

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 3238

03/20/2014 Authored by Schoen, Simonson and Slocum
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy
03/26/2014 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Policy
03/28/2014 Adoption of Report: Amended and Placed on the General Register
Read Second Time

1.1 A bill for an act
1.2 relating to public safety; prohibiting persons subject to domestic violence
1.3 restraining orders from possessing weapons; requiring persons convicted of
1.4 domestic violence offenses to surrender their firearms while they are prohibited
1.5 from possessing firearms; providing penalties; amending Minnesota Statutes
1.6 2012, sections 260C.201, subdivision 3; 518B.01, subdivision 6; 609.2242,
1.7 subdivision 3; 609.749, subdivision 8; 624.713, subdivision 1; proposing coding
1.8 for new law in Minnesota Statutes, chapter 624.

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

1.10 Section 1. Minnesota Statutes 2012, section 260C.201, subdivision 3, is amended to
1.11 read:

1.12 Subd. 3. **Domestic child abuse.** (a) If the court finds that the child is a victim of
1.13 domestic child abuse, as defined in section 260C.007, subdivision 13, it may order any of
1.14 the following dispositions of the case in addition to or as alternatives to the dispositions
1.15 authorized under subdivision 1:

1.16 (1) restrain any party from committing acts of domestic child abuse;

1.17 (2) exclude the abusing party from the dwelling which the family or household
1.18 members share or from the residence of the child;

1.19 (3) on the same basis as is provided in chapter 518, establish temporary visitation
1.20 with regard to minor children of the adult family or household members;

1.21 (4) on the same basis as is provided in chapter 518 or 518A, establish temporary
1.22 support or maintenance for a period of 30 days for minor children or a spouse;

1.23 (5) provide counseling or other social services for the family or household members;

1.24 or

1.25 (6) order the abusing party to participate in treatment or counseling services.

2.1 Any relief granted by the order for protection shall be for a fixed period not to
2.2 exceed one year.

2.3 (b) No order excluding the abusing party from the dwelling may be issued unless
2.4 the court finds that:

2.5 (1) the order is in the best interests of the child or children remaining in the dwelling;

2.6 (2) a remaining adult family or household member is able to care adequately for the
2.7 child or children in the absence of the excluded party; and

2.8 (3) the local welfare agency has developed a plan to provide appropriate social
2.9 services to the remaining family or household members.

2.10 (c) Upon a finding that the remaining parent is able to care adequately for the child
2.11 and enforce an order excluding the abusing party from the home and that the provision of
2.12 supportive services by the responsible social services agency is no longer necessary, the
2.13 responsible social services agency may be dismissed as a party to the proceedings. Orders
2.14 entered regarding the abusing party remain in full force and effect and may be renewed by
2.15 the remaining parent as necessary for the continued protection of the child for specified
2.16 periods of time, not to exceed one year.

2.17 (d) An order granting relief that was issued after a hearing of which the abusing party
2.18 received actual notice and at which the abusing party had the opportunity to participate,
2.19 shall prohibit the abusing party from possessing firearms for the length the order is in
2.20 effect if the order (1) restrains the abusing party from harassing, stalking, or threatening
2.21 the abused party or restrains the abusing party from engaging in other conduct that would
2.22 place the abused party in reasonable fear of bodily injury, and (2) includes a finding that
2.23 the abusing party represents a credible threat to the physical safety of the abused party or
2.24 prohibits the abusing party from using, attempting to use, or threatening to use physical
2.25 force against the abused party. The order shall inform the abusing party of that party's
2.26 prohibited status. Except as provided in paragraph (f), the court shall order the abusing
2.27 party to transfer any firearms that the person possesses, within three business days, to a
2.28 federally licensed firearms dealer, a law enforcement agency, or a third party who may
2.29 lawfully receive them. The transfer may be permanent or temporary. A temporary firearm
2.30 transfer only entitles the receiving party to possess the firearm. A temporary transfer
2.31 does not transfer ownership or title. An abusing party may not transfer firearms to a
2.32 third party who resides with the abusing party. If an abusing party makes a temporary
2.33 transfer, a federally licensed firearms dealer or law enforcement agency may charge the
2.34 abusing party a reasonable fee to store the person's firearms and may establish policies
2.35 for disposal of abandoned firearms, provided such policies require that the person be
2.36 notified via certified mail prior to disposal of abandoned firearms. For temporary firearms

