

This Document can be made available in alternative formats upon request

State of Minnesota

Printed Page No.

504

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 3496

March 8, 2010

Authored by Hilstrom

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

March 17, 2010

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

A bill for an act

relating to crime; requiring registration for persons convicted or adjudicated in another country for offenses requiring registration in Minnesota; clarifying that registration time period of predatory offender restarts after conviction of new crime; including attempt, aiding and abetting, and conspiracy to commit crimes against persons for purposes of registration for predatory offender registration law; amending Minnesota Statutes 2008, sections 243.166, subdivisions 3a, 4, 5; 243.167, subdivision 1; Minnesota Statutes 2009 Supplement, section 243.166, subdivisions 1b, 6.

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

Section 1. Minnesota Statutes 2009 Supplement, section 243.166, subdivision 1b, is amended to read:

Subd. 1b. **Registration required.** (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate, or aiding, abetting, or conspiracy to commit, any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:

(i) murder under section 609.185, paragraph (a), clause (2);

(ii) kidnapping under section 609.25;

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; 609.3451, subdivision 3; or 609.3453; or

(iv) indecent exposure under section 617.23, subdivision 3;

(2) the person was charged with or petitioned for a violation of, or attempt to violate, or aiding, abetting, or conspiracy to commit false imprisonment in violation of section 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of section 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of

2.1 section 609.352; using a minor in a sexual performance in violation of section 617.246;  
2.2 or possessing pornographic work involving a minor in violation of section 617.247, and  
2.3 convicted of or adjudicated delinquent for that offense or another offense arising out  
2.4 of the same set of circumstances;

2.5 (3) the person was sentenced as a patterned sex offender under section 609.3455,  
2.6 subdivision 3a; or

2.7 (4) the person was convicted of or adjudicated delinquent for, including pursuant  
2.8 to a court martial, violating a law of the United States, including the Uniform Code of  
2.9 Military Justice, similar to the offenses described in clause (1), (2), or (3).

2.10 (b) A person also shall register under this section if:

2.11 (1) the person was convicted of or adjudicated delinquent in another state, or another  
2.12 country, for an offense that would be a violation of a law described in paragraph (a) if  
2.13 committed in this state;

2.14 (2) the person enters this state to reside, work, or attend school, or enters this state  
2.15 and remains for 14 days or longer; and

2.16 (3) ten years have not elapsed since the person was released from confinement or, if  
2.17 the person was not confined, since the person was convicted of or adjudicated delinquent  
2.18 for the offense that triggers registration, unless the person is subject to a longer registration  
2.19 period under the laws of another state, or another country, in which the person has been  
2.20 convicted or adjudicated, or is subject to lifetime registration.

2.21 If a person described in this paragraph is subject to a longer registration period in  
2.22 another state, or another country, or is subject to lifetime registration, the person shall  
2.23 register for that time period regardless of when the person was released from confinement,  
2.24 convicted, or adjudicated delinquent.

2.25 (c) A person also shall register under this section if the person was committed  
2.26 pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992,  
2.27 section 526.10, or a similar law of another state or the United States, or another country,  
2.28 regardless of whether the person was convicted of any offense.

2.29 (d) A person also shall register under this section if:

2.30 (1) the person was charged with or petitioned for a felony violation or attempt to  
2.31 violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another  
2.32 state or the United States, or another country, or the person was charged with or petitioned  
2.33 for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law  
2.34 of another state or the United States, or another country;

3.1 (2) the person was found not guilty by reason of mental illness or mental deficiency  
3.2 after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in  
3.3 states, or another country, with a guilty but mentally ill verdict; and

3.4 (3) the person was committed pursuant to a court commitment order under section  
3.5 253B.18 or a similar law of another state or the United States, or another country.

3.6 Sec. 2. Minnesota Statutes 2008, section 243.166, subdivision 3a, is amended to read:

3.7 Subd. 3a. **Registration procedure when person lacks primary address.** (a) If  
3.8 a person leaves a primary address and does not have a new primary address, the person  
3.9 shall register with the law enforcement authority that has jurisdiction in the area where the  
3.10 person is staying within 24 hours of the time the person no longer has a primary address.

