

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 235

(SENATE AUTHORS: LATZ, Dibble and Champion)

DATE	D-PG	OFFICIAL STATUS
02/04/2013	140	Introduction and first reading Referred to Judiciary
02/18/2013	285	Author stricken Ortman
03/18/2013	1123a	Comm report: To pass as amended and re-refer to Finance
	1129	Rule 12.10: report of votes in committee
05/14/2013	3659a	Comm report: To pass as amended
	3680	Second reading

1.1 A bill for an act
 1.2 relating to public safety; requiring timely transmittal of law enforcement, court,
 1.3 and civil commitment data to certain state and federal searchable databases;
 1.4 amending Minnesota Statutes 2012, sections 241.301; 253B.24; 299C.10,
 1.5 subdivisions 1, 3; 299C.11, subdivision 1; 299C.14; 299C.17; 624.713,
 1.6 subdivision 3, by adding a subdivision.

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

1.8 Section 1. Minnesota Statutes 2012, section 241.301, is amended to read:

1.9 **241.301 FINGERPRINTS OF INMATES, PAROLEES, AND PROBATIONERS**
 1.10 **FROM OTHER STATES.**

1.11 The commissioner of corrections shall establish procedures so that whenever this
 1.12 state receives an inmate, parolee, or probationer from another state under sections 241.28
 1.13 to 241.30 or 243.1605, fingerprints and thumbprints of the inmate, parolee, or probationer
 1.14 are obtained and forwarded to the ~~Bureau of Criminal Apprehension~~ by electronic entry
 1.15 into a Bureau of Criminal Apprehension-managed searchable database within 24 hours
 1.16 of receipt. The bureau shall convert the fingerprints and thumbprints into an electronic
 1.17 format for entry into the searchable database within three business days of receipt if the
 1.18 data is not entered by the commissioner.

1.19 Sec. 2. Minnesota Statutes 2012, section 253B.24, is amended to read:

1.20 **253B.24 TRANSMITTAL OF DATA TO NATIONAL INSTANT CRIMINAL**
 1.21 **BACKGROUND CHECK SYSTEM.**

1.22 When a court:

1.23 (1) commits a person under this chapter as being mentally ill, developmentally
 1.24 disabled, mentally ill and dangerous, or chemically dependent;

2.1 (2) determines in a criminal case that a person is incompetent to stand trial or not
2.2 guilty by reason of mental illness; or

2.3 (3) restores a person's ability to possess a firearm under section 609.165, subdivision
2.4 1d, or 624.713, subdivision 4,

2.5 the court shall ensure that this information is electronically transmitted ~~as soon as~~
2.6 ~~practicable~~ within three business days to the National Instant Criminal Background
2.7 Check System.

2.8 Sec. 3. Minnesota Statutes 2012, section 299C.10, subdivision 1, is amended to read:

2.9 Subdivision 1. **Required fingerprinting.** (a) Sheriffs, peace officers, and
2.10 community corrections agencies operating secure juvenile detention facilities shall take
2.11 or cause to be taken immediately finger and thumb prints, photographs, distinctive
2.12 physical mark identification data, information on any known aliases or street names, and
2.13 other identification data requested or required by the superintendent of the bureau, of
2.14 the following:

2.15 (1) persons arrested for, appearing in court on a charge of, or convicted of a felony,
2.16 gross misdemeanor, or targeted misdemeanor;

2.17 (2) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent
2.18 for, or alleged to have committed felonies or gross misdemeanors as distinguished from
2.19 those committed by adult offenders;

2.20 (3) adults and juveniles admitted to jails or detention facilities;

2.21 (4) persons reasonably believed by the arresting officer to be fugitives from justice;

2.22 (5) persons in whose possession, when arrested, are found concealed firearms or
2.23 other dangerous weapons, burglar tools or outfits, high-power explosives, or articles,
2.24 machines, or appliances usable for an unlawful purpose and reasonably believed by the
2.25 arresting officer to be intended for such purposes;

2.26 (6) juveniles referred by a law enforcement agency to a diversion program for a
2.27 felony or gross misdemeanor offense; and

2.28 (7) persons currently involved in the criminal justice process, on probation, on
2.29 parole, or in custody for any offense whom the superintendent of the bureau identifies as
2.30 being the subject of a court disposition record which cannot be linked to an arrest record,
2.31 and whose fingerprints are necessary to reduce the number of suspense files, or to comply
2.32 with the mandates of section 299C.111, relating to the reduction of the number of suspense
2.33 files. This duty to obtain fingerprints for the offenses in suspense at the request of the
2.34 bureau shall include the requirement that fingerprints be taken in post-arrest interviews,

3.1 while making court appearances, while in custody, or while on any form of probation,
 3.2 diversion, or supervised release.