3.1 transfers under this paragraph, a law enforcement agency, federally licensed firearms
3.2 dealer, or third party shall exercise due care to preserve the quality and function of the
3.3 transferred firearms and shall return the transferred firearms to the person upon request
3.4 after the expiration of the prohibiting time period, provided the person is not otherwise
3.5 prohibited from possessing firearms under state or federal law. The return of temporarily
3.6 transferred firearms to an abusing party shall comply with state and federal law. If an
3.7 abusing party permanently transfers the abusing party's firearms to a law enforcement
3.8 agency, the agency is not required to compensate the abusing party and may charge the
3.9 abusing party a reasonable processing fee.

3.10 (e) An abusing party who is ordered to transfer firearms under paragraph (d) must
3.11 file proof of transfer as provided for in this paragraph. If the transfer is made to a third
3.12 party, the third party must sign an affidavit under oath before a notary public either
3.13 acknowledging that the abusing party permanently transferred the abusing party's firearms
3.14 to the third party or agreeing to temporarily store the abusing party's firearms until such
3.15 time as the abusing party is legally permitted to possess firearms. The affidavit shall
3.16 indicate the serial number, make, and model of all firearms transferred by the abusing
3.17 party to the third party. The third party shall acknowledge in the affidavit that the third
3.18 party may be held criminally and civilly responsible if the abusing party gains access to
3.19 the firearms while the firearms are in the custody of the third party. If the transfer is to a
3.20 law enforcement agency or federally licensed firearms dealer, the law enforcement agency
3.21 or federally licensed firearms dealer shall provide proof of transfer to the abusing party.
3.22 The proof of transfer must specify whether the firearms were permanently or temporarily
3.23 transferred and include the name of the abusing party, date of transfer, and the serial
3.24 number, make, and model of all transferred firearms. The abusing party shall provide the
3.25 court with a signed and notarized affidavit or proof of transfer as described in this section
3.26 within two business days of the firearms transfer. The court shall seal affidavits and proofs
3.27 of transfer filed pursuant to this paragraph.

3.28 (f) Prior to issuing an order under this subdivision, the court shall determine if an
3.29 abusing party poses an imminent risk of causing another person substantial bodily harm.
3.30 Upon a finding of imminent risk, the court shall order that the local law enforcement
3.31 agency take immediate possession of all firearms in the abusing party's possession.
3.32 The local law enforcement agency shall exercise due care to preserve the quality and
3.33 function of the abusing party's firearms and shall return the firearms to the person upon
3.34 request after the expiration of the prohibiting time period, provided the person is not
3.35 otherwise prohibited from possessing firearms under state or federal law. The local
3.36 law enforcement agency shall, upon written notice from the abusing party, transfer the

4.1 firearms to a federally licensed firearms dealer or a third party who may lawfully receive
4.2 them. Before a local law enforcement agency transfers a firearm under this paragraph, the
4.3 agency shall require the party receiving the firearm to submit an affidavit that complies
4.4 with the requirements for affidavits established in paragraph (e). The agency shall file all
4.5 affidavits received with the court. The court shall seal all affidavits filed pursuant to this
4.6 paragraph. A law enforcement agency may establish policies for disposal of abandoned
4.7 firearms, provided such policies require that the abusing party be notified via certified mail
4.8 prior to disposal of abandoned firearms.

4.9 Sec. 2. Minnesota Statutes 2012, section 518B.01, subdivision 6, is amended to read:

4.10 Subd. 6. **Relief by court.** (a) Upon notice and hearing, the court may provide
4.11 relief as follows:

4.12 (1) restrain the abusing party from committing acts of domestic abuse;

4.13 (2) exclude the abusing party from the dwelling which the parties share or from the
4.14 residence of the petitioner;

4.15 (3) exclude the abusing party from a reasonable area surrounding the dwelling or
4.16 residence, which area shall be described specifically in the order;