3.11 (b) Notwithstanding the time period for registration in paragraphs (a) and (c), a  
3.12 person with a primary address of a correctional facility who is scheduled to be released  
3.13 from the facility and who does not have a new primary address shall register with the law  
3.14 enforcement authority that has jurisdiction in the area where the person will be staying at  
3.15 least three days before the person is released from the correctional facility.

3.16 (c) A person who lacks a primary address shall register with the law enforcement  
3.17 authority that has jurisdiction in the area where the person is staying within 24 hours after  
3.18 entering the jurisdiction. Each time a person who lacks a primary address moves to a new  
3.19 jurisdiction without acquiring a new primary address, the person shall register with the  
3.20 law enforcement authority that has jurisdiction in the area where the person is staying  
3.21 within 24 hours after entering the jurisdiction.

3.22 (d) Upon registering under this subdivision, the person shall provide the law  
3.23 enforcement authority with all of the information the individual is required to provide  
3.24 under subdivision 4a. However, instead of reporting the person's primary address, the  
3.25 person shall describe the location of where the person is staying with as much specificity  
3.26 as possible.

3.27 (e) Except as otherwise provided in paragraph (f), if a person continues to lack  
3.28 a primary address, the person shall report in person on a weekly basis to the law  
3.29 enforcement authority with jurisdiction in the area where the person is staying. This  
3.30 weekly report shall occur between the hours of 9:00 a.m. and 5:00 p.m. The person is  
3.31 not required to provide the registration information required under subdivision 4a each  
3.32 time the offender reports to an authority, but the person shall inform the authority of  
3.33 changes to any information provided under this subdivision or subdivision 4a and shall  
3.34 otherwise comply with this subdivision.

4.1 (f) If the law enforcement authority determines that it is impractical, due to the  
4.2 person's unique circumstances, to require a person lacking a primary address to report  
4.3 weekly and in person as required under paragraph (e), the authority may authorize the  
4.4 person to follow an alternative reporting procedure. The authority shall consult with the  
4.5 person's corrections agent, if the person has one, in establishing the specific criteria of this  
4.6 alternative procedure, subject to the following requirements:

4.7 (1) the authority shall document, in the person's registration record, the specific  
4.8 reasons why the weekly in-person reporting process is impractical for the person to follow;

4.9 (2) the authority shall explain how the alternative reporting procedure furthers  
4.10 the public safety objectives of this section;

4.11 (3) the authority shall require the person lacking a primary address to report in  
4.12 person at least monthly to the authority or the person's corrections agent and shall  
4.13 specify the location where the person shall report. If the authority determines it would  
4.14 be more practical and would further public safety for the person to report to another  
4.15 law enforcement authority with jurisdiction where the person is staying, it may, after  
4.16 consulting with the other law enforcement authority, include this requirement in the  
4.17 person's alternative reporting process;

4.18 (4) the authority shall require the person to comply with the weekly, in-person  
4.19 reporting process required under paragraph (e), if the person moves to a new area where  
4.20 this process would be practical;

4.21 (5) the authority shall require the person to report any changes to the registration  
4.22 information provided under subdivision 4a and to comply with the periodic registration  
4.23 requirements specified under paragraph (g); and

4.24 (6) the authority shall require the person to comply with the requirements of  
4.25 subdivision 3, paragraphs (b) and (c), if the person moves to a primary address.

4.26 (g) If a person continues to lack a primary address and continues to report to the  
4.27 same law enforcement authority, the person shall provide the authority with all of the  
4.28 information the individual is required to provide under this subdivision and subdivision 4a  
4.29 at least annually, unless the person is required to register under subdivision 1b, paragraph  
4.30 (c), following commitment pursuant to a court commitment under section 253B.185 or a  
4.31 similar law of another state or the United States, or another country. If the person is  
4.32 required to register under subdivision 1b, paragraph (c), the person shall provide the law  
4.33 enforcement authority with all of the information the individual is required to report under  
4.34 this subdivision and subdivision 4a at least once every three months.

5.1 (h) A law enforcement authority receiving information under this subdivision shall  
5.2 forward registration information and changes to that information to the bureau within two  
5.3 business days of receipt of the information.

5.4 (i) For purposes of this subdivision, a person who fails to report a primary address  
5.5 will be deemed to be a person who lacks a primary address, and the person shall comply  
5.6 with the requirements for a person who lacks a primary address.