3.3 (b) Unless the superintendent of the bureau requires a shorter period, within 24
 3.4 hours of taking the fingerprints and data, the fingerprint records and other identification
 3.5 data specified under paragraph (a) must be ~~forwarded to the bureau on such forms and in~~
 3.6 ~~such~~ electronically entered into a bureau-managed searchable database in a manner as
 3.7 may be prescribed by the superintendent.

3.8 (c) Prosecutors, courts, and probation officers and their agents, employees, and
 3.9 subordinates shall attempt to ensure that the required identification data is taken on a
 3.10 person described in paragraph (a). Law enforcement may take fingerprints of an individual
 3.11 who is presently on probation.

3.12 (d) Finger and thumb prints must be obtained no later than:

3.13 (1) release from booking; or

3.14 (2) if not booked prior to acceptance of a plea of guilty or not guilty.

3.15 Prior to acceptance of a plea of guilty or not guilty, an individual's finger and thumb
 3.16 prints must be submitted to the Bureau of Criminal Apprehension for the offense. If finger
 3.17 and thumb prints have not been successfully received by the bureau, an individual may,
 3.18 upon order of the court, be taken into custody for no more than eight hours so that the
 3.19 taking of prints can be completed. Upon notice and motion of the prosecuting attorney,
 3.20 this time period may be extended upon a showing that additional time in custody is
 3.21 essential for the successful taking of prints.

3.22 (e) For purposes of this section, a targeted misdemeanor is a misdemeanor violation
 3.23 of section 169A.20 (driving while impaired), 518B.01 (order for protection violation),
 3.24 609.224 (fifth-degree assault), 609.2242 (domestic assault), 609.746 (interference with
 3.25 privacy), 609.748 (harassment or restraining order violation), 617.23 (indecent exposure),
 3.26 or 629.75 (domestic abuse no contact order).

3.27 Sec. 4. Minnesota Statutes 2012, section 299C.10, subdivision 3, is amended to read:

3.28 Subd. 3. **Bureau duty.** The bureau must ~~enter~~ convert into an electronic format for
 3.29 entry in the criminal records system ~~finger and thumb prints~~ fingerprints, thumbprints,
 3.30 and other identification data within ~~five working days~~ three business days after they are
 3.31 received under this section if the fingerprints, thumbprints, and other identification data
 3.32 were not electronically entered by a criminal justice agency.

3.33 Sec. 5. Minnesota Statutes 2012, section 299C.11, subdivision 1, is amended to read:

4.1 Subdivision 1. **Identification data other than DNA.** (a) Each sheriff and chief of
4.2 police shall furnish the bureau, upon such form as the superintendent shall prescribe, with
4.3 such finger and thumb prints, photographs, distinctive physical mark identification data,
4.4 information on known aliases and street names, and other identification data as may be
4.5 requested or required by the superintendent of the bureau, which must be taken under the
4.6 provisions of section 299C.10. In addition, sheriffs and chiefs of police shall furnish this
4.7 identification data to the bureau for individuals found to have been convicted of a felony,
4.8 gross misdemeanor, or targeted misdemeanor, within the ten years immediately preceding
4.9 their arrest. When the bureau learns that an individual who is the subject of a background
4.10 check has used, or is using, identifying information, including, but not limited to, name
4.11 and date of birth, other than those listed on the criminal history, the bureau ~~may add~~ shall
4.12 convert into an electronic format, if necessary, and enter into a bureau-managed searchable
4.13 database the new identifying information to the criminal history when supported by
4.14 fingerprints within three business days of learning the information if the information is
4.15 not entered by a law enforcement agency.

4.16 (b) No petition under chapter 609A is required if the person has not been convicted
4.17 of any felony or gross misdemeanor, either within or without the state, within the period
4.18 of ten years immediately preceding the determination of all pending criminal actions or
4.19 proceedings in favor of the arrested person, and either of the following occurred:

- 4.20 (1) all charges were dismissed prior to a determination of probable cause; or
4.21 (2) the prosecuting authority declined to file any charges and a grand jury did not
4.22 return an indictment.

4.23 Where these conditions are met, the bureau or agency shall, upon demand, return to
4.24 the arrested person finger and thumb prints, photographs, distinctive physical mark
4.25 identification data, information on known aliases and street names, and other identification
4.26 data, and all copies and duplicates of them.

4.27 (c) Except as otherwise provided in paragraph (b), upon the determination of all
4.28 pending criminal actions or proceedings in favor of the arrested person, and the granting
4.29 of the petition of the arrested person under chapter 609A, the bureau shall seal finger and
4.30 thumb prints, photographs, distinctive physical mark identification data, information on
4.31 known aliases and street names, and other identification data, and all copies and duplicates
4.32 of them if the arrested person has not been convicted of any felony or gross misdemeanor,
4.33 either within or without the state, within the period of ten years immediately preceding
4.34 such determination.