4.17 (4) award temporary custody or establish temporary parenting time with regard to
4.18 minor children of the parties on a basis which gives primary consideration to the safety of
4.19 the victim and the children. In addition to the primary safety considerations, the court
4.20 may consider particular best interest factors that are found to be relevant to the temporary
4.21 custody and parenting time award. Findings under section 257.025, 518.17, or 518.175
4.22 are not required with respect to the particular best interest factors not considered by the
4.23 court. If the court finds that the safety of the victim or the children will be jeopardized by
4.24 unsupervised or unrestricted parenting time, the court shall condition or restrict parenting
4.25 time as to time, place, duration, or supervision, or deny parenting time entirely, as needed
4.26 to guard the safety of the victim and the children. The court's decision on custody and
4.27 parenting time shall in no way delay the issuance of an order for protection granting other
4.28 relief provided for in this section. The court must not enter a parenting plan under section
4.29 518.1705 as part of an action for an order for protection;

4.30 (5) on the same basis as is provided in chapter 518 or 518A, establish temporary
4.31 support for minor children or a spouse, and order the withholding of support from the
4.32 income of the person obligated to pay the support according to chapter 518A;

4.33 (6) provide upon request of the petitioner counseling or other social services for the
4.34 parties, if married, or if there are minor children;

5.1 (7) order the abusing party to participate in treatment or counseling services,
5.2 including requiring the abusing party to successfully complete a domestic abuse
5.3 counseling program or educational program under section 518B.02;

5.4 (8) award temporary use and possession of property and restrain one or both parties
5.5 from transferring, encumbering, concealing, or disposing of property except in the usual
5.6 course of business or for the necessities of life, and to account to the court for all such
5.7 transfers, encumbrances, dispositions, and expenditures made after the order is served or
5.8 communicated to the party restrained in open court;

5.9 (9) exclude the abusing party from the place of employment of the petitioner, or
5.10 otherwise limit access to the petitioner by the abusing party at the petitioner's place of
5.11 employment;

5.12 (10) order the abusing party to have no contact with the petitioner whether in
5.13 person, by telephone, mail, or electronic mail or messaging, through a third party, or
5.14 by any other means;

5.15 (11) order the abusing party to pay restitution to the petitioner;

5.16 (12) order the continuance of all currently available insurance coverage without
5.17 change in coverage or beneficiary designation;

5.18 (13) order, in its discretion, other relief as it deems necessary for the protection of
5.19 a family or household member, including orders or directives to the sheriff or other law
5.20 enforcement or corrections officer as provided by this section;

5.21 (14) direct the care, possession, or control of a pet or companion animal owned,
5.22 possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent;
5.23 and

5.24 (15) direct the respondent to refrain from physically abusing or injuring any pet or
5.25 companion animal, without legal justification, known to be owned, possessed, kept, or
5.26 held by either party or a minor child residing in the residence or household of either party
5.27 as an indirect means of intentionally threatening the safety of such person.

5.28 (b) Any relief granted by the order for protection shall be for a period not to exceed
5.29 two years, except when the court determines a longer period is appropriate. When a
5.30 referee presides at the hearing on the petition, the order granting relief becomes effective
5.31 upon the referee's signature.

5.32 (c) An order granting the relief authorized in paragraph (a), clause (1), may not be
5.33 vacated or modified in a proceeding for dissolution of marriage or legal separation, except
5.34 that the court may hear a motion for modification of an order for protection concurrently
5.35 with a proceeding for dissolution of marriage upon notice of motion and motion. The
5.36 notice required by court rule shall not be waived. If the proceedings are consolidated

6.1 and the motion to modify is granted, a separate order for modification of an order for
6.2 protection shall be issued.

6.3 (d) An order granting the relief authorized in paragraph (a), clause (2) or (3), is not
6.4 voided by the admittance of the abusing party into the dwelling from which the abusing
6.5 party is excluded.

6.6 (e) If a proceeding for dissolution of marriage or legal separation is pending between
6.7 the parties, the court shall provide a copy of the order for protection to the court with
6.8 jurisdiction over the dissolution or separation proceeding for inclusion in its file.

6.9 (f) An order for restitution issued under this subdivision is enforceable as civil
6.10 judgment.

