agency that is not electronically entered by that agency into a bureau-managed or federal
 2.32 searchable database. For the purposes of this section, "criminal justice agency" has the
 2.33 meaning given under section 299C.46, subdivision 2.

3.1 Sec. 5. Minnesota Statutes 2012, section 299C.10, subdivision 1, is amended to read:

3.2 Subdivision 1. **Required fingerprinting.** (a) Sheriffs, peace officers, and
3.3 community corrections agencies operating secure juvenile detention facilities shall take
3.4 or cause to be taken immediately finger and thumb prints, photographs, distinctive
3.5 physical mark identification data, information on any known aliases or street names, and
3.6 other identification data requested or required by the superintendent of the bureau, of
3.7 the following:

3.8 (1) persons arrested for, appearing in court on a charge of, or convicted of a felony,
3.9 gross misdemeanor, or targeted misdemeanor;

3.10 (2) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent
3.11 for, or alleged to have committed felonies or gross misdemeanors as distinguished from
3.12 those committed by adult offenders;

3.13 (3) adults and juveniles admitted to jails or detention facilities;

3.14 (4) persons reasonably believed by the arresting officer to be fugitives from justice;

3.15 (5) persons in whose possession, when arrested, are found concealed firearms or
3.16 other dangerous weapons, burglar tools or outfits, high-power explosives, or articles,
3.17 machines, or appliances usable for an unlawful purpose and reasonably believed by the
3.18 arresting officer to be intended for such purposes;

3.19 (6) juveniles referred by a law enforcement agency to a diversion program for a
3.20 felony or gross misdemeanor offense; and

3.21 (7) persons currently involved in the criminal justice process, on probation, on
3.22 parole, or in custody for any offense whom the superintendent of the bureau identifies as
3.23 being the subject of a court disposition record which cannot be linked to an arrest record,
3.24 and whose fingerprints are necessary to reduce the number of suspense files, or to comply
3.25 with the mandates of section 299C.111, relating to the reduction of the number of suspense
3.26 files. This duty to obtain fingerprints for the offenses in suspense at the request of the
3.27 bureau shall include the requirement that fingerprints be taken in post-arrest interviews,
3.28 while making court appearances, while in custody, or while on any form of probation,
3.29 diversion, or supervised release.

3.30 (b) Unless the superintendent of the bureau requires a shorter period, within 24 hours
3.31 of taking the fingerprints and data, the fingerprint records and other identification data
3.32 specified under paragraph (a) must be ~~forwarded to the bureau on such forms and in such~~
3.33 electronically entered into a bureau-managed or federal searchable database in a manner
3.34 as may be prescribed by the superintendent.

3.35 (c) Prosecutors, courts, and probation officers and their agents, employees, and
3.36 subordinates shall attempt to ensure that the required identification data is taken on a

4.1 person described in paragraph (a). Law enforcement may take fingerprints of an individual
4.2 who is presently on probation.

4.3 (d) Finger and thumb prints must be obtained no later than:

4.4 (1) release from booking; or

4.5 (2) if not booked prior to acceptance of a plea of guilty or not guilty.

4.6 Prior to acceptance of a plea of guilty or not guilty, an individual's finger and thumb
4.7 prints must be submitted to the Bureau of Criminal Apprehension for the offense. If finger
4.8 and thumb prints have not been successfully received by the bureau, an individual may,
4.9 upon order of the court, be taken into custody for no more than eight hours so that the
4.10 taking of prints can be completed. Upon notice and motion of the prosecuting attorney,
4.11 this time period may be extended upon a showing that additional time in custody is
4.12 essential for the successful taking of prints.

4.13 (e) For purposes of this section, a targeted misdemeanor is a misdemeanor violation
4.14 of section 169A.20 (driving while impaired), 518B.01 (order for protection violation),
4.15 609.224 (fifth-degree assault), 609.2242 (domestic assault), 609.746 (interference with
4.16 privacy), 609.748 (harassment or restraining order violation), 617.23 (indecent exposure),
4.17 or 629.75 (domestic abuse no contact order).

