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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3759

03/31/2016 Authored by Schoen and Pinto

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

1.1 A bill for an act

1.2 relating to public safety; enabling law enforcement and family members to

1.3 petition a court to prohibit people from possessing firearms if they pose a

1.4 significant danger to themselves or others by possessing a firearm; requiring the

1.5 commissioner of human services to create and maintain a centralized register

1.6 of individuals who voluntarily wish to be ineligible to purchase firearms for a

1.7 self-determined period of time; providing for rulemaking; amending Minnesota

1.8 Statutes 2014, sections 245.041; 624.713, by adding a subdivision; 624.7131,

1.9 subdivisions 1, 2; 624.7132, subdivisions 1, 2; 624.714, subdivision 4; Minnesota

1.10 Statutes 2015 Supplement, section 624.713, subdivision 1; proposing coding for

1.11 new law in Minnesota Statutes, chapters 214; 245.

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

1.13 Section 1. [214.165] VOLUNTARY DATABASE; INFORMATION.

1.14 Mental health professionals, as defined in section 245.462, subdivision 18;

1.15 physicians licensed under chapter 147; and nurses licensed under sections 148.171 to

1.16 148.285, who are issued a credential by one of the health-related licensing boards, may

1.17 provide to each patient or client the information sheet established by the commissioner of

1.18 human services under section 245.0412 that:

1.19 (1) describes the process by which the patient or client may voluntarily request

1.20 placement of the patient's or client's own name in the database to be denied a firearms

1.21 permit and be prohibited from purchasing firearms; and

1.22 (2) informs the patient or client that the patient or client may voluntarily transfer

1.23 some or all of the patient's or client's firearms and ammunition to a chief of police, sheriff,

1.24 or federally licensed firearms dealer.

2.1 Sec. 2. Minnesota Statutes 2014, section 245.041, is amended to read:

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

2.4 (a) 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 for the sole purpose of
 2.8 facilitating a firearms background check under section 624.7131, 624.7132, or 624.714,
 2.9 or an explosives background check under section 299F.73, 299F.74, 299F.75, 299F.77,
 2.10 or 299F.785. The information to be provided is limited to whether the person has been
 2.11 committed under chapter 253B and, if so, the type of commitment.

2.12 (b) The commissioner of human services shall provide the identities of adult
 2.13 individuals who have voluntarily placed their names in the commissioner's voluntary
 2.14 database of individuals who wish to be denied a firearms permit and be prohibited from
 2.15 purchasing firearms, in accordance with section 245.0411, to local law enforcement
 2.16 agencies on an individual-request basis by means of electronic data transfer from the
 2.17 Department of Human Services through the Minnesota Crime Information System for the
 2.18 purpose of facilitating a firearms background check under section 624.7131, 624.7132, or
 2.19 624.714, or an explosives background check under section 299F.73, 299F.74, 299F.75,
 2.20 299F.77, or 299F.785. The information provided is limited to whether the person has
 2.21 voluntarily submitted a request to be listed.

2.22 Sec. 3. **[245.0411] VOLUNTARY DATABASE FOR FIREARMS PERMIT**
 2.23 **DENIAL.**

2.24 Subdivision 1. **Central database; establishment.** The commissioner of human
 2.25 services shall establish and maintain an electronic central database of the names of adult
 2.26 persons who voluntarily submit a request to be denied a firearms permit and be prohibited
 2.27 from purchasing firearms. The commissioner shall establish a process for an individual to
 2.28 submit the request and to affirm the individual's identity.

2.29 Subd. 2. **Duties of commissioner.** (a) The commissioner shall establish a form
 2.30 to be submitted by an individual who wishes to have that individual's name entered in
 2.31 the voluntary database in order to be denied a firearms permit and be prohibited from
 2.32 purchasing firearms. The commissioner shall make the form available to health care
 2.33 providers, mental health providers, and the public.

2.34 (b) The commissioner shall develop an information sheet to be distributed to patients
 2.35 or clients by health care and mental health professionals that describes how the patient

3.1 or client can voluntarily have the patient's or client's name placed in the commissioner's
 3.2 voluntary database.

3.3 (c) The commissioner shall establish a retention schedule and a process by which an
 3.4 individual can have the individual's name removed from the voluntary database.

3.5 (d) The commissioner shall provide access to the names reported under this section,
 3.6 through electronic data transfer from the Department of Human Services to the Minnesota
 3.7 Crime Information System, for the sole purpose of facilitating firearms background checks
 3.8 under section 624.7131, 624.7132, or 624.714, or an explosives background check under
 3.9 section 299F.73, 299F.74, 299F.75, 299F.77, or 299F.785. Data shall not be released at
 3.10 any time for any other purpose.