6.11 (g) An order granting relief shall prohibit the abusing party from possessing firearms
6.12 for the length the order is in effect if the order (1) restrains the abusing party from
6.13 harassing, stalking, or threatening the abused party or restrains the abusing party from
6.14 engaging in other conduct that would place the abused party in reasonable fear of bodily
6.15 injury, and (2) includes a finding that the abusing party represents a credible threat to the
6.16 physical safety of the abused party or prohibits the abusing party from using, attempting to
6.17 use, or threatening to use physical force against the abused party. The order shall inform
6.18 the abusing party of that party's prohibited status. Except as provided in paragraph (i),
6.19 the court shall order the abusing party to transfer any firearms that the person possesses,
6.20 within three business days, to a federally licensed firearms dealer, a law enforcement
6.21 agency, or a third party who may lawfully receive them. The transfer may be permanent
6.22 or temporary. A temporary firearm transfer only entitles the receiving party to possess
6.23 the firearm. A temporary transfer does not transfer ownership or title. An abusing party
6.24 may not transfer firearms to a third party who resides with the abusing party. If an abusing
6.25 party makes a temporary transfer, a federally licensed firearms dealer or law enforcement
6.26 agency may charge the abusing party a reasonable fee to store the person's firearms and
6.27 may establish policies for disposal of abandoned firearms, provided such policies require
6.28 that the person be notified via certified mail prior to disposal of abandoned firearms. For
6.29 temporary firearms transfers under this paragraph, a law enforcement agency, federally
6.30 licensed firearms dealer, or third party shall exercise due care to preserve the quality
6.31 and function of the transferred firearms and shall return the transferred firearms to the
6.32 person upon request after the expiration of the prohibiting time period, provided the
6.33 person is not otherwise prohibited from possessing firearms under state or federal law.
6.34 The return of temporarily transferred firearms to an abusing party shall comply with state
6.35 and federal law. If an abusing party permanently transfers the abusing party's firearms to a

7.1 law enforcement agency, the agency is not required to compensate the abusing party and
7.2 may charge the abusing party a reasonable processing fee.

7.3 (h) An abusing party who is ordered to transfer firearms under paragraph (g) must
7.4 file proof of transfer as provided for in this paragraph. If the transfer is made to a third
7.5 party, the third party must sign an affidavit under oath before a notary public either
7.6 acknowledging that the abusing party permanently transferred the abusing party's firearms
7.7 to the third party or agreeing to temporarily store the abusing party's firearms until such
7.8 time as the abusing party is legally permitted to possess firearms. The affidavit shall
7.9 indicate the serial number, make, and model of all firearms transferred by the abusing
7.10 party to the third party. The third party shall acknowledge in the affidavit that the third
7.11 party may be held criminally and civilly responsible if the abusing party gains access to
7.12 the firearms while the firearms are in the custody of the third party. If the transfer is to a
7.13 law enforcement agency or federally licensed firearms dealer, the law enforcement agency
7.14 or federally licensed firearms dealer shall provide proof of transfer to the abusing party.
7.15 The proof of transfer must specify whether the firearms were permanently or temporarily
7.16 transferred and include the name of the abusing party, date of transfer, and the serial
7.17 number, make, and model of all transferred firearms. The abusing party shall provide the
7.18 court with a signed and notarized affidavit or proof of transfer as described in this section
7.19 within two business days of the firearms transfer. The court shall seal affidavits and proofs
7.20 of transfer filed pursuant to this paragraph.

7.21 (i) Prior to issuing an order under this subdivision, the court shall determine if an
7.22 abusing party poses an imminent risk of causing another person substantial bodily harm.
7.23 Upon a finding of imminent risk, the court shall order that the local law enforcement
7.24 agency take immediate possession of all firearms in the abusing party's possession.
7.25 The local law enforcement agency shall exercise due care to preserve the quality and
7.26 function of the abusing party's firearms and shall return the firearms to the person upon
7.27 request after the expiration of the prohibiting time period, provided the person is not
7.28 otherwise prohibited from possessing firearms under state or federal law. The local
7.29 law enforcement agency shall, upon written notice from the abusing party, transfer the
7.30 firearms to a federally licensed firearms dealer or a third party who may lawfully receive
7.31 them. Before a local law enforcement agency transfers a firearm under this paragraph, the
7.32 agency shall require the party receiving the firearm to submit an affidavit that complies
7.33 with the requirements for affidavits established in paragraph (h). The agency shall file all
7.34 affidavits received with the court. The court shall seal all affidavits filed pursuant to this
7.35 paragraph. A law enforcement agency may establish policies for disposal of abandoned

8.1 firearms, provided such policies require that the abusing party be notified via certified mail
8.2 prior to disposal of abandoned firearms.