4.18 Sec. 6. Minnesota Statutes 2012, section 299C.10, subdivision 3, is amended to read:

4.19 Subd. 3. **Bureau duty.** The bureau must ~~enter~~ convert into an electronic format for
4.20 entry in the criminal records system ~~finger and thumb prints~~ fingerprints, thumbprints,
4.21 and other identification data within ~~five working days~~ 72 hours after they are received
4.22 under this section if the fingerprints, thumbprints, and other identification data were not
4.23 electronically entered by a criminal justice agency.

4.24 Sec. 7. Minnesota Statutes 2012, section 299C.11, subdivision 1, is amended to read:

4.25 Subdivision 1. **Identification data other than DNA.** (a) Each sheriff and chief of
4.26 police shall furnish the bureau, upon such form as the superintendent shall prescribe, with
4.27 such finger and thumb prints, photographs, distinctive physical mark identification data,
4.28 information on known aliases and street names, and other identification data as may be
4.29 requested or required by the superintendent of the bureau, which must be taken under the
4.30 provisions of section 299C.10. In addition, sheriffs and chiefs of police shall furnish this
4.31 identification data to the bureau for individuals found to have been convicted of a felony,
4.32 gross misdemeanor, or targeted misdemeanor, within the ten years immediately preceding
4.33 their arrest. When the bureau learns that an individual who is the subject of a background
4.34 check has used, or is using, identifying information, including, but not limited to, name

5.1 and date of birth, other than those listed on the criminal history, the bureau ~~may add~~
5.2 shall convert into an electronic format, if necessary, and enter into a bureau-managed or
5.3 federal searchable database the new identifying information to the criminal history when
5.4 supported by fingerprints within 72 hours of learning the information if the information is
5.5 not entered by a law enforcement agency.

5.6 (b) No petition under chapter 609A is required if the person has not been convicted
5.7 of any felony or gross misdemeanor, either within or without the state, within the period
5.8 of ten years immediately preceding the determination of all pending criminal actions or
5.9 proceedings in favor of the arrested person, and either of the following occurred:

5.10 (1) all charges were dismissed prior to a determination of probable cause; or

5.11 (2) the prosecuting authority declined to file any charges and a grand jury did not
5.12 return an indictment.

5.13 Where these conditions are met, the bureau or agency shall, upon demand, return to
5.14 the arrested person finger and thumb prints, photographs, distinctive physical mark
5.15 identification data, information on known aliases and street names, and other identification
5.16 data, and all copies and duplicates of them.

5.17 (c) Except as otherwise provided in paragraph (b), upon the determination of all
5.18 pending criminal actions or proceedings in favor of the arrested person, and the granting
5.19 of the petition of the arrested person under chapter 609A, the bureau shall seal finger and
5.20 thumb prints, photographs, distinctive physical mark identification data, information on
5.21 known aliases and street names, and other identification data, and all copies and duplicates
5.22 of them if the arrested person has not been convicted of any felony or gross misdemeanor,
5.23 either within or without the state, within the period of ten years immediately preceding
5.24 such determination.

5.25 Sec. 8. Minnesota Statutes 2012, section 299C.14, is amended to read:

5.26 **299C.14 INFORMATION ON RELEASED PRISONER.**

5.27 It shall be the duty of the officials having charge of the penal institutions of the state
5.28 or the release of prisoners therefrom to furnish to the bureau, as the superintendent may
5.29 require, finger and thumb prints, photographs, distinctive physical mark identification
5.30 data, other identification data, modus operandi reports, and criminal records of prisoners
5.31 heretofore, now, or hereafter confined in such penal institutions, together with the period
5.32 of their service and the time, terms, and conditions of their discharge. This duty to furnish
5.33 information includes, but is not limited to, requests for fingerprints as the superintendent of
5.34 the bureau deems necessary to maintain and ensure the accuracy of the bureau's criminal
5.35 history files, to reduce the number of suspense files, or to comply with the mandates

6.1 of section 299C.111 relating to the reduction of the number of suspense files where a
 6.2 disposition record is received that cannot be linked to an arrest record. The officials shall
 6.3 electronically enter the information in a bureau-managed or federal searchable database
 6.4 within 24 hours of a prisoner's date of release or discharge. The bureau shall convert the
 6.5 information into an electronic format and enter it into the appropriate searchable database
 6.6 within 72 hours of the date of receipt, if the information is not entered by the officials.

