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HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 2707

February 4, 2010

Authored by Mullery

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

March 8, 2010

By motion, recalled and re-referred to the Committee on Civil Justice

March 11, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Public Safety Policy and Oversight

March 17, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to public safety; modifying certain provisions regarding juvenile
1.3 delinquency to include stays of adjudication of delinquency; extending the
1.4 duration of the continuance period allowed in a juvenile delinquency matter;
1.5 amending Minnesota Statutes 2008, sections 241.31, subdivision 1; 242.32,
1.6 subdivision 2; 260B.125, subdivision 4; 260B.157, subdivision 1; 260B.198,
1.7 subdivision 7; 299C.105, subdivision 1; 299C.61, subdivision 8a; 609.117,
1.8 subdivision 1; 624.713, subdivision 3; Minnesota Statutes 2009 Supplement,
1.9 section 624.713, subdivision 1.

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

1.11 Section 1. Minnesota Statutes 2008, section 241.31, subdivision 1, is amended to read:

1.12 Subdivision 1. **Establishment of program.** Notwithstanding any provisions of
1.13 Minnesota Statutes to the contrary, any city, county or town, or any nonprofit corporation
1.14 approved by the commissioner of corrections, or any combination thereof may establish
1.15 and operate a community corrections program for the purpose of providing housing,
1.16 supervision, treatment, counseling or other correctional services;

1.17 (a) to persons convicted of crime in the courts of this state and placed on probation
1.18 by such courts pursuant to section 609.135;

1.19 (b) to persons not yet convicted of a crime but under criminal accusation who
1.20 voluntarily accept such treatment;

1.21 (c) to persons adjudicated a delinquent or who received a stay of adjudication of
1.22 delinquency under chapter 260 or chapter 260B;

1.23 (d) with the approval of the commissioner of corrections, to persons paroled under
1.24 chapter 242; and

1.25 (e) with the approval of the commissioner of corrections, to persons paroled under
1.26 section 243.05 or released under section 241.26.

2.1 Sec. 2. Minnesota Statutes 2008, section 242.32, subdivision 2, is amended to read:

2.2 Subd. 2. **Secure placement of juvenile offenders.** The commissioner shall license
2.3 several small regional facilities providing secure capacity programming for juveniles who
2.4 have been adjudicated delinquent, have received a stay of adjudication of delinquency,
2.5 or have been convicted as extended jurisdiction juveniles and require secure placement.
2.6 The programming shall be tailored to the types of juveniles being served, including their
2.7 offense history, age, gender, cultural and ethnic heritage, mental health and chemical
2.8 dependency problems, and other characteristics. Services offered shall include but not
2.9 be limited to:

2.10 (1) intensive general educational programs, with an individual educational plan for
2.11 each juvenile;

2.12 (2) specific educational components in the management of anger and nonviolent
2.13 conflict resolution;

2.14 (3) treatment for chemical dependency;

2.15 (4) mental health screening, assessment, and treatment; and

2.16 (5) programming to educate offenders about sexuality and address issues specific to
2.17 victims and perpetrators of sexual abuse.

2.18 The facilities shall collaborate with facilities providing nonsecure residential
2.19 programming and with community-based aftercare programs.

2.20 Sec. 3. Minnesota Statutes 2008, section 260B.125, subdivision 4, is amended to read:

2.21 Subd. 4. **Public safety.** In determining whether the public safety is served by
2.22 certifying the matter, the court shall consider the following factors:

2.23 (1) the seriousness of the alleged offense in terms of community protection,
2.24 including the existence of any aggravating factors recognized by the Sentencing
2.25 Guidelines, the use of a firearm, and the impact on any victim;

2.26 (2) the culpability of the child in committing the alleged offense, including the level
2.27 of the child's participation in planning and carrying out the offense and the existence of
2.28 any mitigating factors recognized by the Sentencing Guidelines;

2.29 (3) the child's prior record of delinquency, including adjudications of delinquency
2.30 and delinquency petitions that resulted in stays of adjudication of delinquency;

2.31 (4) the child's programming history, including the child's past willingness to
2.32 participate meaningfully in available programming;

2.33 (5) the adequacy of the punishment or programming available in the juvenile justice
2.34 system; and

2.35 (6) the dispositional options available for the child.

3.1 In considering these factors, the court shall give greater weight to the seriousness of
3.2 the alleged offense and the child's prior record of delinquency, including adjudications
3.3 of delinquency and delinquency petitions that resulted in stays of adjudication of
3.4 delinquency, than to the other factors listed in this subdivision.