8.3 Sec. 3. Minnesota Statutes 2012, section 609.2242, subdivision 3, is amended to read:

8.4 Subd. 3. **Domestic assaults; firearms.** (a) When a person is convicted of a violation
8.5 of this section or section 609.221, 609.222, 609.223, 609.224, or 609.2247, the court shall
8.6 determine and make written findings on the record as to whether:

8.7 (1) the assault was committed against a family or household member, as defined in
8.8 section 518B.01, subdivision 2;

8.9 (2) the defendant owns or possesses a firearm; and

8.10 (3) the firearm was used in any way during the commission of the assault.

8.11 (b) If the court determines that the assault was of a family or household member,
8.12 and that the offender owns or possesses a firearm and used it in any way during the
8.13 commission of the assault, it shall order that the firearm be summarily forfeited under
8.14 section 609.5316, subdivision 3.

8.15 (c) When a person is convicted of assaulting a family or household member and is
8.16 determined by the court to have used a firearm in any way during commission of the assault,
8.17 the court may order that the person is prohibited from possessing any type of firearm for
8.18 any period longer than three years or for the remainder of the person's life. A person who
8.19 violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the
8.20 court shall inform the defendant ~~whether~~ and for how long the defendant is prohibited from
8.21 possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure
8.22 of the court to provide this information to a defendant does not affect the applicability of
8.23 the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

8.24 (d) Except as otherwise provided in paragraph (c), when a person is convicted of a
8.25 violation of this section or section 609.224 and the court determines that the victim was a
8.26 family or household member, the court shall inform the defendant that the defendant is
8.27 prohibited from possessing a ~~pistol~~ firearm for three years from the date of conviction and
8.28 that it is a gross misdemeanor offense to violate this prohibition. The failure of the court
8.29 to provide this information to a defendant does not affect the applicability of the ~~pistol~~
8.30 firearm possession prohibition or the gross misdemeanor penalty to that defendant.

8.31 (e) Except as otherwise provided in paragraph (c), a person is not entitled to possess
8.32 a pistol if the person has been convicted after August 1, 1992, or a firearm if a person has
8.33 been convicted on or after the effective date of this act, of domestic assault under this
8.34 section or assault in the fifth degree under section 609.224 and the assault victim was a
8.35 family or household member as defined in section 518B.01, subdivision 2, unless three

9.1 years have elapsed from the date of conviction and, during that time, the person has not
9.2 been convicted of any other violation of this section or section 609.224. Property rights
9.3 may not be abated but access may be restricted by the courts. A person who possesses a
9.4 ~~pistol~~ firearm in violation of this paragraph is guilty of a gross misdemeanor.

9.5 (f) Except as otherwise provided in paragraphs (b) and (h), when a person is
9.6 convicted of a violation of this section or section 609.221, 609.222, 609.223, 609.224,
9.7 or 609.2247 and the court determines that the assault was against a family or household
9.8 member, the court shall order the abusing party to transfer any firearms that the person
9.9 possesses, within three business days, to a federally licensed firearms dealer, a law
9.10 enforcement agency, or a third party who may lawfully receive them. The transfer may
9.11 be permanent or temporary, unless the court prohibits the person from possessing a
9.12 firearm for the remainder of the person's life under paragraph (c). A temporary firearm
9.13 transfer only entitles the receiving party to possess the firearm. A temporary transfer
9.14 does not transfer ownership or title. An abusing party may not transfer firearms to a
9.15 third party who resides with the abusing party. If an abusing party makes a temporary
9.16 transfer, a federally licensed firearms dealer or law enforcement agency may charge the
9.17 abusing party a reasonable fee to store the person's firearms and may establish policies for
9.18 disposal of abandoned firearms, provided such policies require that the person be notified
9.19 by certified mail prior to disposal of abandoned firearms. For temporary firearms transfers
9.20 under this paragraph, a law enforcement agency, federally licensed firearms dealer, or
9.21 third party shall exercise due care to preserve the quality and function of the transferred
9.22 firearms and shall return the transferred firearms to the person upon request after the
9.23 expiration of the prohibiting time period imposed under this subdivision, provided the
9.24 person is not otherwise prohibited from possessing firearms under state or federal law.
9.25 The return of temporarily transferred firearms to an abusing party shall comply with state
9.26 and federal law. If an abusing party permanently transfers the abusing party's firearms to a
9.27 law enforcement agency, the agency is not required to compensate the abusing party and
9.28 may charge the abusing party a reasonable processing fee. The court shall order that the
9.29 person surrender all permits to carry and purchase firearms to the sheriff.