3.11 (e) The commissioner shall adopt rules to administer the voluntary database and
 3.12 make information available through electronic data transfer to the Minnesota Crime
 3.13 Information System.

3.14 Subd. 3. **Data.** Data on individuals collected by the commissioner under this section
 3.15 are private data on individuals as defined in section 13.02, subdivision 12, and may be
 3.16 used only for the purposes specified in subdivision 2 and section 245.041, paragraph (b),
 3.17 according to rules adopted by the commissioner.

3.18 **Sec. 4. [245.0412] VOLUNTARY FIREARM TRANSFER; LAW**
 3.19 **ENFORCEMENT ROLE.**

3.20 (a) Any person who has voluntarily requested and been granted inclusion in the
 3.21 voluntary database created by the commissioner of human services under section 245.0411,
 3.22 subdivision 2, may transfer any number or amount of firearms and ammunition owned or
 3.23 possessed by the person to the chief of police or sheriff in any jurisdiction, or to a federally
 3.24 licensed firearms dealer. Any transfer of items under this section is a voluntary act and
 3.25 may be reversed upon request by the person in accordance with policies developed by the
 3.26 chief or sheriff. Unless a reversal of the transfer and return of the items is requested in
 3.27 writing by the person, the transfer is limited to and may not exceed in duration the fixed or
 3.28 contingent time period specified by the person at the time of the transfer, plus any voluntary
 3.29 written renewal or extension of that term provided to the chief or sheriff by the person.

3.30 (b) A chief, sheriff, or federally licensed firearms dealer accepting firearms and
 3.31 ammunition transferred by a person under section 245.0411, subdivision 2, may charge
 3.32 the person a reasonable fee to store the firearms and may establish policies for disposal of
 3.33 abandoned firearms, provided the policies require that the respondent be notified prior to
 3.34 disposal of abandoned firearms.

4.1 (c) Upon the voluntary transfer of any firearms and ammunition by a person acting
 4.2 under section 245.0411, subdivision 2, the chief of police, sheriff, or federally licensed
 4.3 firearms dealer must issue the person a detailed receipt for the items and, if necessary, must
 4.4 label the items in a manner designed to preserve record of ownership. At any time, the
 4.5 person may request that the firearms and ammunition be returned to that person by the chief,
 4.6 sheriff, or federally licensed firearms dealer or that they be assigned to another person. The
 4.7 person is not eligible for return of the firearms and ammunition until the person's name is
 4.8 removed from the voluntary database. Before releasing any voluntarily transferred items
 4.9 to the person or the person's assignee, the chief, sheriff, or federally licensed firearms
 4.10 dealer must confirm that the person is not otherwise prohibited from possessing firearms
 4.11 under state or federal law. A federally licensed firearms dealer returning any voluntarily
 4.12 transferred items shall comply with state and federal law as though transferring a firearm
 4.13 from the dealer's own inventory. Proof that an assignee is validly licensed as a federal
 4.14 firearms dealer under United States Code, title 18, section 923, is sufficient evidence that
 4.15 the assignee is not prohibited by law from possessing firearms for purposes of this section.

4.16 (d) If a person acting in accordance with section 245.0411, subdivision 2, transfers
 4.17 firearms and ammunition owned by another person, the lawful owner may request the
 4.18 return of the items to that owner or an assignee. In processing the request, the chief,
 4.19 sheriff, or federally licensed firearms dealer must follow the same procedures as would be
 4.20 required for return of the items to the person having made the transfer.

4.21 (e) All information related to the voluntary transfer of firearms and ammunition to
 4.22 a chief of police, sheriff, or federally licensed firearms dealer in accordance with this
 4.23 section and section 245.0411, subdivision 2, is private data on individuals, as defined
 4.24 in section 13.02, subdivision 12.

4.25 (f) A chief of police, sheriff, or federally licensed firearms dealer acting in good
 4.26 faith and with reasonable prudence under this section is not liable for any damage or
 4.27 deterioration due to transportation or storage of any firearms or ammunition accepted and
 4.28 held pursuant to section 245.0411, subdivision 2.

4.29 (g) Nothing in this section is intended to supersede any other state or federal law
 4.30 governing the seizure and confiscation of firearms for just cause.

