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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 4358

03/11/2020 Authored by Lesch The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

1.1 A bill for an act
1.2 relating to public safety; expressly prohibiting civilly committed sex offenders
1.3 from possessing firearms; amending Minnesota Statutes 2018, section 624.713,
1.4 subdivision 4; Minnesota Statutes 2019 Supplement, section 624.713, subdivision
1.5 1.

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

1.7 Section 1. Minnesota Statutes 2019 Supplement, section 624.713, subdivision 1, is amended
1.8 to read:

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

1.12 (1) a person under the age of 18 years except that a person under 18 may possess
1.13 ammunition designed for use in a firearm that the person may lawfully possess and may
1.14 carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual
1.15 presence or under the direct supervision of the person's parent or guardian, (ii) for the
1.16 purpose of military drill under the auspices of a legally recognized military organization
1.17 and under competent supervision, (iii) for the purpose of instruction, competition, or target
1.18 practice on a firing range approved by the chief of police or county sheriff in whose
1.19 jurisdiction the range is located and under direct supervision; or (iv) if the person has
1.20 successfully completed a course designed to teach marksmanship and safety with a pistol
1.21 or semiautomatic military-style assault weapon and approved by the commissioner of natural
1.22 resources;

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

2.6 (3) a person who is or has ever been committed in Minnesota or elsewhere by a judicial
2.7 determination that the person is mentally ill, developmentally disabled, or mentally ill and
2.8 dangerous to the public, as defined in section 253B.02, to a treatment facility, or who has
2.9 ever been found incompetent to stand trial or not guilty by reason of mental illness, unless
2.10 the person's ability to possess a firearm and ammunition has been restored under subdivision
2.11 4;

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

2.19 (5) a person who has been committed to a treatment facility in Minnesota or elsewhere
2.20 by a judicial determination that the person is chemically dependent as defined in section
2.21 253B.02, unless the person has completed treatment or the person's ability to possess a
2.22 firearm and ammunition has been restored under subdivision 4. Property rights may not be
2.23 abated but access may be restricted by the courts;

2.24 (6) a peace officer who is informally admitted to a treatment facility pursuant to section
2.25 253B.04 for chemical dependency, unless the officer possesses a certificate from the head
2.26 of the treatment facility discharging or provisionally discharging the officer from the
2.27 treatment facility. Property rights may not be abated but access may be restricted by the
2.28 courts;

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

2.33 (8) except as otherwise provided in clause (9), a person who has been convicted in
2.34 another state of committing an offense similar to the offense described in section 609.224,

3.1 subdivision 3, against a family or household member or section 609.2242, subdivision 3,
3.2 unless three years have elapsed since the date of conviction and, during that time, the person
3.3 has not been convicted of any other violation of section 609.224, subdivision 3, or 609.2242,
3.4 subdivision 3, or a similar law of another state;

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

3.9 (10) a person who:

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

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

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

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

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

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

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

3.23 (viii) is disqualified from possessing a firearm under United States Code, title 18, section
3.24 922(g)(8) or (9), as amended through March 1, 2014;

3.25 (11) a person who has been convicted of the following offenses at the gross misdemeanor
3.26 level, unless three years have elapsed since the date of conviction and, during that time, the
3.27 person has not been convicted of any other violation of these sections: section 609.229
3.28 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults motivated
3.29 by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a child);
3.30 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring gun); 609.71
3.31 (riot); or 609.749 (harassment or stalking). For purposes of this paragraph, the specified

4.1 gross misdemeanor convictions include crimes committed in other states or jurisdictions
 4.2 which would have been gross misdemeanors if conviction occurred in this state;

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

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

4.10 (14) a person who has been committed to a treatment facility in Minnesota or elsewhere
 4.11 by a judicial determination that the person is a sexually dangerous person or a person with
 4.12 a sexual psychopathic personality, unless the person's ability to possess a firearm and
 4.13 ammunition has been restored under subdivision 4.

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

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

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

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

4.27 Sec. 2. Minnesota Statutes 2018, section 624.713, subdivision 4, is amended to read:

4.28 Subd. 4. **Restoration of firearms and ammunition eligibility to civilly committed**
 4.29 **person; petition authorized.** (a) A person who is prohibited from possessing a firearm or
 4.30 ammunition under subdivision 1, due to commitment resulting from a judicial determination
 4.31 that the person is mentally ill, developmentally disabled, mentally ill and dangerous, or
 4.32 chemically dependent, or is a sexually dangerous person or a person with a sexual

5.1 psychopathic personality, may petition a court to restore the person's ability to possess a
5.2 firearm or ammunition.

5.3 (b) The court may grant the relief sought in paragraph (a) in accordance with the
5.4 principles of due process if the circumstances regarding the person's disqualifying condition
5.5 and the person's record and reputation are determined to be such that:

5.6 (1) the person is not likely to act in a manner that is dangerous to public safety; and

5.7 (2) the granting of relief would not be contrary to the public interest.

5.8 (c) When determining whether a person has met the requirement of paragraph (b), clause
5.9 (1), the court may consider evidence from a licensed medical doctor or clinical psychologist
5.10 that the person is no longer suffering from the disease or condition that caused the disability
5.11 or that the disease or condition has been successfully treated for a period of three consecutive
5.12 years.

5.13 (d) Review on appeal shall be de novo.