6.7 Sec. 9. Minnesota Statutes 2012, section 299C.17, is amended to read:

6.8 **299C.17 REPORT BY COURT ADMINISTRATOR.**

6.9 The superintendent shall ~~have power to~~ require the court administrator ~~of any county~~
 6.10 of every court which sentences a defendant for a felony or gross misdemeanor to file with
 6.11 the department, at such time as the superintendent may designate, electronically transmit
 6.12 within 24 hours of the disposition of the case a report, upon such in a form as prescribed by
 6.13 the superintendent may prescribe, furnishing such providing information as the required by
 6.14 the superintendent may require with regard to the prosecution and disposition of criminal
 6.15 cases. A copy of the report shall be kept on file in the office of the court administrator.

6.16 Sec. 10. Minnesota Statutes 2012, section 609.165, subdivision 1b, is amended to read:

6.17 Subd. 1b. **Violent felons in possession; violation and penalty; mandatory**
 6.18 **sentences.** (a) Any person who has been convicted of a crime of violence, as defined in
 6.19 section 624.712, subdivision 5, and who ships, transports, possesses, or receives a firearm,
 6.20 commits a felony and may be sentenced to imprisonment for not more than 15 years or
 6.21 to payment of a fine of not more than \$30,000, or both.

6.22 (b) A conviction and sentencing under this section shall be construed to bar a
 6.23 conviction and sentencing for a violation of section 624.713, subdivision 2.

6.24 (c) The criminal penalty in paragraph (a) does not apply to any person who has
 6.25 received a relief of disability under United States Code, title 18, section 925, or whose
 6.26 ability to possess firearms has been restored under subdivision 1d.

6.27 (d) Unless a longer mandatory minimum sentence is otherwise required by law
 6.28 or the sentencing guidelines provide for a longer presumptive executed sentence, a
 6.29 person convicted of violating paragraph (a) shall be committed to the commissioner of
 6.30 corrections for:

6.31 (1) 60 months; or

6.32 (2) 120 months if the person has a prior conviction under this section, section 624.713,
 6.33 subdivision 2, paragraph (b), or a comparable law of another state or the United States.

7.1 Sentencing a person in a manner other than that described in this paragraph is a departure
7.2 from the sentencing guidelines.

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

7.5 Sec. 11. Minnesota Statutes 2012, section 609.505, is amended by adding a subdivision
7.6 to read:

7.7 Subd. 3. **Lost or stolen firearms; false reporting.** (a) Whoever files a written
7.8 report with a law enforcement officer that a firearm has been lost or stolen, knowing that
7.9 the report is false, is guilty of a gross misdemeanor.

7.10 (b) A person is guilty of a felony and may be sentenced to imprisonment for not more
7.11 than five years, or to payment of a fine of not more than \$10,000, or both, if the person:

7.12 (1) is convicted a second or subsequent time of violating this subdivision; or

7.13 (2) violates paragraph (a) while knowing that the firearm has been transferred to
7.14 someone who intends to use it in furtherance of a felony crime of violence, as defined in
7.15 section 624.712, subdivision 5.

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

7.18 Sec. 12. Minnesota Statutes 2012, section 624.712, subdivision 5, is amended to read:

7.19 Subd. 5. **Crime of violence.** "Crime of violence" means: felony convictions of
7.20 the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder
7.21 in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in
7.22 the first degree); 609.205 (manslaughter in the second degree); 609.215 (aiding suicide
7.23 and aiding attempted suicide); 609.221 (assault in the first degree); 609.222 (assault
7.24 in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the
7.25 fourth degree); 609.224, subdivision 4 (felony assault in the fifth degree); 609.2242,
7.26 subdivision 4 (felony domestic assault); 609.2247 (domestic assault by strangulation);
7.27 609.229 (crimes committed for the benefit of a gang); 609.235 (use of drugs to injure
7.28 or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25
7.29 (kidnapping); 609.255 (false imprisonment); 609.322 (solicitation, inducement, and
7.30 promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first
7.31 degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual
7.32 conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree);
7.33 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child);

