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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 28

01/10/2019 Authored by Carlson, A.; Klevorn; Stephenson; Her; Morrison and others
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to public safety; requiring criminal background checks for firearms
1.3 transfers; amending Minnesota Statutes 2018, sections 624.7131; 624.7132;
1.4 proposing coding for new law in Minnesota Statutes, chapter 624.

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

1.6 Section 1. Minnesota Statutes 2018, section 624.7131, is amended to read:

1.7 624.7131 TRANSFEREE PERMIT; PENALTY.

1.8 Subdivision 1. Information. Any person 21 years of age or older may apply for a
1.9 transferee permit by providing the following information in writing to the chief of police
1.10 of an organized full time police department of the municipality in which the person resides
1.11 or to the county sheriff if there is no such local chief of police:

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

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

1.16 (3) a statement that the proposed transferee authorizes the release to the local police
1.17 authority of commitment information about the proposed transferee maintained by the
1.18 commissioner of human services, to the extent that the information relates to the proposed
1.19 transferee's eligibility to possess a ~~pistol or semiautomatic military-style assault weapon~~
1.20 firearm under section 624.713, subdivision 1; and

2.1 (4) a statement by the proposed transferee that the proposed transferee is 21 years of
 2.2 age or older and is not prohibited by section 624.713 from possessing a pistol or
 2.3 semiautomatic military-style assault weapon firearm.

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

2.9 Subd. 2. **Investigation.** The chief of police or sheriff shall check criminal histories,
 2.10 records and warrant information relating to the applicant through the Minnesota Crime
 2.11 Information System, the national criminal record repository, and the National Instant Criminal
 2.12 Background Check System. The chief of police or sheriff shall also make a reasonable effort
 2.13 to check other available state and local record-keeping systems. The chief of police or sheriff
 2.14 shall obtain commitment information from the commissioner of human services as provided
 2.15 in section 245.041.

2.16 Subd. 3. **Forms.** Chiefs of police and sheriffs shall make transferee permit application
 2.17 forms available throughout the community. There shall be no charge for forms, reports,
 2.18 investigations, notifications, waivers or any other act performed or materials provided by
 2.19 a government employee or agency in connection with application for or issuance of a
 2.20 transferee permit.

2.21 Subd. 4. **Grounds for disqualification.** A determination by the chief of police or sheriff
 2.22 that the applicant is either: (1) prohibited by section 624.713 from possessing a pistol or
 2.23 semiautomatic military-style assault weapon or receiving a firearm; or (2) under 21 years
 2.24 of age shall be the only basis for refusal to grant a transferee permit.

2.25 Subd. 5. **Granting of permits.** (a) The chief of police or sheriff shall issue a transferee
 2.26 permit or deny the application within seven days of application for the permit.

2.27 (b) In the case of a denial, the chief of police or sheriff shall provide an applicant with
 2.28 written notification of a denial and the specific reason for the denial.

2.29 (c) The permits and their renewal shall be granted free of charge.

2.30 Subd. 6. **Permits valid statewide.** (a) A transferee permits permit issued pursuant to
 2.31 this section are is valid statewide for the transfer of a single firearm and shall expire
 2.32 immediately after one year. A transferee permit may be renewed in the same manner and
 2.33 subject to the same provisions by which the original permit was obtained, except that all

3.1 ~~renewed permits must comply with the standards adopted by the commissioner under section~~
3.2 ~~624.7151. either:~~

3.3 (1) the holder receives a firearm from a transferor, unless the transfer is excluded under
3.4 section 624.7134, subdivision 6; or

3.5 (2) 30 days have elapsed from the date the transferee permit was issued to the holder.

3.6 (b) Permits issued pursuant to this section are not transferable. A person who transfers
3.7 a permit in violation of this subdivision is guilty of a misdemeanor.

3.8 Subd. 7. **Permit voided.** The transferee permit shall be void at the time that the holder
3.9 becomes prohibited from possessing or receiving a pistol firearm under section 624.713, in
3.10 which event the holder shall return the permit within five days to the issuing authority.
3.11 Failure of the holder to return the permit within the five days is a misdemeanor unless the
3.12 court finds that the circumstances or the physical or mental condition of the permit holder
3.13 prevented the holder from complying with the return requirement.

3.14 Subd. 8. **Hearing upon denial.** Any person aggrieved by denial of a transferee permit
3.15 may appeal the denial to the district court having jurisdiction over the county or municipality
3.16 in which the denial occurred.