4.31 **Sec. 5. [245.9901] GUN VIOLENCE PROTECTIVE ORDERS.**

4.32 Subdivision 1. **Definitions.** As used in sections 245.9901 to 245.9906, the term
 4.33 "family or household members" has the meaning given in section 518B.01, subdivision 2.

4.34 Subd. 2. **Generally.** (a) There shall exist an action known as a petition for a gun
 4.35 violence protective order for protection from gun violence, which order shall enjoin and

5.1 prohibit the respondent from possessing firearms for a fixed period. An order may be
5.2 sought after a hearing as provided in section 245.9902 or as an ex parte emergency order
5.3 as provided in section 245.9904.

5.4 (b) A petition for relief under sections 245.9901 to 245.9906 may be made by any
5.5 family or household members, or by a law enforcement officer, or by a guardian as defined
5.6 in section 524.1-201, clause (26).

5.7 (c) A petition for relief shall allege that the respondent poses a significant danger
5.8 of bodily injury to self or to other persons by possessing a firearm, and shall allege that
5.9 less restrictive alternatives are inadequate or inappropriate to the circumstances. The
5.10 petition shall be accompanied by an affidavit made under oath stating specific facts and
5.11 circumstances forming a basis to allege that a gun violence protective order should be
5.12 granted. The affidavit may include, but is not limited to, evidence showing any of the
5.13 factors described in subdivision 3.

5.14 (d) A petition for emergency relief under section 245.9904 shall additionally allege
5.15 that the respondent presents an immediate and present danger of bodily injury.

5.16 (e) A petition for relief must state whether there is an existing order in effect under
5.17 sections 245.9901 to 245.9906, or chapter 260C or 518B governing the respondent and
5.18 whether there is a pending lawsuit, complaint, petition, or other action between the parties
5.19 under sections 245.9901 to 245.9906, or chapter 257, 518, 518A, 518B, or 518C. The
5.20 court administrator shall verify the terms of any existing order governing the parties. The
5.21 court may not delay granting relief because of the existence of a pending action between
5.22 the parties or the necessity of verifying the terms of an existing order. A petition for relief
5.23 may be granted whether or not there is a pending action between the parties.

5.24 (f) A petition for relief must describe, to the best of the petitioner's knowledge,
5.25 the types and location of any firearms believed by the petitioner to be possessed by the
5.26 respondent.

5.27 (g) The court shall provide simplified forms and clerical assistance to help with the
5.28 writing and filing of a petition under this section.

5.29 (h) The court shall advise a petitioner of the right to file a motion and affidavit and to
5.30 sue in forma pauperis, pursuant to section 563.01, and shall assist with the writing and
5.31 filing of the motion and affidavit.

5.32 (i) A gun violence protective order issued under sections 245.9901 to 245.9906
5.33 applies throughout the state.

5.34 (j) Any proceeding under sections 245.9901 to 245.9906 shall be in addition to
5.35 other civil or criminal remedies.

6.1 (k) All health records and other health information provided in a petition or
 6.2 considered as evidence in a proceeding under sections 245.9901 to 245.9906 shall be
 6.3 protected from public disclosure but may be provided to law enforcement agencies as
 6.4 described in this section.

6.5 (l) Any gun violence protective order or subsequent extension issued under sections
 6.6 245.9901 to 245.9906 shall be forwarded by the court administrator within 24 hours to
 6.7 the local law enforcement agency with jurisdiction over the residence of the respondent.
 6.8 Each appropriate law enforcement agency shall make available to other law enforcement
 6.9 officers, through a system for verification, information as to the existence and status of any
 6.10 gun violence protective order issued under sections 245.9901 to 245.9906.

6.11 Subd. 3. **Grounds for gun violence protective order.** The petitioner may provide
 6.12 any of the following factors as evidence for the court to consider when deciding whether
 6.13 to grant an order for protection from gun violence. The court may consider any of the
 6.14 following factors, whether or not the petitioner has provided evidence of the same:

6.15 (1) a history of threats or acts of violence by the respondent directed toward the
 6.16 respondent's self or another person;

6.17 (2) the history of use, attempted use, or threatened use of physical force by the
 6.18 respondent against another person;

6.19 (3) a violation of any court order including, but not limited to, orders issued under
 6.20 sections 245.9901 to 245.9906, or chapter 260C or 518B;

6.21 (4) a prior arrest for a felony offense;

6.22 (5) a conviction or prior arrest for a violent misdemeanor offense, for a stalking
 6.23 offense under section 609.749, or for domestic assault under section 609.2242;

6.24 (6) the unlawful and reckless use, display, or brandishing of a firearm by the
 6.25 respondent; and

6.26 (7) a conviction for an offense involving controlled substances or alcohol factored
 6.27 against countervailing evidence of recovery from abuse of controlled substances or alcohol.