8.1 609.486 (commission of crime while wearing or possessing a bullet-resistant vest);
 8.2 609.505, subdivision 3, paragraph (b) (falsely reporting lost or stolen firearms); 609.52
 8.3 (involving theft of a firearm, theft involving the intentional taking or driving of a motor
 8.4 vehicle without the consent of the owner or authorized agent of the owner, theft involving
 8.5 the taking of property from a burning, abandoned, or vacant building, or from an area of
 8.6 destruction caused by civil disaster, riot, bombing, or the proximity of battle, and theft
 8.7 involving the theft of a controlled substance, an explosive, or an incendiary device);
 8.8 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.582,
 8.9 subdivision 1, 2, or 3 (burglary in the first through third degrees); 609.66, subdivision 1e
 8.10 (drive-by shooting); 609.67 (unlawfully owning, possessing, operating a machine gun or
 8.11 short-barreled shotgun); 609.71 (riot); 609.713 (terroristic threats); 609.749 (stalking);
 8.12 609.855, subdivision 5 (shooting at a public transit vehicle or facility); 624.7141,
 8.13 subdivision 2 (transferring firearm to an ineligible person); and a second or subsequent
 8.14 conviction, adjudication of delinquency, or conviction as an extended jurisdiction juvenile
 8.15 for violating section 624.713, subdivision 1, clause (1) (certain persons not to possess
 8.16 firearms, ineligible persons, juveniles); and chapter 152 (drugs, controlled substances);
 8.17 and an attempt to commit any of these offenses.

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

8.20 Sec. 13. Minnesota Statutes 2012, section 624.712, is amended by adding a subdivision
 8.21 to read:

8.22 Subd. 12. **Ammunition.** "Ammunition" means ammunition or cartridge cases,
 8.23 primers, bullets, or propellant powder designed for use in any firearm other than an antique
 8.24 firearm. Ammunition shall not include (1) any shotgun shot or pellet not designed for use
 8.25 as the single, complete projectile load for one shotgun hull or casing, or (2) any unloaded,
 8.26 nonmetallic shotgun hull or casing not having a primer.

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

8.29 Sec. 14. Minnesota Statutes 2012, section 624.713, subdivision 1, is amended to read:

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

9.1 (1) a person under the age of 18 years except that a person under 18 may possess
9.2 ammunition designed for use in a firearm that the person may lawfully possess and may
9.3 carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual
9.4 presence or under the direct supervision of the person's parent or guardian, (ii) for the
9.5 purpose of military drill under the auspices of a legally recognized military organization
9.6 and under competent supervision, (iii) for the purpose of instruction, competition, or target
9.7 practice on a firing range approved by the chief of police or county sheriff in whose
9.8 jurisdiction the range is located and under direct supervision; or (iv) if the person has
9.9 successfully completed a course designed to teach marksmanship and safety with a pistol
9.10 or semiautomatic military-style assault weapon and approved by the commissioner of
9.11 natural resources;

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

9.17 (3) a person who is or has ever been ordered committed in Minnesota or elsewhere
9.18 by a judicial determination that the person is mentally ill, developmentally disabled, or
9.19 mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment
9.20 facility, whether or not the order was stayed, or who has ever been found incompetent to
9.21 stand trial or not guilty by reason of mental illness, unless the person's ability to possess a
9.22 firearm has been restored under subdivision 4 6;

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

9.30 (5) a person who has been committed to a treatment facility in Minnesota or
9.31 elsewhere by a judicial determination that the person is chemically dependent as defined
9.32 in section 253B.02, unless the person has completed treatment or the person's ability to
9.33 possess a firearm has been restored under subdivision 4 6. Property rights may not be
9.34 abated but access may be restricted by the courts;

9.35 (6) a peace officer who is informally admitted to a treatment facility pursuant to
9.36 section 253B.04 for chemical dependency, unless the officer possesses a certificate from

10.1 the head of the treatment facility discharging or provisionally discharging the officer from
10.2 the treatment facility. Property rights may not be abated but access may be restricted
10.3 by the courts;

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

10.8 (8) except as otherwise provided in clause (9), a person who has been convicted in
10.9 another state of committing an offense similar to the offense described in section 609.224,
10.10 subdivision 3, against a family or household member or section 609.2242, subdivision
10.11 3, unless three years have elapsed since the date of conviction and, during that time, the
10.12 person has not been convicted of any other violation of section 609.224, subdivision 3, or
10.13 609.2242, subdivision 3, or a similar law of another state;