3.17 ~~Subd. 9. **Permit to carry.** A valid permit to carry issued pursuant to section 624.714~~
3.18 ~~constitutes a transferee permit for the purposes of this section and section 624.7132.~~

3.19 ~~Subd. 10. **Transfer report not required.** A person who transfers a pistol or~~
3.20 ~~semiautomatic military-style assault weapon to a person exhibiting a valid transferee permit~~
3.21 ~~issued pursuant to this section or a valid permit to carry issued pursuant to section 624.714~~
3.22 ~~is not required to file a transfer report pursuant to section 624.7132, subdivision 1.~~

3.23 Subd. 11. **Penalty.** A person who makes a false statement in order to obtain a transferee
3.24 permit knowing or having reason to know the statement is false is guilty of a ~~gross~~
3.25 ~~misdemeanor~~ felony.

3.26 Subd. 12. **Local regulation.** This section shall be construed to supersede municipal or
3.27 county regulation of the issuance of transferee permits.

3.28 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
3.29 committed on or after that date.

4.1 Sec. 2. Minnesota Statutes 2018, section 624.7132, is amended to read:

4.2 **624.7132 REPORT OF TRANSFER.**

4.3 Subdivision 1. **Required information.** Except as provided in this section and section
4.4 624.7131, every person who agrees to transfer a ~~pistol or semiautomatic military-style~~
4.5 ~~assault weapon~~ firearm shall report the following information in writing to the chief of
4.6 police of the organized full-time police department of the municipality where the proposed
4.7 transferee resides or to the appropriate county sheriff if there is no such local chief of police:

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

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

4.12 (3) a statement that the proposed transferee authorizes the release to the local police
4.13 authority of commitment information about the proposed transferee maintained by the
4.14 commissioner of human services, to the extent that the information relates to the proposed
4.15 transferee's eligibility to possess a ~~pistol or semiautomatic military-style assault weapon~~
4.16 firearm under section 624.713, subdivision 1;

4.17 (4) a statement by the proposed transferee that the transferee is not prohibited by section
4.18 624.713 from possessing a ~~pistol or semiautomatic military-style assault weapon~~ firearm;
4.19 and

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

4.21 The report shall be signed and dated by the transferor and the proposed transferee. The
4.22 report shall be delivered by the transferor to the chief of police or sheriff no later than three
4.23 days after the date of the agreement to transfer, excluding weekends and legal holidays.

4.24 The statement under clause (3) must comply with any applicable requirements of Code of
4.25 Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of
4.26 alcohol or drug abuse patient records.

4.27 Subd. 2. **Investigation.** Upon receipt of a transfer report, the chief of police or sheriff
4.28 shall check criminal histories, records and warrant information relating to the proposed
4.29 transferee through the Minnesota Crime Information System, the national criminal record
4.30 repository, and the National Instant Criminal Background Check System. The chief of police
4.31 or sheriff shall also make a reasonable effort to check other available state and local
4.32 record-keeping systems. The chief of police or sheriff shall obtain commitment information
4.33 from the commissioner of human services as provided in section 245.041.

5.1 Subd. 3. **Notification.** The chief of police or sheriff shall notify the transferor and
5.2 proposed transferee in writing as soon as possible if the chief or sheriff determines that the
5.3 proposed transferee is prohibited by section 624.713 from possessing a ~~pistol or~~
5.4 ~~semiautomatic military-style assault weapon~~ firearm. The notification to the transferee shall
5.5 specify the grounds for the disqualification of the proposed transferee and shall set forth in
5.6 detail the transferee's right of appeal under subdivision 13.

5.7 Subd. 4. **Delivery.** Except as otherwise provided in subdivision 7 or 8, no person shall
5.8 deliver a ~~pistol or semiautomatic military-style assault weapon~~ firearm to a proposed
5.9 transferee until five business days after the date the agreement to transfer is delivered to a
5.10 chief of police or sheriff in accordance with subdivision 1 unless the chief of police or sheriff
5.11 waives all or a portion of the seven-day waiting period. The chief of police or sheriff may
5.12 waive all or a portion of the five business day waiting period in writing if the chief of police
5.13 or sheriff finds that the transferee requires access to a ~~pistol or semiautomatic military-style~~
5.14 ~~assault weapon~~ firearm because of a threat to the life of the transferee or of any member of
5.15 the household of the transferee.

5.16 No person shall deliver a ~~pistol or semiautomatic military-style assault weapon~~ firearm
5.17 to a proposed transferee after receiving a written notification that the chief of police or
5.18 sheriff has determined that the proposed transferee is prohibited by section 624.713 from
5.19 possessing a ~~pistol or semiautomatic military-style assault weapon~~ firearm.