6.28 Sec. 6. **[245.9902] GUN VIOLENCE PROTECTIVE ORDERS ISSUED AFTER**
 6.29 **HEARING.**

6.30 Subdivision 1. **Hearing.** (a) Upon receipt of the petition for an order after a hearing,
 6.31 the court shall order a hearing which shall be held not later than 14 days from the date
 6.32 of the order for hearing.

6.33 (b) The court shall advise the petitioner of the right to request an emergency gun
 6.34 violence protective order under section 245.9904 separately from or simultaneously with
 6.35 the petition under this subdivision.

7.1 (c) Personal service of notice for the hearing may be made upon the respondent at
7.2 any time up to 12 hours prior to the time set for the hearing, provided that the respondent
7.3 at the hearing may request a continuance of up to five days if the respondent is served
7.4 fewer than five days prior to the hearing, which continuance shall be granted unless there
7.5 are compelling reasons not to do so. If the court grants the requested continuance, and
7.6 an existing emergency order under section 245.9904 will expire due to the continuance,
7.7 the court shall also issue a written order continuing the emergency order pending the new
7.8 time set for the hearing.

7.9 (d) Service on the respondent may be made by one-week published notice, as
7.10 provided under section 645.11, provided the petitioner files with the court an affidavit
7.11 stating that an attempt at personal service made by a sheriff or other law enforcement
7.12 or corrections officer was unsuccessful because the respondent is avoiding service by
7.13 concealment or otherwise, and that a copy of the petition and notice of hearing has been
7.14 mailed to the respondent at the respondent's residence or that the residence is not known
7.15 to the petitioner. Service under this paragraph is complete seven days after publication.
7.16 The court shall set a new hearing date if necessary to allow the respondent the 12-hour
7.17 minimum notice period required under paragraph (c) or if the respondent is not served
7.18 within five days before the hearing and requests a continuance under paragraph (c).

7.19 Subd. 2. **Relief by court.** (a) At the hearing, the petitioner must prove by a
7.20 preponderance of the evidence that (1) the respondent poses a significant danger of bodily
7.21 injury to self or other persons by possessing a firearm, and (2) less-restrictive alternatives
7.22 are inadequate or inappropriate to the circumstances.

7.23 (b) In determining whether to grant the order after a hearing, the court shall consider
7.24 evidence of all facts identified in section 245.9901, subdivision 3, and may consider any
7.25 other evidence that bears on whether the respondent poses a danger to the respondent's
7.26 self or others.

7.27 (c) If the court finds there is a preponderance of the evidence to issue a gun violence
7.28 protective order, the court shall issue the order prohibiting the person from possessing
7.29 a firearm for the duration of the order. The court shall inform the respondent that the
7.30 respondent is prohibited from possessing firearms and shall issue a transfer order under
7.31 section 245.9905.

7.32 (d) The order shall have a fixed period, to be determined by the court, of not less
7.33 than six months and not more than two years, subject to renewal or extension under
7.34 section 245.9903.

7.35 (e) If there is no existing emergency order under section 245.9904 at the time an
7.36 order is granted under this section, the court shall determine by a preponderance of the

8.1 evidence whether the respondent presents an immediate and present danger of bodily
8.2 injury. If the court so determines, the transfer order shall include the provisions described
8.3 in section 245.9905, paragraph (c).

8.4 (f) If, after a hearing, the court does not issue an order of protection, the court shall
8.5 vacate any emergency gun violence protective order currently in effect.

8.6 **Sec. 7. [245.9903] SUBSEQUENT EXTENSIONS.**

8.7 Upon application by any party entitled to petition for an order under section
8.8 245.9902, and after notice to the respondent and a hearing, the court may extend the relief
8.9 granted in an existing order granted after a hearing under section 245.9902. Application
8.10 for an extension may be made any time within the three months before the expiration of
8.11 the existing order. The order may be extended for a fixed period of at least six months and
8.12 not to exceed two years, if the court makes the same findings by a preponderance of the
8.13 evidence as required for granting of an initial order under section 245.9902, subdivision
8.14 2, paragraph (c). The court shall consider the same types of evidence as required for the
8.15 initial order under section 245.9902, subdivision 2, paragraph (b).