5.7 Sec. 3. Minnesota Statutes 2008, section 243.166, subdivision 4, is amended to read:

5.8 Subd. 4. **Contents of registration.** (a) The registration provided to the corrections  
5.9 agent or law enforcement authority, must consist of a statement in writing signed by the  
5.10 person, giving information required by the bureau, a fingerprint card, and photograph of  
5.11 the person taken at the time of the person's release from incarceration or, if the person  
5.12 was not incarcerated, at the time the person initially registered under this section. The  
5.13 registration information also must include a written consent form signed by the person  
5.14 allowing a treatment facility or residential housing unit or shelter to release information to  
5.15 a law enforcement officer about the person's admission to, or residence in, a treatment  
5.16 facility or residential housing unit or shelter. Registration information on adults and  
5.17 juveniles may be maintained together notwithstanding section 260B.171, subdivision 3.

5.18 (b) For persons required to register under subdivision 1b, paragraph (c), following  
5.19 commitment pursuant to a court commitment under section 253B.185 or a similar law  
5.20 of another state or the United States, or another country, in addition to other information  
5.21 required by this section, the registration provided to the corrections agent or law  
5.22 enforcement authority must include the person's offense history and documentation of  
5.23 treatment received during the person's commitment. This documentation is limited to a  
5.24 statement of how far the person progressed in treatment during commitment.

5.25 (c) Within three days of receipt, the corrections agent or law enforcement authority  
5.26 shall forward the registration information to the bureau. The bureau shall ascertain  
5.27 whether the person has registered with the law enforcement authority in the area of the  
5.28 person's primary address, if any, or if the person lacks a primary address, where the person  
5.29 is staying, as required by subdivision 3a. If the person has not registered with the law  
5.30 enforcement authority, the bureau shall send one copy to that authority.

5.31 (d) The corrections agent or law enforcement authority may require that a person  
5.32 required to register under this section appear before the agent or authority to be  
5.33 photographed. The agent or authority shall forward the photograph to the bureau.

5.34 (1) Except as provided in clause (2), the agent or authority shall require a person  
5.35 required to register under this section who is classified as a level III offender under

6.1 section 244.052 to appear before the agent or authority at least every six months to be  
6.2 photographed.

6.3 (2) The requirements of this paragraph shall not apply during any period where  
6.4 the person to be photographed is: (i) committed to the commissioner of corrections and  
6.5 incarcerated, (ii) incarcerated in a regional jail or county jail, or (iii) committed to the  
6.6 commissioner of human services and receiving treatment in a secure treatment facility.

6.7 (e) During the period a person is required to register under this section, the following  
6.8 provisions apply:

6.9 (1) Except for persons registering under subdivision 3a, the bureau shall mail a  
6.10 verification form to the person's last reported primary address. This verification form must  
6.11 provide notice to the offender that, if the offender does not return the verification form  
6.12 as required, information about the offender may be made available to the public through  
6.13 electronic, computerized, or other accessible means. For persons who are registered under  
6.14 subdivision 3a, the bureau shall mail an annual verification form to the law enforcement  
6.15 authority where the offender most recently reported. The authority shall provide the  
6.16 verification form to the person at the next weekly meeting and ensure that the person  
6.17 completes and signs the form and returns it to the bureau. Notice is sufficient under this  
6.18 paragraph, if the verification form is sent by first class mail to the person's last reported  
6.19 primary address, or for persons registered under subdivision 3a, to the law enforcement  
6.20 authority where the offender most recently reported.

6.21 (2) The person shall mail the signed verification form back to the bureau within ten  
6.22 days after receipt of the form, stating on the form the current and last address of the  
6.23 person's residence and the other information required under subdivision 4a.

6.24 (3) In addition to the requirements listed in this section, a person who is assigned  
6.25 to risk level II or III under section 244.052, and who is no longer under correctional  
6.26 supervision for a registration offense, or a failure to register offense, but who resides,  
6.27 works, or attends school in Minnesota, shall have an annual in-person contact with a law  
6.28 enforcement authority as provided in this section. If the person resides in Minnesota, the  
6.29 annual in-person contact shall be with the law enforcement authority that has jurisdiction  
6.30 over the person's primary address or, if the person has no address, the location where the  
6.31 person is staying. If the person does not reside in Minnesota but works or attends school  
6.32 in this state, the person shall have an annual in-person contact with the law enforcement  
6.33 authority or authorities with jurisdiction over the person's school or workplace. During  
6.34 the month of the person's birth date, the person shall report to the authority to verify the  
6.35 accuracy of the registration information and to be photographed. Within three days of this  
6.36 contact, the authority shall enter information as required by the bureau into the predatory

7.1 offender registration database and submit an updated photograph of the person to the  
7.2 bureau's predatory offender registration unit.