5.20 If the transferor makes a report of transfer and receives no written notification of
5.21 disqualification of the proposed transferee within five business days after delivery of the
5.22 agreement to transfer, the ~~pistol or semiautomatic military-style assault weapon~~ firearm
5.23 may be delivered to the transferee.

5.24 Subd. 5. **Grounds for disqualification.** A determination by the chief of police or sheriff
5.25 that the proposed transferee is prohibited by section 624.713 from possessing a ~~pistol or~~
5.26 ~~semiautomatic military-style assault weapon~~ firearm shall be the sole basis for a notification
5.27 of disqualification under this section.

5.28 ~~Subd. 6. **Transferee permit.** If a chief of police or sheriff determines that a transferee~~
5.29 ~~is not a person prohibited by section 624.713 from possessing a pistol or semiautomatic~~
5.30 ~~military-style assault weapon, the transferee may, within 30 days after the determination,~~
5.31 ~~apply to that chief of police or sheriff for a transferee permit, and the permit shall be issued.~~

5.32 Subd. 8. **Report not required.** If the proposed transferee presents a ~~valid transferee~~
5.33 ~~permit issued under section 624.7131 or a valid permit to carry issued under section 624.714,~~
5.34 the transferor need not file a transfer report.

6.1 Subd. 9. ~~Number of pistols or semiautomatic military-style assault weapons~~
 6.2 firearms. Any number of ~~pistols or semiautomatic military-style assault weapons~~ firearms
 6.3 may be the subject of a single transfer agreement and report to the chief of police or sheriff.
 6.4 Nothing in this section or section 624.7131 shall be construed to limit or restrict the number
 6.5 of ~~pistols or semiautomatic military-style assault weapons~~ firearms a person may acquire.

6.6 Subd. 10. **Restriction on records.** If, after a determination that the transferee is not a
 6.7 person prohibited by section 624.713 from possessing a ~~pistol or semiautomatic military-style~~
 6.8 ~~assault weapon~~ firearm, a transferee requests that no record be maintained of the fact of
 6.9 who is the transferee of a ~~pistol or semiautomatic military-style assault weapon~~ firearm, the
 6.10 chief of police or sheriff shall sign the transfer report and return it to the transferee as soon
 6.11 as possible. Thereafter, no government employee or agency shall maintain a record of the
 6.12 transfer that identifies the transferee, and the transferee shall retain the report of transfer.

6.13 Subd. 11. **Forms; cost.** Chiefs of police and sheriffs shall make transfer report forms
 6.14 available throughout the community. There shall be no charge for forms, reports,
 6.15 investigations, notifications, waivers or any other act performed or materials provided by
 6.16 a government employee or agency in connection with a transfer.

6.17 Subd. 12. **Exclusions.** Except as otherwise provided in section 609.66, subdivision 1f,
 6.18 this section shall not apply to transfers of antique firearms as curiosities or for their historical
 6.19 significance or value, transfers to or between federally licensed firearms dealers, transfers
 6.20 by order of court, involuntary transfers, transfers at death or the following transfers:

6.21 (1) a transfer by a person other than a federally licensed firearms dealer;

6.22 (2) a loan to a prospective transferee if the loan is intended for a period of no more than
 6.23 one day;

6.24 (3) the delivery of a ~~pistol or semiautomatic military-style assault weapon~~ firearm to a
 6.25 person for the purpose of repair, reconditioning or remodeling;

6.26 (4) a loan by a teacher to a student in a course designed to teach marksmanship or safety
 6.27 with a pistol and approved by the commissioner of natural resources;

6.28 (5) a loan between persons at a firearms collectors exhibition;

6.29 (6) a loan between persons lawfully engaged in hunting or target shooting if the loan is
 6.30 intended for a period of no more than 12 hours;

6.31 (7) a loan between law enforcement officers who have the power to make arrests other
 6.32 than citizen arrests; and

7.1 (8) a loan between employees or between the employer and an employee in a business
 7.2 if the employee is required to carry a ~~pistol or semiautomatic military-style assault weapon~~
 7.3 firearm by reason of employment and is the holder of a valid permit to carry a pistol.

7.4 Subd. 13. **Appeal.** A person aggrieved by the determination of a chief of police or sheriff
 7.5 that the person is prohibited by section 624.713 from possessing a ~~pistol or semiautomatic~~
 7.6 ~~military-style assault weapon~~ firearm may appeal the determination as provided in this
 7.7 subdivision. The district court shall have jurisdiction of proceedings under this subdivision.

7.8 On review pursuant to this subdivision, the court shall be limited to a determination of
 7.9 whether the proposed transferee is a person prohibited from possessing a ~~pistol or~~
 7.10 ~~semiautomatic military-style assault weapon~~ firearm by section 624.713.