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

10.18 (10) a person who: is disqualified from possessing a firearm under United States
10.19 Code, title 18, section 922(g); or

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

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

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

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

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

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

10.31 ~~(vii) has renounced the person's citizenship having been a citizen of the United~~
10.32 ~~States; or~~

10.33 (11) a person who has been convicted of the following offenses at the gross
10.34 misdemeanor level, unless three years have elapsed since the date of conviction and, during
10.35 that time, the person has not been convicted of any other violation of these sections: section
10.36 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults

11.1 motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a
11.2 child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring
11.3 gun); 609.71 (riot); or 609.749 (stalking). For purposes of this paragraph, the specified
11.4 gross misdemeanor convictions include crimes committed in other states or jurisdictions
11.5 which would have been gross misdemeanors if conviction occurred in this state.

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

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

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

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

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

11.21 Sec. 15. Minnesota Statutes 2012, section 624.713, subdivision 2, is amended to read:

11.22 Subd. 2. **Penalties; mandatory sentences.** (a) A person named in subdivision
11.23 1, clause (1), who possesses a pistol or semiautomatic military-style assault weapon is
11.24 guilty of a felony and may be sentenced to imprisonment for not more than five years or
11.25 to payment of a fine of not more than \$10,000, or both.

11.26 (b) A person named in subdivision 1, clause (2), who possesses any type of firearm
11.27 is guilty of a felony and may be sentenced to imprisonment for not more than 15 years
11.28 or to payment of a fine of not more than \$30,000, or both. Unless a longer mandatory
11.29 minimum sentence is otherwise required by law or the sentencing guidelines provide for
11.30 a longer presumptive executed sentence, a person convicted of violating paragraph (a)
11.31 shall be committed to the commissioner of corrections for:

11.32 (1) 60 months; or

11.33 (2) 120 months if the person has a prior conviction under this paragraph, section
11.34 609.165, or a comparable law of another state or the United States.

12.1 Sentencing a person in a manner other than that described in this paragraph is a departure
12.2 from the sentencing guidelines. This paragraph does not apply to any person who has
12.3 received a relief of disability under United States Code, title 18, section 925, or whose
12.4 ability to possess firearms has been restored under section 609.165, subdivision 1d.

12.5 (c) A person named in any other clause of subdivision 1 who possesses any type of
12.6 firearm is guilty of a gross misdemeanor.

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

12.9 Sec. 16. Minnesota Statutes 2012, section 624.713, is amended by adding a subdivision
12.10 to read:

12.11 Subd. 3a. **Prompt reporting of disqualifying mental health data.** When a court
12.12 orders a commitment under chapter 253B or makes a finding or adjudication by which a
12.13 person becomes subject to the provisions of section 624.713, subdivision 1, clause (3), or
12.14 United States Code, title 18, sections 922(d)(4) and 922(g)(4), the court administrator shall
12.15 electronically enter the nature of the court's action and only the information necessary to
12.16 identify the person into the National Instant Criminal Background Check System database.
12.17 The court shall also notify the person of the prohibitions of section 624.713, subdivision 1,
12.18 clause (3), and United States Code, title 18, sections 922(d)(4) and 922(g)(4).

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

12.20 Sec. 17. Minnesota Statutes 2012, section 624.713, is amended by adding a subdivision
12.21 to read:

12.22 Subd. 5. **Provision of firearms background check information.** (a) When a
12.23 court places a person, including a person under the jurisdiction of the juvenile court, who
12.24 is charged with committing a crime of violence into a pretrial diversion program before
12.25 disposition, the court must ensure that information regarding the person's placement in
12.26 that program and the ordered expiration date of that placement is transmitted as soon as
12.27 practicable to the National Instant Criminal Background Check System. When a person
12.28 successfully completes or discontinues the program, the prosecuting attorney must also
12.29 report that fact within 24 hours of receipt to the National Instant Criminal Background
12.30 Check System.