7.3 (4) If the person fails to mail the completed and signed verification form to the  
7.4 bureau within ten days after receipt of the form, or if the person fails to report to the  
7.5 law enforcement authority during the month of the person's birth date, the person is in  
7.6 violation of this section.

7.7 (5) For any person who fails to mail the completed and signed verification form to  
7.8 the bureau within ten days after receipt of the form and who has been determined to be  
7.9 a risk level III offender under section 244.052, the bureau shall immediately investigate  
7.10 and notify local law enforcement authorities to investigate the person's location and to  
7.11 ensure compliance with this section. The bureau also shall immediately give notice of the  
7.12 person's violation of this section to the law enforcement authority having jurisdiction over  
7.13 the person's last registered address or addresses.

7.14 For persons required to register under subdivision 1b, paragraph (c), following  
7.15 commitment pursuant to a court commitment under section 253B.185 or a similar law of  
7.16 another state or the United States, or another country, the bureau shall comply with clause  
7.17 (1) at least four times each year. For persons who, under section 244.052, are assigned  
7.18 to risk level III and who are no longer under correctional supervision for a registration  
7.19 offense or a failure to register offense, the bureau shall comply with clause (1) at least  
7.20 two times each year. For all other persons required to register under this section, the  
7.21 bureau shall comply with clause (1) each year within 30 days of the anniversary date of  
7.22 the person's initial registration.

7.23 (f) When sending out a verification form, the bureau shall determine whether the  
7.24 person to whom the verification form is being sent has signed a written consent form  
7.25 as provided for in paragraph (a). If the person has not signed such a consent form, the  
7.26 bureau shall send a written consent form to the person along with the verification form.  
7.27 A person who receives this written consent form shall sign and return it to the bureau  
7.28 at the same time as the verification form.

7.29 Sec. 4. Minnesota Statutes 2008, section 243.166, subdivision 5, is amended to read:

7.30 Subd. 5. **Criminal penalty.** (a) A person required to register under this section who  
7.31 knowingly violates any of its provisions or intentionally provides false information to a  
7.32 corrections agent, law enforcement authority, or the bureau is guilty of a felony and may  
7.33 be sentenced to imprisonment for not more than five years or to payment of a fine of  
7.34 not more than \$10,000, or both.

8.1 (b) Except as provided in paragraph (c), a person convicted of violating paragraph  
8.2 (a) shall be committed to the custody of the commissioner of corrections for not less than  
8.3 a year and a day, nor more than five years.

8.4 (c) A person convicted of violating paragraph (a), who has previously been  
8.5 convicted of or adjudicated delinquent for violating this section or a similar statute of  
8.6 another state or the United States, or another country, shall be committed to the custody of  
8.7 the commissioner of corrections for not less than two years, nor more than five years.

8.8 (d) Prior to the time of sentencing, the prosecutor may file a motion to have the  
8.9 person sentenced without regard to the mandatory minimum sentence established by this  
8.10 subdivision. The motion must be accompanied by a statement on the record of the reasons  
8.11 for it. When presented with the motion, or on its own motion, the court may sentence the  
8.12 person without regard to the mandatory minimum sentence if the court finds substantial  
8.13 and compelling reasons to do so. Sentencing a person in the manner described in this  
8.14 paragraph is a departure from the Sentencing Guidelines.

8.15 (e) A person convicted and sentenced as required by this subdivision is not  
8.16 eligible for probation, parole, discharge, work release, conditional release, or supervised  
8.17 release, until that person has served the full term of imprisonment as provided by law,  
8.18 notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and  
8.19 609.135.