3.5 Sec. 4. Minnesota Statutes 2008, section 260B.157, subdivision 1, is amended to read:

3.6 Subdivision 1. **Investigation.** Upon request of the court the local social services
3.7 agency or probation officer shall investigate the personal and family history and
3.8 environment of any minor coming within the jurisdiction of the court under section
3.9 260B.101 and shall report its findings to the court. The court may order any minor coming
3.10 within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or
3.11 psychologist appointed by the court.

3.12 The court shall order a chemical use assessment conducted when a child is (1) found
3.13 to be delinquent for violating a provision of chapter 152, or for committing a felony-level
3.14 violation of a provision of chapter 609 if the probation officer determines that alcohol or
3.15 drug use was a contributing factor in the commission of the offense, or (2) alleged to be
3.16 delinquent for violating a provision of chapter 152, if the child is being held in custody
3.17 under a detention order. The assessor's qualifications and the assessment criteria shall
3.18 comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under chapter
3.19 254B are to be used to pay for the recommended treatment, the assessment and placement
3.20 must comply with all provisions of Minnesota Rules, parts 9530.6600 to 9530.6655 and
3.21 9530.7000 to 9530.7030. The commissioner of human services shall reimburse the court
3.22 for the cost of the chemical use assessment, up to a maximum of \$100.

3.23 The court shall order a children's mental health screening conducted when a child
3.24 is found to be delinquent. The screening shall be conducted with a screening instrument
3.25 approved by the commissioner of human services and shall be conducted by a mental
3.26 health practitioner as defined in section 245.4871, subdivision 26, or a probation officer
3.27 who is trained in the use of the screening instrument. If the screening indicates a need for
3.28 assessment, the local social services agency, in consultation with the child's family, shall
3.29 have a diagnostic assessment conducted, including a functional assessment, as defined in
3.30 section 245.4871.

3.31 With the consent of the commissioner of corrections and agreement of the county to
3.32 pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction
3.33 in an institution maintained by the commissioner for the detention, diagnosis, custody and
3.34 treatment of persons adjudicated to be delinquent or who received a stay of adjudication of
3.35 delinquency, in order that the condition of the minor be given due consideration in the

4.1 disposition of the case. Any funds received under the provisions of this subdivision shall
4.2 not cancel until the end of the fiscal year immediately following the fiscal year in which the
4.3 funds were received. The funds are available for use by the commissioner of corrections
4.4 during that period and are hereby appropriated annually to the commissioner of corrections
4.5 as reimbursement of the costs of providing these services to the juvenile courts.

4.6 Sec. 5. Minnesota Statutes 2008, section 260B.198, subdivision 7, is amended to read:

4.7 Subd. 7. **Continuance.** When it is in the best interests of the child and public safety
4.8 to do so and when the child has admitted the allegations contained in the petition before
4.9 the judge or referee, or when a hearing has been held as provided for in section 260B.163
4.10 and the allegations contained in the petition have been duly proven but, in either case,
4.11 before a finding of delinquency has been entered, the court may stay the adjudication of
4.12 delinquency and continue the case for a period not to exceed ~~90~~ 180 days on any one
4.13 order. With the consent of the prosecutor, such a continuance may be ~~extended~~ renewed
4.14 ~~for one additional successive~~ a period not to exceed 90 days ~~extend beyond the child's~~
4.15 19th birthday and only after the court has reviewed the case and entered its order for an
4.16 additional continuance without a finding of delinquency. During ~~this~~ either continuance
4.17 the court may enter an order in accordance with the provisions of subdivision 1, ~~clause (1)~~
4.18 ~~or (2);~~ or enter an order to hold the child in detention for a period not to exceed 15 days on
4.19 any one order for the purpose of completing any consideration, or any investigation or
4.20 examination ordered in accordance with the provisions of section 260B.157. The court
4.21 shall not stay adjudication on any felony offense if the child has previously received a
4.22 stay of adjudication of delinquency by a court in any judicial district. This subdivision
4.23 does not apply to an extended jurisdiction juvenile proceeding. In calculating an adult
4.24 criminal history score, a stay of adjudication for a felony level offense ordered by the
4.25 court pursuant to this subdivision shall be counted as an adjudication by the Minnesota
4.26 Sentencing Guidelines Commission.