8.16 **Sec. 8. [245.9904] EMERGENCY ISSUANCE OF GUN VIOLENCE**
8.17 **PROTECTIVE ORDER.**

8.18 (a) In determining whether to grant an emergency gun violence protective order the
8.19 court shall consider evidence of all facts identified in section 245.9901, subdivision 3,
8.20 and may consider any other evidence that bears on whether the respondent poses a danger
8.21 to the respondent's self or other persons.

8.22 (b) The court shall advise the petitioner of the right to request an order after a hearing
8.23 under section 245.9902, separately from or simultaneously with the petition.

8.24 (c) If the court finds there is reasonable grounds that (1) respondent poses a
8.25 significant danger of bodily injury to the respondent's self or to other persons by
8.26 possessing a firearm, (2) less restrictive alternatives are inappropriate or inadequate to the
8.27 circumstances, and (3) respondent presents an immediate and present danger of bodily
8.28 injury, the court shall issue an ex parte emergency order prohibiting the respondent from
8.29 possessing a firearm for the duration of the order. The order shall inform the respondent
8.30 that the respondent is prohibited from possessing firearms and shall issue a transfer order
8.31 under section 245.9905, paragraph (c).

8.32 (d) A finding by the court that there is a basis for issuing an emergency gun violence
8.33 protective order constitutes a finding that sufficient reasons exist not to require notice
8.34 under applicable court rules governing applications for ex parte relief.

9.1 (e) The emergency order shall have a fixed period of 14 days, unless a hearing is
9.2 set under section 245.9902 on an earlier date, in which case the order shall expire upon a
9.3 judge's finding that no order is issued under section 245.9902.

9.4 (f) Except as provided in paragraph (g), the respondent shall be personally served
9.5 immediately with a copy of the emergency order and a copy of the petition and, if a hearing
9.6 is requested by the petitioner under section 245.9902, notice of the date set for the hearing.
9.7 If the petitioner does not request a hearing under section 245.9902, an order served on a
9.8 respondent under this subdivision must include a notice advising the respondent of the
9.9 right to request a hearing challenging the issuance of the emergency order, and must be
9.10 accompanied by a form that can be used by the respondent to request a hearing.

9.11 (g) Service of the emergency order may be made by published notice, as provided
9.12 under section 245.9902, subdivision 1, paragraph (d), provided that the petitioner files
9.13 the affidavit required under that subdivision. If the petitioner does not request a hearing
9.14 under section 245.9902, the petition mailed to the respondent's residence, if known, must
9.15 be accompanied by the form for requesting a hearing described in paragraph (f).

9.16 **Sec. 9. [245.9905] TRANSFER OF FIREARMS.**

9.17 (a) Upon issuance of a gun violence protective order, the court shall direct the
9.18 respondent to transfer any firearms the person possesses, within 24 hours, to a federally
9.19 licensed firearms dealer or a law enforcement agency. The transfer may be permanent
9.20 or temporary. A temporary firearm transfer only entitles the receiving party to possess
9.21 the firearm and does not transfer ownership or title. If the respondent makes a temporary
9.22 transfer, a federally licensed firearms dealer or law enforcement agency may charge the
9.23 respondent a reasonable fee to store the firearms and may establish policies for disposal of
9.24 abandoned firearms, provided these policies require that the respondent be notified prior
9.25 to disposal of abandoned firearms. For temporary firearms transfers under this section, a
9.26 law enforcement agency or federally licensed firearms dealer shall return the transferred
9.27 firearms to the respondent upon request after the expiration of the order, provided the
9.28 respondent is not otherwise prohibited from possessing firearms under state or federal law.
9.29 A federally licensed firearms dealer returning firearms shall comply with state and federal
9.30 law as though transferring a firearm from the dealer's own inventory. If a respondent
9.31 permanently transfers the respondent's firearms to a law enforcement agency, the agency is
9.32 not required to compensate the respondent and may charge the respondent a reasonable
9.33 processing fee. A law enforcement agency is not required to accept a respondent's firearm
9.34 under this section.

10.1 (b) The respondent must file proof of transfer as provided in this paragraph. A law
10.2 enforcement agency or federally licensed firearms dealer accepting transfer of a firearm
10.3 pursuant to this section shall provide proof of transfer to the respondent. The proof of
10.4 transfer must specify whether the firearms were permanently or temporarily transferred
10.5 and must include the name of the respondent, date of transfer, and the serial number,
10.6 manufacturer, and model of all transferred firearms. The respondent shall, within two
10.7 business days after being served with the order: (1) file a copy of proof of transfer with
10.8 the court, and attest that all firearms owned or possessed at the time of the order have
10.9 been transferred in accordance with this section and that the person currently does not
10.10 possess any firearms, or (2) attest that, at the time of the order, the respondent neither
10.11 owned nor possessed any firearms, and that the respondent currently neither owns nor
10.12 possesses any firearms.