9.30 (g) An abusing party who is ordered to transfer firearms under paragraph (f) must
9.31 file proof of transfer as provided for in this paragraph. If the transfer is made to a third
9.32 party, the third party must sign an affidavit under oath before a notary public either
9.33 acknowledging that the abusing party permanently transferred the abusing party's firearms
9.34 to the third party or agreeing to temporarily store the abusing party's firearms until such
9.35 time as the abusing party is legally permitted to possess firearms. The affidavit shall
9.36 indicate the serial number, make, and model of all firearms transferred by the abusing

10.1 party to the third party. The third party shall acknowledge in the affidavit that the third
10.2 party may be held criminally and civilly responsible if the abusing party gains access to
10.3 the firearms while the firearms are in the custody of the third party. If the transfer is to a
10.4 law enforcement agency or federally licensed firearms dealer, the law enforcement agency
10.5 or federally licensed firearms dealer shall provide proof of transfer to the abusing party.
10.6 The proof of transfer must specify whether the firearms were permanently or temporarily
10.7 transferred and include the name of the abusing party, date of transfer, and the serial
10.8 number, make, and model of all transferred firearms. The abusing party shall provide the
10.9 court with a signed and notarized affidavit or proof of transfer as described in this section
10.10 within two business days of the firearms transfer. The court shall seal affidavits and proofs
10.11 of transfer filed pursuant to this paragraph.

10.12 (h) Prior to being released from custody, the court shall determine if the person poses
10.13 an imminent risk of causing another person substantial bodily harm. Upon a finding of
10.14 imminent risk, the court shall order that the local law enforcement agency take immediate
10.15 possession of all firearms in the person's possession. The local law enforcement agency
10.16 shall exercise due care to preserve the quality and function of the abusing party's firearms
10.17 and shall return the firearms to the person upon request after the expiration of the
10.18 prohibiting time period, provided the person is not otherwise prohibited from possessing
10.19 firearms under state or federal law. The local law enforcement agency shall, upon written
10.20 notice from the person, transfer the firearms to a federally licensed firearms dealer or
10.21 a third party who may lawfully receive them. Before a local law enforcement agency
10.22 transfers a firearm under this paragraph, the agency shall require the party receiving the
10.23 firearm to submit an affidavit that complies with the requirements for affidavits established
10.24 in paragraph (g). The agency shall file all affidavits received with the court. The court
10.25 shall seal all affidavits filed pursuant to this paragraph. A law enforcement agency may
10.26 establish policies for disposal of abandoned firearms, provided such policies require that
10.27 the person be notified via certified mail prior to disposal of abandoned firearms.

10.28 Sec. 4. Minnesota Statutes 2012, section 609.749, subdivision 8, is amended to read:

10.29 Subd. 8. **Stalking; firearms.** (a) When a person is convicted of a stalking crime
10.30 under this section and the court determines that the person used a firearm in any way
10.31 during commission of the crime, the court may order that the person is prohibited from
10.32 possessing any type of firearm for any period longer than three years or for the remainder
10.33 of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor.
10.34 At the time of the conviction, the court shall inform the defendant ~~whether~~ and for
10.35 how long the defendant is prohibited from possessing a firearm and that it is a gross

11.1 misdemeanor to violate this paragraph. The failure of the court to provide this information
11.2 to a defendant does not affect the applicability of the firearm possession prohibition or the
11.3 gross misdemeanor penalty to that defendant.

11.4 (b) Except as otherwise provided in paragraph (a), when a person is convicted of a
11.5 stalking crime under this section, the court shall inform the defendant that the defendant is
11.6 prohibited from possessing a ~~pistol~~ firearm for three years from the date of conviction and
11.7 that it is a gross misdemeanor offense to violate this prohibition. The failure of the court
11.8 to provide this information to a defendant does not affect the applicability of the ~~pistol~~
11.9 firearm possession prohibition or the gross misdemeanor penalty to that defendant.