7.11 Subd. ~~14. Transfer to unknown party.~~ (a) ~~No person shall transfer a pistol or~~
 7.12 ~~semiautomatic military-style assault weapon to another who is not personally known to the~~
 7.13 ~~transferor unless the proposed transferee presents evidence of identity to the transferor.~~

7.14 (b) ~~No person who is not personally known to the transferor shall become a transferee~~
 7.15 ~~of a pistol or semiautomatic military-style assault weapon unless the person presents evidence~~
 7.16 ~~of identity to the transferor.~~

7.17 (c) ~~The evidence of identity shall contain the name, residence address, date of birth, and~~
 7.18 ~~photograph of the proposed transferee; must be made or issued by or under the authority of~~
 7.19 ~~the United States government, a state, a political subdivision of a state, a foreign government,~~
 7.20 ~~a political subdivision of a foreign government, an international governmental or an~~
 7.21 ~~international quasi-governmental organization; and must be of a type commonly accepted~~
 7.22 ~~for the purpose of identification of individuals.~~

7.23 (d) ~~A person who becomes a transferee of a pistol or semiautomatic military-style assault~~
 7.24 ~~weapon in violation of this subdivision is guilty of a misdemeanor.~~

7.25 Subd. 15. **Penalties.** (a) Except as otherwise provided in paragraph (b), a person who
 7.26 does any of the following is guilty of a gross misdemeanor:

7.27 (1) transfers a ~~pistol or semiautomatic military-style assault weapon~~ firearm in violation
 7.28 of subdivisions 1 to 13;

7.29 (2) transfers a ~~pistol or semiautomatic military-style assault weapon~~ firearm to a person
 7.30 who has made a false statement in order to become a transferee, if the transferor knows or
 7.31 has reason to know the transferee has made the false statement;

7.32 (3) knowingly becomes a transferee in violation of subdivisions 1 to 13; or

8.1 (4) makes a false statement in order to become a transferee of a ~~pistol or semiautomatic~~
 8.2 ~~military-style assault weapon~~ firearm knowing or having reason to know the statement is
 8.3 false.

8.4 (b) A person who does either of the following is guilty of a felony:

8.5 (1) transfers a ~~pistol or semiautomatic military-style assault weapon~~ firearm to a person
 8.6 under the age of 18 in violation of subdivisions 1 to 13; or

8.7 (2) transfers a ~~pistol or semiautomatic military-style assault weapon~~ firearm to a person
 8.8 under the age of 18 who has made a false statement in order to become a transferee, if the
 8.9 transferor knows or has reason to know the transferee has made the false statement.

8.10 Subd. 16. **Local regulation.** This section shall be construed to supersede municipal or
 8.11 county regulation of the transfer of ~~pistols~~ firearms.

8.12 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
 8.13 committed on or after that date.

8.14 Sec. 3. **[624.7134] PRIVATE PARTY TRANSFERS; BACKGROUND CHECK**
 8.15 **REQUIRED.**

8.16 **Subdivision 1. Definitions.** (a) As used in this section, the following terms have the
 8.17 meanings provided in this subdivision.

8.18 (b) "Firearms dealer" means a person who is licensed by the United States Department
 8.19 of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, under United States Code,
 8.20 title 18, section 923(a).

8.21 (c) "State or federally issued identification" means a document or card made or issued
 8.22 by or under the authority of the United States government or the state that contains the
 8.23 person's name, residence address, date of birth, and photograph and is of a type commonly
 8.24 accepted for the purpose of identification of individuals.

8.25 (d) "Relative" means a spouse, parent, stepparent, child, stepchild, brother, sister, aunt,
 8.26 uncle, grandparent, or grandchild by blood or marriage.

8.27 Subd. 2. **Background check and evidence of identity.** A person who is not a firearms
 8.28 dealer is prohibited from transferring possession or ownership of a firearm to any other
 8.29 person who is not a firearms dealer, unless the transferee presents a valid transferee permit
 8.30 issued under section 624.7131 and a current state or federally issued identification.

8.31 Subd. 3. **Record of transfer; required information.** (a) When two parties complete
 8.32 the transfer of a firearm under subdivision 2, the transferor and transferee must complete a

9.1 record of transfer on a form designed and made publicly available without fee for this
9.2 purpose by the superintendent of the Bureau of Criminal Apprehension. Each page of the
9.3 record of transfer must be signed and dated by the transferor and the transferee and contain
9.4 the serial number of the firearm.