10.13 (c) If a court issues an emergency order under section 245.9904, or makes a finding
10.14 of immediate and present danger under section 245.9902, subdivision 2, paragraph (e), the
10.15 court shall order the local law enforcement agency to take immediate possession of all
10.16 firearms in the respondent's possession. The local law enforcement agency shall return
10.17 the firearms to the respondent upon request after the expiration of the order, provided the
10.18 respondent is not otherwise prohibited from possessing firearms under state or federal law.
10.19 The local law enforcement agency shall, upon written notice from the respondent, transfer
10.20 the firearms to a federally licensed firearms dealer. Before a local law enforcement
10.21 agency transfers a firearm under this paragraph, the agency shall require the federally
10.22 licensed firearms dealer receiving the firearm to submit a proof of transfer that complies
10.23 with the requirements for proofs of transfer established in paragraph (b). The agency
10.24 shall file all proofs of transfer received with the court within two business days of the
10.25 transfer. A federally licensed firearms dealer who accepts a firearm transfer pursuant to
10.26 this paragraph shall comply with paragraphs (a) and (b) as if accepting transfer directly
10.27 from the respondent. If the law enforcement agency does not receive written notice from
10.28 the respondent within three business days, the agency may charge a reasonable fee to store
10.29 respondent's firearms. A law enforcement agency may establish policies for disposal of
10.30 abandoned firearms, provided these policies require that the respondent be notified prior to
10.31 disposal of abandoned firearms.

10.32 (d) After a nonemergency gun violence protective order is issued, the court may, upon
10.33 request of the respondent and consent of the petitioner or other person duly authorized by
10.34 the court, grant the respondent limited access to firearms for the purpose of participation
10.35 in a sporting or recreational activity only. In the circumstances under this paragraph, an
10.36 authorized family member or person authorized in the order, may temporarily grant access

11.1 to a firearm for purposes of engagement in the recreational activity. Access to the firearm
 11.2 shall be with the written consent of the respondent's treating physician and only for the
 11.3 time period in which the sporting or recreational activity is being undertaken.

11.4 Sec. 10. **[245.9906] OFFENSES.**

11.5 Subdivision 1. **False information or harassment.** A person who petitions for a gun
 11.6 violence protective order under section 245.9902 or 245.9904, knowing any information
 11.7 in the petition to be materially false or with the intent to harass, abuse, or threaten, is
 11.8 guilty of a misdemeanor.

11.9 Subd. 2. **Violation of order.** A person who possesses a firearm and knows or should
 11.10 have known that the person is prohibited from doing so by a gun violence protective order
 11.11 under section 245.9902 or 245.9904, or by an order of protection granted by a judge or
 11.12 referee pursuant to a substantially similar law of another state, is guilty of a misdemeanor
 11.13 and shall be prohibited from possessing firearms for a period of five years. Each gun
 11.14 violence protective order granted under this chapter must contain a conspicuous notice to
 11.15 the respondent regarding the penalty for violation of the order.

11.16 Sec. 11. Minnesota Statutes 2015 Supplement, section 624.713, subdivision 1, is
 11.17 amended to read:

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

11.21 (1) a person under the age of 18 years except that a person under 18 may possess
 11.22 ammunition designed for use in a firearm that the person may lawfully possess and may
 11.23 carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual
 11.24 presence or under the direct supervision of the person's parent or guardian, (ii) for the
 11.25 purpose of military drill under the auspices of a legally recognized military organization
 11.26 and under competent supervision, (iii) for the purpose of instruction, competition, or target
 11.27 practice on a firing range approved by the chief of police or county sheriff in whose
 11.28 jurisdiction the range is located and under direct supervision; or (iv) if the person has
 11.29 successfully completed a course designed to teach marksmanship and safety with a pistol
 11.30 or semiautomatic military-style assault weapon and approved by the commissioner of
 11.31 natural resources;

11.32 (2) except as otherwise provided in clause (9), a person who has been convicted of,
 11.33 or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing,
 11.34 in this state or elsewhere, a crime of violence. For purposes of this section, crime of