12.31 (b) The court must report the conviction and duration of the firearms disqualification
12.32 imposed as soon as practicable to the National Instant Criminal Background Check

13.1 System when a person is convicted of a gross misdemeanor that disqualifies the person
 13.2 from possessing firearms under the following sections:

- 13.3 (1) 518B.01, subdivision 14;
 13.4 (2) 609.224, subdivision 3;
 13.5 (3) 609.2242, subdivision 3;
 13.6 (4) 609.749, subdivision 8;
 13.7 (5) 624.713, subdivision 1, clause (11); or
 13.8 (6) 629.715, subdivision 2.

13.9 (c) If the court reports a firearms disqualification based on a charge of violating an
 13.10 offense listed in paragraph (b), the court must provide notice of the disposition of the
 13.11 charge to the National Instant Criminal Background Check System as soon as practicable.

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

13.13 Sec. 18. Minnesota Statutes 2012, section 624.713, is amended by adding a subdivision
 13.14 to read:

13.15 Subd. 6. **Restoration of firearms eligibility to civilly committed person; petition**
 13.16 **authorized.** (a) A person who is subject to the disabilities in section 624.713, subdivision
 13.17 1, clauses (3) and (5), or United States Code, title 18, section 922(d)(4) or 922(g)(4),
 13.18 because of an adjudication or commitment that occurred under the laws of this state
 13.19 may petition the court in which the adjudication or commitment proceedings occurred
 13.20 or a district court of competent jurisdiction to remove all the disabilities. A copy of the
 13.21 petition for relief shall be served upon the county attorney's office of the jurisdiction in
 13.22 which the petition is filed. The office may, as it deems appropriate, represent the interests
 13.23 of the state in the restoration proceedings.

13.24 (b) The court shall receive and consider evidence in a closed proceeding, including
 13.25 evidence offered by the petitioner, concerning:

- 13.26 (1) the circumstances regarding the firearm disabilities from which relief is sought;
 13.27 (2) the petitioner's mental health and criminal history records, if any;
 13.28 (3) the petitioner's reputation, developed at a minimum through character witness
 13.29 statements, testimony, or other character evidence; and
 13.30 (4) changes in the petitioner's condition or circumstances since the original
 13.31 adjudication or commitment relevant to the relief sought.

13.32 The court shall grant the petition for relief if it finds by a preponderance of the evidence
 13.33 that the petitioner will not be likely to act in a manner dangerous to public safety and that
 13.34 the granting of the relief would not be contrary to the public interest. A record shall be

14.1 kept of the proceedings, but it shall remain confidential and be disclosed only to a court
 14.2 in the event of an appeal. The petitioner may appeal a denial of the requested relief, and
 14.3 review on appeal shall be de novo.

14.4 (c) The court administrator shall promptly electronically transmit information of
 14.5 the order granting relief to the person under this section to the National Instant Criminal
 14.6 Background Check System or to any official issuing a permit under section 624.7131,
 14.7 624.7132, or 624.714 and notify the United States Attorney General that the basis for the
 14.8 person's record of firearm disabilities being made available no longer applies.

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

14.11 Sec. 19. Minnesota Statutes 2012, section 624.7141, subdivision 2, is amended to read:

14.12 Subd. 2. **Felony.** A violation of this section is a felony:

14.13 (1) if the transferee possesses or uses the weapon within one year after the transfer in
 14.14 furtherance of a felony crime of violence; or

14.15 (2) if the transferor knows the transferee intends to use the weapon in the furtherance
 14.16 of a felony crime of violence.

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

14.19 Sec. 20. Minnesota Statutes 2012, section 624.7141, subdivision 3, is amended to read:

14.20 Subd. 3. **Subsequent eligibility.** ~~This section~~ Subdivision 2, clause (1), is not
 14.21 applicable to a transfer to a person who became eligible to possess a pistol or semiautomatic
 14.22 military-style assault weapon ~~under section 624.713~~ after the transfer occurred but before
 14.23 the transferee used or possessed the weapon in furtherance of any crime.

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

14.26 Sec. 21. **[624.7163] CRIMES AGAINST LICENSED FIREARMS DEALERS.**

14.27 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms
 14.28 have the meanings given.