4.27 Sec. 6. Minnesota Statutes 2008, section 299C.105, subdivision 1, is amended to read:

4.28 Subdivision 1. **Required collection of biological specimen for DNA testing.** (a)
4.29 Sheriffs, peace officers, and community corrections agencies operating secure juvenile
4.30 detention facilities shall take or cause to be taken biological specimens for the purpose of
4.31 DNA analysis as defined in section 299C.155, of the following:

4.32 (1) persons who have appeared in court and have had a judicial probable cause
4.33 determination on a charge of committing, or persons having been convicted of or
4.34 attempting to commit, any of the following:

- 5.1 (i) murder under section 609.185, 609.19, or 609.195;
- 5.2 (ii) manslaughter under section 609.20 or 609.205;
- 5.3 (iii) assault under section 609.221, 609.222, or 609.223;
- 5.4 (iv) robbery under section 609.24 or aggravated robbery under section 609.245;
- 5.5 (v) kidnapping under section 609.25;
- 5.6 (vi) false imprisonment under section 609.255;
- 5.7 (vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345,
- 5.8 609.3451, subdivision 3, or 609.3453;
- 5.9 (viii) incest under section 609.365;
- 5.10 (ix) burglary under section 609.582, subdivision 1; or
- 5.11 (x) indecent exposure under section 617.23, subdivision 3;
- 5.12 (2) persons sentenced as patterned sex offenders under section 609.3455, subdivision
- 5.13 3a; or
- 5.14 (3) juveniles who have appeared in court and have had a judicial probable cause
- 5.15 determination on a charge of committing, ~~or~~ juveniles having been adjudicated delinquent,
- 5.16 or juveniles who have received a stay of adjudication of delinquency for committing or
- 5.17 attempting to commit, any of the following:
- 5.18 (i) murder under section 609.185, 609.19, or 609.195;
- 5.19 (ii) manslaughter under section 609.20 or 609.205;
- 5.20 (iii) assault under section 609.221, 609.222, or 609.223;
- 5.21 (iv) robbery under section 609.24 or aggravated robbery under section 609.245;
- 5.22 (v) kidnapping under section 609.25;
- 5.23 (vi) false imprisonment under section 609.255;
- 5.24 (vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345,
- 5.25 609.3451, subdivision 3, or 609.3453;
- 5.26 (viii) incest under section 609.365;
- 5.27 (ix) burglary under section 609.582, subdivision 1; or
- 5.28 (x) indecent exposure under section 617.23, subdivision 3.
- 5.29 (b) Unless the superintendent of the bureau requires a shorter period, within 72 hours
- 5.30 the biological specimen required under paragraph (a) must be forwarded to the bureau in
- 5.31 such a manner as may be prescribed by the superintendent.
- 5.32 (c) Prosecutors, courts, and probation officers shall attempt to ensure that the
- 5.33 biological specimen is taken on a person described in paragraph (a).

5.34 Sec. 7. Minnesota Statutes 2008, section 299C.61, subdivision 8a, is amended to read:

6.1 Subd. 8a. **Conviction.** "Conviction" means a criminal conviction or an adjudication
6.2 of delinquency or a stay of adjudication of delinquency for an offense that would be a
6.3 crime if committed by an adult.

6.4 Sec. 8. Minnesota Statutes 2008, section 609.117, subdivision 1, is amended to read:

6.5 Subdivision 1. **Upon sentencing.** If an offender has not already done so, the court
6.6 shall order an offender to provide a biological specimen for the purpose of DNA analysis
6.7 as defined in section 299C.155 when:

6.8 (1) the court sentences a person charged with committing or attempting to commit
6.9 a felony offense and the person is convicted of that offense or of any offense arising
6.10 out of the same set of circumstances; or

6.11 (2) ~~the juvenile court adjudicates a person a delinquent child who is petitioned for~~
6.12 ~~committing or attempting to commit a felony offense and is adjudicated delinquent for~~
6.13 ~~that offense or any offense arising out of the same set of circumstances~~ finds that a child
6.14 who was petitioned for committing or attempting to commit a felony offense did commit
6.15 that offense or any offense arising out of the same set of circumstances.

6.16 The biological specimen or the results of the analysis shall be maintained by the Bureau of
6.17 Criminal Apprehension as provided in section 299C.155.