12.1 violence includes crimes in other states or jurisdictions which would have been crimes of
12.2 violence as herein defined if they had been committed in this state;

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

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

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

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

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

12.30 (8) except as otherwise provided in clause (9), a person who has been convicted in
12.31 another state of committing an offense similar to the offense described in section 609.224,
12.32 subdivision 3, against a family or household member or section 609.2242, subdivision
12.33 3, unless three years have elapsed since the date of conviction and, during that time, the
12.34 person has not been convicted of any other violation of section 609.224, subdivision 3, or
12.35 609.2242, subdivision 3, or a similar law of another state;

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

13.5 (10) a person who:

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

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

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

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

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

13.15 (vi) has been discharged from the armed forces of the United States under
 13.16 dishonorable conditions;

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

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

13.21 (11) a person who has been convicted of the following offenses at the gross
 13.22 misdemeanor level, unless three years have elapsed since the date of conviction and, during
 13.23 that time, the person has not been convicted of any other violation of these sections: section
 13.24 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults
 13.25 motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a
 13.26 child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring
 13.27 gun); 609.71 (riot); or 609.749 (stalking). For purposes of this paragraph, the specified
 13.28 gross misdemeanor convictions include crimes committed in other states or jurisdictions
 13.29 which would have been gross misdemeanors if conviction occurred in this state;

13.30 (12) a person who has been convicted of a violation of section 609.224 if the court
 13.31 determined that the assault was against a family or household member in accordance with
 13.32 section 609.2242, subdivision 8 3 (domestic assault), unless three years have elapsed since
 13.33 the date of conviction and, during that time, the person has not been convicted of another
 13.34 violation of section 609.224 or a violation of a section listed in clause (11); or

13.35 (13) a person who is subject to an order for protection as described in section
 13.36 260C.201, subdivision 3, paragraph (d), or 518B.01, subdivision 6, paragraph (g); or

14.1 (14) a person who is subject to a gun violence protective order as described in
 14.2 section 245.9902 or 245.9904.

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

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

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

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

14.16 Sec. 12. Minnesota Statutes 2014, section 624.713, is amended by adding a subdivision
 14.17 to read:

14.18 Subd. 5a. **Voluntary database; ineligible to possess.** Notwithstanding any penalty
 14.19 provided in this section or any other statute related to the possession or attempted purchase
 14.20 of firearms or ammunition, a person who is prohibited from purchasing firearms solely
 14.21 as a result of having voluntarily requested listing in the voluntary register established by
 14.22 the commissioner of human services according to section 245.0411, is prohibited from
 14.23 purchasing any firearm and ammunition during the duration of the listing.

14.24 Sec. 13. Minnesota Statutes 2014, section 624.7131, subdivision 1, is amended to read:

14.25 Subdivision 1. **Information.** Any person may apply for a transferee permit by
 14.26 providing the following information in writing to the chief of police of an organized full
 14.27 time police department of the municipality in which the person resides or to the county
 14.28 sheriff if there is no such local chief of police:

14.29 (1) the name, residence, telephone number, and driver's license number or
 14.30 nonqualification certificate number, if any, of the proposed transferee;

14.31 (2) the sex, date of birth, height, weight, and color of eyes, and distinguishing
 14.32 physical characteristics, if any, of the proposed transferee;

14.33 (3) a statement that the proposed transferee authorizes the release to the local
 14.34 police authority of commitment information and information contained in the voluntary

15.1 database established by section 245.0411 about the proposed transferee maintained by the
 15.2 commissioner of human services, as provided in section 245.041, to the extent that the
 15.3 information relates to the proposed transferee's eligibility to possess or purchase a pistol or
 15.4 semiautomatic military-style assault weapon under section 624.713, subdivision 1 or 5; and

15.5 (4) a statement by the proposed transferee that the proposed transferee is not
 15.6 prohibited by section 624.713 from possessing a pistol or semiautomatic military-style
 15.7 assault weapon.

15.8 The statements shall be signed and dated by the person applying for a permit. At
 15.9 the time of application, the local police authority shall provide the applicant with a
 15.10 dated receipt for the application. The statement under clause (3) must comply with any
 15.11 applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35,
 15.12 with respect to consent to disclosure of alcohol or drug abuse patient records.