14.29 (b) "Ammunition" means ammunition or cartridge cases, primers, bullets, or
 14.30 propellant powder designed for use in a firearm other than an antique firearm. Ammunition
 14.31 shall not include (1) any shotgun shot or pellet not designed for use as the single, complete

15.1 projectile load for one shotgun hull or casing, or (2) any unloaded, nonmetallic shotgun
15.2 hull or casing not having a primer.

15.3 (c) "False information" means material information that portrays an illegal
15.4 transaction as legal or a legal transaction as illegal.

15.5 (d) "Licensed dealer" means a person who is licensed pursuant to United States
15.6 Code, title 18, section 923, to engage in the business of dealing in firearms.

15.7 (e) "Private seller" means a person who sells or offers for sale ammunition or any
15.8 firearm, as that term is defined in section 609.669, subdivision 2, clause (2).

15.9 Subd. 2. **Crime.** (a) Whoever does any of the following is guilty of a felony:

15.10 (1) knowingly solicits, persuades, encourages, or entices a licensed dealer or private
15.11 seller of firearms or ammunition to transfer a firearm or ammunition under circumstances
15.12 that the person knows would violate the laws of this state or the United States; or

15.13 (2) provides to a licensed dealer or private seller of firearms or ammunition what the
15.14 person knows to be false information with intent to deceive the dealer or seller about the
15.15 legality of a transfer of a firearm or ammunition.

15.16 (b) Any person who willfully procures another person to engage in conduct
15.17 prohibited by this section shall be held accountable as a principal.

15.18 Subd. 3. **Exception.** This section does not apply to a law enforcement officer
15.19 acting in the officer's official capacity or to a person acting at the direction of the law
15.20 enforcement officer.

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

15.23 Sec. 22. **PRIOR CIVIL COMMITMENTS AND FELONY CONVICTIONS.**

15.24 (a) By September 1, 2013, a civil commitment court shall electronically enter
15.25 information to the National Instant Criminal Background Check System information on
15.26 all persons civilly committed during the years 2008 to 2012 that has not already been
15.27 entered in the system.

15.28 (b) By September 1, 2013, a criminal justice agency shall electronically enter into a
15.29 Bureau of Criminal Apprehension-managed or federal database information on all persons
15.30 convicted of a felony during the years 2008 to 2012 that has not already been entered in a
15.31 searchable database. The bureau shall convert into an electronic format and enter into the
15.32 appropriate searchable database, within 72 hours of receipt of the data, all data received
15.33 from the criminal justice agency that is not entered by that agency into a bureau-managed
15.34 or federal searchable database. For the purposes of this paragraph, "criminal justice
15.35 agency" has the meaning given under Minnesota Statutes, section 299C.46, subdivision 2.

16.1 (c) The governor or commissioner of public safety may extend the time for entering
16.2 information of prior civil commitments and felony convictions under paragraphs (a) and
16.3 (b) for a period not to exceed 60 days for good cause shown.

16.4 Sec. 23. **CRIMINAL AND JUVENILE JUSTICE INFORMATION POLICY**
16.5 **GROUP.**

16.6 The Criminal and Juvenile Justice Information Policy Group shall report to the chairs
16.7 and ranking minority members of the house of representatives and senate committees
16.8 having jurisdiction over criminal justice policy and funding by January 1, 2014, on the
16.9 search capabilities of the Bureau of Criminal Apprehension-managed databases and
16.10 recommend how the search capabilities of the databases may be improved with, among
16.11 other proposals, an increase in the number of identification data for each person included
16.12 in the databases. The group shall also report on the progress made on reducing the number
16.13 of bureau suspense files and recommendations to facilitate the reduction of these files. The
16.14 group, in consultation with the revisor of statutes, shall review existing law relating to the
16.15 timely transmittal and entry of data and propose legislation for the 2014 legislative session
16.16 that clarifies, conforms, implements, and resolves any conflicts with this act.

16.17 Sec. 24. **REPEALER.**

16.18 Minnesota Statutes 2012, section 624.713, subdivision 4, is repealed.

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

624.713 CERTAIN PERSONS NOT TO POSSESS FIREARMS.

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

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

- (1) the person is not likely to act in a manner that is dangerous to public safety; and
- (2) the granting of relief would not be contrary to the public interest.

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

(d) Review on appeal shall be de novo.