

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1325
Version: As introduced

DATE: March 8, 2013

Authors: Hilstrom

Subject: Firearms

Analyst: Jeff Diebel

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd/.

Overview

This bill contains a variety of initiatives intended to keep firearms out of the hands of persons who are mentally ill or prohibited from possessing firearms.

Section

- 1 Fingerprints of inmates, parolees, and probationers from other states.** Directs the Commissioner of Corrections to transfer fingerprint records of offenders transferred to the custody of the commissioner from another state to the Bureau of Criminal Apprehension (BCA) or National Instant Criminal Background Check System (NICS) by electronic entry within 24 hours of receiving the fingerprints. If the BCA receives data under this section in non-electronic format, the commissioner must convert that record into electronic format for entry into the appropriate searchable databases within 72 hours of receiving the record.
- 2 Provision of firearms and explosives background check information.** Current law, since 1994, has directed the Commissioner of Human Services (MnDHS) to electronically provide mental health commitment information on individuals to the Minnesota Crime Information System (MnCIS) maintained by the Minnesota BCA for use by local law enforcement agencies in performing background checks on applicants for *a permit-to-purchase* a pistol or semi-automatic military style assault weapon (i.e., a *SAMSAW*) or *a permit-to-carry* a pistol in Minnesota.

This provision of the bill broadens that requirement by directing that the commissioner of DHS must also provide such information to the *NICS* being maintained by the FBI for the purpose of background checks on all firearms purchasers nationally. Under the bill, the commissioner must, by August 1, 2013, transfer to both of these agencies all mental health commitment information in its possession dating to August 1, 1994, the original effective date of the statute.

Section

- 3 **Transmittal of data to National Instant Criminal Background Check System.** Directs a court to submit a mental health adjudication to NICS within 24 hours of issuing the ruling if it affects a mentally ill person's right to possess firearms.
- 4 **Information received by bureau.** Requires the BCA to convert any "hard copy" data it receives from criminal justice agencies into electronic format for entry into the appropriate searchable databases within 72 hours of receiving the records.
- 5 **Required fingerprinting.** Compels local law enforcement agencies to submit electronic fingerprint records to state and/or federal searchable databases within 24 hours of taking the fingerprints.
- 6 **Bureau duty.** Directs the BCA to convert paper records of fingerprints, thumbprints, and other identification data into electronic format within 72 hours of receiving the data.
- 7 **Identification data other than DNA.** Directs the BCA to enter alias data for persons listed in the BCA's offender database within 72 hours of the BCA becoming aware of the new identifying data.
- 8 **Information on released prisoner.** Directs sheriffs and the Commissioner of Corrections to enter specified data about soon-to-be-released offenders into either a bureau-managed offender database or a federal searchable database. This transfer must occur within 24 hours of the offender's release.
- 9 **Report by court administrator.** Authorizes the superintendent of the BCA to require the court administrator to provide the BCA with the sentence for each felony and gross misdemeanor case within 24 hours of disposition of the case.
- 10 **Data entry.** Imposes the requirement on local law enforcement agencies to submit criminal records electronically to CIBRS within 24 hours of collecting or receiving the records.
- 11 **Violent felons in possession; violation and penalty; mandatory sentences.** Establishes mandatory minimum sentences for felons who are subsequently convicted for illegally possessing firearms.
- 12 **Lost or stolen firearms; false reporting.** Establishes the offense of falsely reporting the loss or theft of a firearm as a gross misdemeanor. Establishes a felony level offense for a subsequent violation or if the offender knows that the firearm that is falsely reported as missing will be used in a felony crime of violence.
- 13 **Crime of violence.** Amends the definition of crime of violence to include violations of felony fifth degree assault, felony domestic assault, domestic assault by strangulation, falsely reporting lost or stolen firearms, transferring firearms to an ineligible person, and repeat unlawful possession of firearms by juveniles. A person convicted of a crime of violence is ineligible to possess firearms for the remainder of his life.
- 14 **Ammunition.** Defines "ammunition" for purposes of the gun control chapter (624).