11.10 (c) Except as otherwise provided in paragraph (a), a person is not entitled to possess
11.11 a pistol if the person has been convicted after August 1, 1996, of a stalking crime under
11.12 this section, or to possess a firearm if the person has been convicted on or after the
11.13 effective date of a stalking crime under this section, unless three years have elapsed from
11.14 the date of conviction and, during that time, the person has not been convicted of any other
11.15 violation of this section. Property rights may not be abated but access may be restricted
11.16 by the courts. A person who possesses a ~~pistol~~ firearm in violation of this paragraph is
11.17 guilty of a gross misdemeanor.

11.18 (d) If the court determines that a person convicted of a stalking crime under this
11.19 section owns or possesses a firearm and used it in any way during the commission of
11.20 the crime, it shall order that the firearm be summarily forfeited under section 609.5316,
11.21 subdivision 3.

11.22 (e) Except as otherwise provided in paragraphs (d) and (g), when a person is
11.23 convicted of a stalking crime under this section, the court shall order the abusing party to
11.24 transfer any firearms that the person possesses, within three business days, to a federally
11.25 licensed firearms dealer, a law enforcement agency, or a third party who may lawfully
11.26 receive them. The transfer may be permanent or temporary. A temporary firearm transfer
11.27 only entitles the receiving party to possess the firearm. A temporary transfer does not
11.28 transfer ownership or title. An abusing party may not transfer firearms to a third party
11.29 who resides with the abusing party. If an abusing party makes a temporary transfer, a
11.30 federally licensed firearms dealer or law enforcement agency may charge the abusing
11.31 party a reasonable fee to store the person's firearms and may establish policies for disposal
11.32 of abandoned firearms, provided such policies require that the person be notified via
11.33 certified mail prior to disposal of abandoned firearms. For temporary firearms transfers
11.34 under this paragraph, a law enforcement agency, federally licensed firearms dealer, or
11.35 third party shall exercise due care to preserve the quality and function of the transferred
11.36 firearms and shall return the transferred firearms to the person upon request after the

12.1 expiration of the prohibiting time period imposed under this subdivision, provided the
12.2 person is not otherwise prohibited from possessing firearms under state or federal law.
12.3 The return of temporarily transferred firearms to an abusing party shall comply with state
12.4 and federal law. If an abusing party permanently transfers the abusing party's firearms to a
12.5 law enforcement agency, the agency is not required to compensate the abusing party and
12.6 may charge the abusing party a reasonable processing fee. The court shall order that the
12.7 person surrender all permits to carry and purchase firearms to the sheriff.

12.8 (f) An abusing party who is ordered to transfer firearms under paragraph (e) must
12.9 file proof of transfer as provided for in this paragraph. If the transfer is made to a third
12.10 party, the third party must sign an affidavit under oath before a notary public either
12.11 acknowledging that the abusing party permanently transferred the abusing party's firearms
12.12 to the third party or agreeing to temporarily store the abusing party's firearms until such
12.13 time as the abusing party is legally permitted to possess firearms. The affidavit shall
12.14 indicate the serial number, make, and model of all firearms transferred by the abusing
12.15 party to the third party. The third party shall acknowledge in the affidavit that the third
12.16 party may be held criminally and civilly responsible if the abusing party gains access to
12.17 the firearms while the firearms are in the custody of the third party. If the transfer is to a
12.18 law enforcement agency or federally licensed firearms dealer, the law enforcement agency
12.19 or federally licensed firearms dealer shall provide proof of transfer to the abusing party.
12.20 The proof of transfer must specify whether the firearms were permanently or temporarily
12.21 transferred and include the name of the abusing party, date of transfer, and the serial
12.22 number, make, and model of all transferred firearms. The abusing party shall provide the
12.23 court with a signed and notarized affidavit or proof of transfer as described in this section
12.24 within two business days of the firearms transfer. The court shall seal affidavits and proofs
12.25 of transfer filed pursuant to this paragraph.