6.18 Sec. 9. Minnesota Statutes 2009 Supplement, section 624.713, subdivision 1, is
6.19 amended to read:

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

6.23 (1) a person under the age of 18 years except that a person under 18 may carry or
6.24 possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence
6.25 or under the direct supervision of the person's parent or guardian, (ii) for the purpose
6.26 of military drill under the auspices of a legally recognized military organization and
6.27 under competent supervision, (iii) for the purpose of instruction, competition, or target
6.28 practice on a firing range approved by the chief of police or county sheriff in whose
6.29 jurisdiction the range is located and under direct supervision; or (iv) if the person has
6.30 successfully completed a course designed to teach marksmanship and safety with a pistol
6.31 or semiautomatic military-style assault weapon and approved by the commissioner of
6.32 natural resources;

6.33 (2) except as otherwise provided in clause (9), a person who has been convicted of,
6.34 or adjudicated delinquent or received a stay of adjudication of delinquency or convicted

7.1 as an extended jurisdiction juvenile for committing, in this state or elsewhere, a crime
7.2 of violence. For purposes of this section, crime of violence includes crimes in other
7.3 states or jurisdictions which would have been crimes of violence as herein defined if they
7.4 had been committed in this state;

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

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

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

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

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

7.32 (8) except as otherwise provided in clause (9), a person who has been convicted in
7.33 another state of committing an offense similar to the offense described in section 609.224,
7.34 subdivision 3, against a family or household member or section 609.2242, subdivision
7.35 3, unless three years have elapsed since the date of conviction and, during that time, the

8.1 person has not been convicted of any other violation of section 609.224, subdivision 3, or
8.2 609.2242, subdivision 3, or a similar law of another state;

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

8.7 (10) a person who:

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

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

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

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

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

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

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

8.21 (11) a person who has been convicted of the following offenses at the gross
8.22 misdemeanor level, unless three years have elapsed since the date of conviction and,
8.23 during that time, the person has not been convicted of any other violation of these sections:
8.24 section 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision
8.25 4 (assaults motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or
8.26 endangerment of a child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665
8.27 (setting a spring gun); 609.71 (riot); or 609.749 (harassment and stalking). For purposes
8.28 of this paragraph, the specified gross misdemeanor convictions include crimes committed
8.29 in other states or jurisdictions which would have been gross misdemeanors if conviction
8.30 occurred in this state.

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

8.34 The prohibition in this subdivision relating to the possession of firearms other than
8.35 pistols and semiautomatic military-style assault weapons does not apply retroactively

9.1 to persons who are prohibited from possessing a pistol or semiautomatic military-style
9.2 assault weapon under this subdivision before August 1, 1994.

9.3 The lifetime prohibition on possessing, receiving, shipping, or transporting firearms
9.4 for persons convicted or adjudicated delinquent or received a stay of adjudication of
9.5 delinquency of a crime of violence in clause (2), applies only to offenders who are
9.6 discharged from sentence or court supervision for a crime of violence on or after August
9.7 1, 1993.

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

9.10 Sec. 10. Minnesota Statutes 2008, section 624.713, subdivision 3, is amended to read:

9.11 Subd. 3. **Notice.** (a) When a person is convicted of, or adjudicated delinquent,
9.12 received a stay of adjudication of delinquency, or convicted as an extended jurisdiction
9.13 juvenile for committing, a crime of violence as defined in section 624.712, subdivision 5,
9.14 the court shall inform the defendant that the defendant is prohibited from possessing a
9.15 pistol or semiautomatic military-style assault weapon for the remainder of the person's
9.16 lifetime, and that it is a felony offense to violate this prohibition. The failure of the court
9.17 to provide this information to a defendant does not affect the applicability of the pistol
9.18 or semiautomatic military-style assault weapon possession prohibition or the felony
9.19 penalty to that defendant.

9.20 (b) When a person, including a person under the jurisdiction of the juvenile court, is
9.21 charged with committing a crime of violence and is placed in a pretrial diversion program
9.22 by the court before disposition, the court shall inform the defendant that: (1) the defendant
9.23 is prohibited from possessing a pistol or semiautomatic military-style assault weapon
9.24 until the person has completed the diversion program and the charge of committing a
9.25 crime of violence has been dismissed; (2) it is a gross misdemeanor offense to violate this
9.26 prohibition; and (3) if the defendant violates this condition of participation in the diversion
9.27 program, the charge of committing a crime of violence may be prosecuted. The failure of
9.28 the court to provide this information to a defendant does not affect the applicability of the
9.29 pistol or semiautomatic military-style assault weapon possession prohibition or the gross
9.30 misdemeanor penalty to that defendant.