15.13 Sec. 14. Minnesota Statutes 2014, section 624.7131, subdivision 2, is amended to read:

15.14 Subd. 2. **Investigation.** The chief of police or sheriff shall check criminal histories,
 15.15 records and warrant information relating to the applicant through the Minnesota Crime
 15.16 Information System, the national criminal record repository, and the National Instant
 15.17 Criminal Background Check System. The chief of police or sheriff shall also make a
 15.18 reasonable effort to check other available state and local record-keeping systems. The
 15.19 chief of police or sheriff shall obtain commitment information and information contained
 15.20 in the voluntary database established by section 245.0411 from the commissioner of
 15.21 human services as provided in section 245.041.

15.22 Sec. 15. Minnesota Statutes 2014, section 624.7132, subdivision 1, is amended to read:

15.23 Subdivision 1. **Required information.** Except as provided in this section and section
 15.24 624.7131, every person who agrees to transfer a pistol or semiautomatic military-style
 15.25 assault weapon shall report the following information in writing to the chief of police of the
 15.26 organized full-time police department of the municipality where the proposed transferee
 15.27 resides or to the appropriate county sheriff if there is no such local chief of police:

15.28 (1) the name, residence, telephone number, and driver's license number or
 15.29 nonqualification certificate number, if any, of the proposed transferee;

15.30 (2) the sex, date of birth, height, weight, and color of eyes, and distinguishing
 15.31 physical characteristics, if any, of the proposed transferee;

15.32 (3) a statement that the proposed transferee authorizes the release from the
 15.33 commissioner of human services to the local police authority of ~~commitment~~ information
 15.34 about the proposed transferee ~~maintained by the commissioner of human services~~

16.1 regarding commitment, as provided in section 245.041, and information contained
 16.2 in the voluntary database established by section 245.0411, to the extent that the
 16.3 information relates to the proposed transferee's eligibility to possess or purchase a pistol or
 16.4 semiautomatic military-style assault weapon under section 624.713, subdivision 1 or 5;

16.5 (4) a statement by the proposed transferee that the transferee is not prohibited by
 16.6 section 624.713 from possessing a pistol or semiautomatic military-style assault weapon;
 16.7 and

16.8 (5) the address of the place of business of the transferor.

16.9 The report shall be signed and dated by the transferor and the proposed transferee.
 16.10 The report shall be delivered by the transferor to the chief of police or sheriff no later
 16.11 than three days after the date of the agreement to transfer, excluding weekends and legal
 16.12 holidays. The statement under clause (3) must comply with any applicable requirements
 16.13 of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to
 16.14 disclosure of alcohol or drug abuse patient records.

16.15 Sec. 16. Minnesota Statutes 2014, section 624.7132, subdivision 2, is amended to read:

16.16 Subd. 2. **Investigation.** Upon receipt of a transfer report, the chief of police or
 16.17 sheriff shall check criminal histories, records and warrant information relating to the
 16.18 proposed transferee through the Minnesota Crime Information System, the national
 16.19 criminal record repository, and the National Instant Criminal Background Check System.
 16.20 The chief of police or sheriff shall also make a reasonable effort to check other available
 16.21 state and local record-keeping systems. The chief of police or sheriff shall obtain, from
 16.22 the commissioner of human services, commitment information ~~from the commissioner of~~
 16.23 ~~human services~~ as provided in section 245.041 and information contained in the voluntary
 16.24 database established by section 245.0411.

16.25 Sec. 17. Minnesota Statutes 2014, section 624.714, subdivision 4, is amended to read:

16.26 Subd. 4. **Investigation.** (a) The sheriff must check, by means of electronic data
 16.27 transfer, criminal records, histories, and warrant information on each applicant through
 16.28 the Minnesota Crime Information System and the National Instant Criminal Background
 16.29 Check System. The sheriff shall also make a reasonable effort to check other available
 16.30 and relevant federal, state, or local record-keeping systems. The sheriff must obtain, from
 16.31 the commissioner of human services, commitment information ~~from the commissioner of~~
 16.32 ~~human services~~ as provided in section 245.041 and information contained in the voluntary
 16.33 database established by section 245.0411 or, if the information is reasonably available, as
 16.34 provided by a similar statute from another state.

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

17.4 (c) The sheriff must conduct a background check by means of electronic data transfer
17.5 on a permit holder through the Minnesota Crime Information System and the National
17.6 Instant Criminal Background Check System at least yearly to ensure continuing eligibility.
17.7 The sheriff may also conduct additional background checks by means of electronic data
17.8 transfer on a permit holder at any time during the period that a permit is in effect.

17.9 Sec. 18. **EFFECTIVE DATE.**

17.10 Sections 1 to 17 are effective January 1, 2017, and apply to firearm permit
17.11 background checks made on or after that date.