Section

- 15 Ineligible persons.** Bars those who are not eligible to possess firearms from possessing ammunition. Prevents citizens who are ordered committed for mental illness from possessing firearms and ammunition even if the commitment order was stayed. Eliminates the list of disqualifying events and replaces the list with a cross-reference to the federal statute that defines those who are ineligible to possess firearms.
- 16 Penalties; mandatory sentences.** Establishes mandatory minimum sentences for felons who are subsequently convicted for illegally possessing firearms.
- 17 Prompt reporting of disqualifying mental health data.** Requires a court that civilly commits a person or adjudicates a mentally ill person in a manner that disqualifies the person from possessing firearms to notify the Department of Public Safety (DPS). DPS is required to report the information to the FBI for inclusion in NICS. Requires the court to provide notice to the person of their firearms disqualification.
- 18 Provision of firearms background check information.** Minnesota Statutes, section 624.713, prohibits certain persons from possessing firearms. Federal law—Title 18 U.S.C. § 921 (a to g, and n)—similarly (but not identically) prohibits certain categories of persons from possessing and using firearms.

This section of the bill proposes new a new subdivision directing the courts to notify the NICS whenever the court places a person (adult or juvenile), who is charged with committing a crime of violence, into a *pretrial diversion program* before disposition. The court must notify NICS of both the person's placement and the ordered expiration date of the program, and when the person completes the program the court must notify NICS of that fact in a timely manner. Minnesota Statutes prohibit such person from possessing firearms until successfully completing the pretrial diversion program.

The bill also directs the court to notify NICS of any gross misdemeanor conviction that disqualifies the person from possessing firearms, including the expiration date of that disqualification. If notice is provided for a disqualification based solely on a charge, the court must provide notice of the disposition of the case to the FBI.

- 19 Restoration of firearms eligibility to civilly committed person; petition authorized.** Establishes new procedures for formerly civilly committed persons to restore their firearms rights.

Para. (a). Authorizes a formerly civilly committed citizen to petition a court to have his/her firearms rights restored.

Para. (b). Specifies the issues and evidence that the court should consider in evaluating a petition filed pursuant to paragraph (a). Directs the court to grant the petition if the petitioner establishes by a preponderance of the evidence that the petitioner is not likely to act in a manner that is dangerous to public safety and that granting the petition would not be contrary to the public interest.

Para. (c). Directs the court to notify DPS when it grants a petition under paragraph (a) so that background check data can be updated to reflect the petitioner's restored

Section

firearms rights.

- 20** **Felony.** Expands the circumstances that warrant a felony conviction for transferring a firearm to an ineligible person to cases where the “transferor knows the transferee intends to use the weapon in the furtherance of a felony crime of violence.”
- 21** **Subsequent eligibility.** Conforming changes needed to reflect amendments proposed in section 20.
- 22** **Crimes against licensed firearms dealers.**
- Subd. 1. Definitions.** Defines “licensed dealer,” “private seller,” “ammunition,” and “materially false information” for purposes of this section.
- Subd. 2. Crime.**
- Para. (a).** Establishes the following acts as felonies:
- (1) Knowingly soliciting, persuading, encouraging, or enticing a licensed dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances which the person knows would violate the laws of this state or the United States; or
- (2) Provides to a licensed dealer or private seller of firearms or ammunition what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition.
- Para. (b).** A person who willfully procures another to engage in conduct prohibited by this section shall be held responsible as a principal.
- Subd. 3. Exception.** Does not apply to law enforcement officers or their agents if working within the scope of their duties.
- 23** **Prior civil commitments and felony convictions.** Establishes a September 1, 2013, deadline for courts and criminal justice agencies to enter data on civil commitments and felony convictions from 2008 to 2012, if those records have not already been submitted to the appropriate searchable databases.
- 24** **Criminal and juvenile justice information policy group.** Directs the criminal and juvenile justice information policy group to submit a report to the legislature recommending how to improve the search capabilities of BCA managed databases. The group shall also report on the progress of reducing the number of files in suspense. The group shall also consult with the Revisor on other statutory changes needed to implement this bill and the group’s legislative recommendations.
- 25** **Repealer.** Repeals current language that establishes procedures for the mentally ill to restore their firearms rights. The language was replaced by section 19.