12.26 (g) Prior to being released from custody, the court shall determine if the person poses
12.27 an imminent risk of causing another person substantial bodily harm. Upon a finding of
12.28 imminent risk, the court shall order that the local law enforcement agency take immediate
12.29 possession of all firearms in the person's possession. The local law enforcement agency
12.30 shall exercise due care to preserve the quality and function of the abusing party's firearms
12.31 and shall return the firearms to the person upon request after the expiration of the
12.32 prohibiting time period, provided the person is not otherwise prohibited from possessing
12.33 firearms under state or federal law. The local law enforcement agency shall, upon written
12.34 notice from the person, transfer the firearms to a federally licensed firearms dealer or
12.35 a third party who may lawfully receive them. Before a local law enforcement agency
12.36 transfers a firearm under this paragraph, the agency shall require the party receiving the

13.1 firearm to submit an affidavit that complies with the requirements for affidavits established
13.2 in paragraph (f). The agency shall file all affidavits received with the court. The court
13.3 shall seal all affidavits filed pursuant to this paragraph. A law enforcement agency may
13.4 establish policies for disposal of abandoned firearms, provided such policies require that
13.5 the person be notified via certified mail prior to disposal of abandoned firearms.

13.6 Sec. 5. Minnesota Statutes 2012, section 624.713, subdivision 1, is amended to read:

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

13.10 (1) a person under the age of 18 years except that a person under 18 may carry or
13.11 possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence
13.12 or under the direct supervision of the person's parent or guardian, (ii) for the purpose
13.13 of military drill under the auspices of a legally recognized military organization and
13.14 under competent supervision, (iii) for the purpose of instruction, competition, or target
13.15 practice on a firing range approved by the chief of police or county sheriff in whose
13.16 jurisdiction the range is located and under direct supervision; or (iv) if the person has
13.17 successfully completed a course designed to teach marksmanship and safety with a pistol
13.18 or semiautomatic military-style assault weapon and approved by the commissioner of
13.19 natural resources;

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

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

13.30 (4) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or
13.31 gross misdemeanor violation of chapter 152, unless three years have elapsed since the
13.32 date of conviction and, during that time, the person has not been convicted of any other
13.33 such violation of chapter 152 or a similar law of another state; or a person who is or has
13.34 ever been committed by a judicial determination for treatment for the habitual use of a

14.1 controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the
14.2 person's ability to possess a firearm has been restored under subdivision 4;

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

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

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

14.17 (8) except as otherwise provided in clause (9), a person who has been convicted in
14.18 another state of committing an offense similar to the offense described in section 609.224,
14.19 subdivision 3, against a family or household member or section 609.2242, subdivision
14.20 3, unless three years have elapsed since the date of conviction and, during that time, the
14.21 person has not been convicted of any other violation of section 609.224, subdivision 3, or
14.22 609.2242, subdivision 3, or a similar law of another state;

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

14.27 (10) a person who:

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

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

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

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

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

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

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

15.5 (viii) is subject to an order for protection as described in section 518B.01,
15.6 subdivision 6, paragraph (g); ~~or~~

15.7 (11) a person who has been convicted of the following offenses at the gross
15.8 misdemeanor level, unless three years have elapsed since the date of conviction and, during
15.9 that time, the person has not been convicted of any other violation of these sections: section
15.10 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults
15.11 motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a
15.12 child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring
15.13 gun); 609.71 (riot); or 609.749 (stalking). For purposes of this paragraph, the specified
15.14 gross misdemeanor convictions include crimes committed in other states or jurisdictions
15.15 which would have been gross misdemeanors if conviction occurred in this state; or

15.16 (12) a person is disqualified from possessing a firearm under United States Code,
15.17 title 18, section 922(g)(8) or (9), as amended through March 1, 2014.

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

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

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

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

15.31 **Sec. 6. [624.7144] ALLOWING AN INELIGIBLE PERSON ACCESS TO**
15.32 **FIREARMS.**

15.33 A person who accepts a transferred firearm from an abusing party or offender
15.34 pursuant to section 260C.201, subdivision 3; section 518B.01, subdivision 6; section
15.35 609.2242, subdivision 3; or section 609.749, subdivision 8, is guilty of a gross

16.1 misdemeanor if the person required to transfer the firearm obtains possession of the
16.2 transferred firearm while the person is prohibited from possessing firearms. It is an
16.3 affirmative defense to a violation of this section that the third party who accepted the
16.4 transferred firearm took reasonable precautions to ensure that the person who transferred
16.5 the firearm could not access the firearm.