8.20 Sec. 5. Minnesota Statutes 2009 Supplement, section 243.166, subdivision 6, is  
8.21 amended to read:

8.22 Subd. 6. **Registration period.** (a) Notwithstanding the provisions of section  
8.23 609.165, subdivision 1, and except as provided in paragraphs (b), (c), and (d), a person  
8.24 required to register under this section shall continue to comply with this section until ten  
8.25 years have elapsed since the person initially registered in connection with the offense, or  
8.26 until the probation, supervised release, or conditional release period expires, whichever  
8.27 occurs later. For a person required to register under this section who is committed under  
8.28 section 253B.18 or 253B.185, the ten-year registration period does not include the period  
8.29 of commitment.

8.30 (b) If a person required to register under this section fails to provide the person's  
8.31 primary address as required by subdivision 3, paragraph (b), fails to comply with the  
8.32 requirements of subdivision 3a, fails to provide information as required by subdivision  
8.33 4a, or fails to return the verification form referenced in subdivision 4 within ten days,  
8.34 the commissioner of public safety may require the person to continue to register for an

9.1 additional period of five years. This five-year period is added to the end of the offender's  
 9.2 registration period.

9.3 (c) If a person required to register under this section is ~~subsequently incarcerated~~  
 9.4 ~~following a conviction~~ arrested for any new offenses or any probation, parole, supervised  
 9.5 release, or conditional release violations prior to the end of the person's registration period  
 9.6 and is convicted of and incarcerated for a any new offense or following is incarcerated  
 9.7 for a revocation of probation, parole, supervised release, or conditional release for any  
 9.8 offense, the person shall continue to register until ten years have elapsed since the person  
 9.9 was last released from incarceration or until the person's probation, supervised release, or  
 9.10 conditional release period expires, whichever occurs later. For the purposes of this section,  
 9.11 incarcerated includes credit for time served prior to the conviction or revocation.

9.12 (d) A person shall continue to comply with this section for the life of that person:

9.13 (1) if the person is convicted of or adjudicated delinquent for any offense for which  
 9.14 registration is required under subdivision 1b, or any offense from another state or any  
 9.15 federal offense similar to the offenses described in subdivision 1b, or any offense from  
 9.16 another country similar to the offenses described in subdivision 1b, and the person has a  
 9.17 prior conviction or adjudication for an offense for which registration was or would have  
 9.18 been required under subdivision 1b, or an offense from another state or a federal offense  
 9.19 similar to an offense described in subdivision 1b, or any offense from another country  
 9.20 similar to the offense described in subdivision 1b;

9.21 (2) if the person is required to register based upon a conviction or delinquency  
 9.22 adjudication for an offense under section 609.185, paragraph (a), clause (2), or a similar  
 9.23 statute from another state or the United States, or another country;

9.24 (3) if the person is required to register based upon a conviction for an offense under  
 9.25 section 609.342, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.343, subdivision  
 9.26 1, paragraph (a), (c), (d), (e), (f), or (h); 609.344, subdivision 1, paragraph (a), (c), or (g);  
 9.27 or 609.345, subdivision 1, paragraph (a), (c), or (g); or a statute from another state or the  
 9.28 United States, or another country, similar to the offenses described in this clause; or

9.29 (4) if the person is required to register under subdivision 1b, paragraph (c), following  
 9.30 commitment pursuant to a court commitment under section 253B.185 or a similar law  
 9.31 of another state or the United States, or another country.

9.32 (e) A person described in subdivision 1b, paragraph (b), who is required to register  
 9.33 under the laws of a state or another country in which the person has been previously  
 9.34 convicted or adjudicated delinquent, shall register under this section for the time period  
 9.35 required by the state of conviction or adjudication, or the country of conviction or  
 9.36 adjudication unless a longer time period is required elsewhere in this section.

10.1 Sec. 6. Minnesota Statutes 2008, section 243.167, subdivision 1, is amended to read:

10.2 Subdivision 1. **Definition.** As used in this section, "crime against the person" means  
10.3 a violation of or attempt to violate, or aiding, abetting, or conspiracy to commit, any of  
10.4 the following or a similar law of another state or of the United States, or another country:  
10.5 section 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223;  
10.6 609.2231; 609.224, subdivision 2 or 4; 609.2242, subdivision 2 or 4; 609.2247; 609.235;  
10.7 609.245, subdivision 1; 609.25; 609.255; 609.3451, subdivision 2; 609.498, subdivision 1;  
10.8 609.582, subdivision 1; or 617.23, subdivision 2; or any felony-level violation of section  
10.9 609.229; 609.377; 609.749; or 624.713.