9.5 (b) The record of transfer must contain the following information:

9.6 (1) a clear photocopy of each person's current state or federally issued identification;

9.7 (2) a clear photocopy of the transferee permit presented by the transferee; and

9.8 (3) a signed statement by the transferee swearing that the transferee is not currently
9.9 prohibited by state or federal law from possessing a firearm.

9.10 (c) The record of transfer must also contain the following information regarding the
9.11 transferred firearm:

9.12 (1) the type of firearm;

9.13 (2) the manufacturer, make, and model of the firearm; and

9.14 (3) the firearm's manufacturer-assigned serial number.

9.15 (d) Both the transferor and the transferee must retain a copy of the record of transfer
9.16 and any attachments to the record of transfer.

9.17 **Subd. 4. Compulsory production of a record of transfer; gross misdemeanor**

9.18 **penalty.** (a) The transferor and transferee of a firearm transferred under this section must
9.19 produce the record of transfer when a peace officer requests the record as part of a criminal
9.20 investigation.

9.21 (b) A person who refuses or is unable to produce a record of transfer for a firearm
9.22 transferred under this section in response to a request for production made by a peace officer
9.23 pursuant to paragraph (a) is guilty of a gross misdemeanor. A prosecution or conviction for
9.24 violation of this subdivision is not a bar to conviction of, or punishment for, any other crime
9.25 committed involving the transferred firearm.

9.26 **Subd. 5. Immunity.** A person is immune to a charge of violating this section if the person
9.27 presents a record of transfer that satisfies the requirements of subdivision 3.

9.28 **Subd. 6. Exclusions.** (a) This section shall not apply to the following transfers:

9.29 (1) a transfer by or to a federally licensed firearms dealer;

9.30 (2) a transfer by or to any law enforcement agency;

10.1 (3) to the extent the transferee is acting within the course and scope of employment and
10.2 official duties, a transfer to:

10.3 (i) a peace officer, as defined in section 626.84, subdivision 1, paragraph (c);

10.4 (ii) a member of the armed forces of the United States, the National Guard, or the
10.5 Reserves of the United States armed forces;

10.6 (iii) a federal law enforcement officer; or

10.7 (iv) a security guard employed by a protective agent licensed pursuant to chapter 326;

10.8 (4) a transfer between immediate family members, which for the purposes of this section
10.9 means spouses, domestic partners, parents, children, siblings, grandparents, and
10.10 grandchildren;

10.11 (5) a transfer to an executor, administrator, trustee, or personal representative of an estate
10.12 or a trust that occurs by operation of law upon the death of the former owner of the firearm;

10.13 (6) a transfer of an antique firearm as defined in section 624.712, subdivision 3;

10.14 (7) a transfer of a curio or relic, as defined in Code of Federal Regulations, title 27,
10.15 section 478.11, if the transfer is between collectors of firearms as curios or relics as defined
10.16 by United States Code, title 18, section 921(a)(13), who each have in their possession a
10.17 valid collector of curio and relics license issued by the United States Department of Justice,
10.18 Bureau of Alcohol, Tobacco, Firearms and Explosives;

10.19 (8) the temporary transfer of a firearm if:

10.20 (i) the transfer is necessary to prevent imminent death or great bodily harm; and

10.21 (ii) the person's possession lasts only as long as immediately necessary to prevent such
10.22 imminent death or great bodily harm; and

10.23 (9) a temporary transfer if the transferee's possession of the firearm following the transfer
10.24 is only:

10.25 (i) at a shooting range that operates in compliance with the performance standards under
10.26 chapter 87A or is a nonconforming use under section 87A.03, subdivision 2, or, if compliance
10.27 is not required by the governing body of the jurisdiction, at an established shooting range
10.28 operated consistently with local law in the jurisdiction;

10.29 (ii) at a lawfully organized competition involving the use of a firearm, or while
10.30 participating in or practicing for a performance by an organized group that uses firearms as
10.31 part of the performance;

11.1 (iii) while hunting or trapping if the hunting or trapping is legal in all places where the
11.2 transferee possesses the firearm and the transferee holds all licenses or permits required for
11.3 hunting or trapping; or

11.4 (iv) while in the actual presence of the transferor.

11.5 (b) A transfer under this subdivision is permitted only if the transferor has no reason to
11.6 believe:

11.7 (1) that the transferee is prohibited by federal law from buying or possessing firearms
11.8 or not entitled under state law to possess firearms;

11.9 (2) if the transferee is under 21 years of age and is receiving the firearm under direct
11.10 supervision and control of an adult, that the adult is prohibited by federal law from buying
11.11 or possessing firearms or not entitled under state law to possess firearms; or

11.12 (3) that the transferee will use or intends to use the firearm in the commission of a crime.

11.13 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
11.14 committed on or after that date.