5.1 Sec. 6. Minnesota Statutes 2012, section 299C.14, is amended to read:

5.2 **299C.14 INFORMATION ON RELEASED PRISONER.**

5.3 It shall be the duty of the officials having charge of the penal institutions of the state
5.4 or the release of prisoners therefrom to furnish to the bureau, as the superintendent may
5.5 require, finger and thumb prints, photographs, distinctive physical mark identification
5.6 data, other identification data, modus operandi reports, and criminal records of prisoners
5.7 heretofore, now, or hereafter confined in such penal institutions, together with the period
5.8 of their service and the time, terms, and conditions of their discharge. This duty to furnish
5.9 information includes, but is not limited to, requests for fingerprints as the superintendent of
5.10 the bureau deems necessary to maintain and ensure the accuracy of the bureau's criminal
5.11 history files, to reduce the number of suspense files, or to comply with the mandates
5.12 of section 299C.111 relating to the reduction of the number of suspense files where a
5.13 disposition record is received that cannot be linked to an arrest record. The officials shall
5.14 electronically enter the information in a bureau-managed searchable database within 24
5.15 hours of a prisoner's date of release or discharge. The bureau shall convert the information
5.16 into an electronic format and enter it into the searchable database within three business
5.17 days of the date of receipt, if the information is not entered by the officials.

5.18 Sec. 7. Minnesota Statutes 2012, section 299C.17, is amended to read:

5.19 **299C.17 REPORT BY COURT ADMINISTRATOR.**

5.20 The superintendent shall ~~have power to~~ require the court administrator ~~of any~~
5.21 ~~county of every court which sentences a defendant for a felony, gross misdemeanor, or~~
5.22 ~~targeted misdemeanor to file with the department, at such time as the superintendent may~~
5.23 ~~designate,~~ electronically transmit within 24 hours of the disposition of the case a report,
5.24 upon such in a form as prescribed by the superintendent may prescribe, furnishing such
5.25 providing information as the required by the superintendent may require with regard to
5.26 the prosecution and disposition of criminal cases. A copy of the report shall be kept on
5.27 file in the office of the court administrator.

5.28 Sec. 8. Minnesota Statutes 2012, section 624.713, subdivision 3, is amended to read:

5.29 Subd. 3. **Notice.** (a) When a person is convicted of, or adjudicated delinquent or
5.30 convicted as an extended jurisdiction juvenile for committing, a crime of violence as
5.31 defined in section 624.712, subdivision 5, the court shall inform the defendant that the
5.32 defendant is prohibited from possessing a pistol or semiautomatic military-style assault
5.33 weapon for the remainder of the person's lifetime, and that it is a felony offense to violate
5.34 this prohibition. The failure of the court to provide this information to a defendant does

6.1 not affect the applicability of the pistol or semiautomatic military-style assault weapon
6.2 possession prohibition or the felony penalty to that defendant.

6.3 (b) When a person, including a person under the jurisdiction of the juvenile court, is
6.4 charged with committing a crime of violence and is placed in a pretrial diversion program
6.5 by the court before disposition, the court shall inform the defendant that: (1) the defendant
6.6 is prohibited from possessing a pistol or semiautomatic military-style assault weapon
6.7 until the person has completed the diversion program and the charge of committing a
6.8 crime of violence has been dismissed; (2) it is a gross misdemeanor offense to violate this
6.9 prohibition; and (3) if the defendant violates this condition of participation in the diversion
6.10 program, the charge of committing a crime of violence may be prosecuted. The failure of
6.11 the court to provide this information to a defendant does not affect the applicability of the
6.12 pistol or semiautomatic military-style assault weapon possession prohibition or the gross
6.13 misdemeanor penalty to that defendant.

6.14 (c) A court shall notify a person subject to subdivision 1, clause (3), of the
6.15 prohibitions described in that clause and those described in United States Code, title 18,
6.16 sections 922(d)(4) and 922(g)(4).

6.17 **EFFECTIVE DATE.** This section is effective August 1, 2013.

6.18 Sec. 9. Minnesota Statutes 2012, section 624.713, is amended by adding a subdivision
6.19 to read:

6.20 **Subd. 5. Provision of firearms background check information.** (a) When a
6.21 court places a person, including a person under the jurisdiction of the juvenile court, who
6.22 is charged with committing a crime of violence into a pretrial diversion program before
6.23 disposition, the court must ensure that information regarding the person's placement in
6.24 that program and the ordered expiration date of that placement is transmitted as soon as
6.25 practicable to the National Instant Criminal Background Check System. When a person
6.26 successfully completes or discontinues the program, the prosecuting attorney must also
6.27 report that fact within 24 hours of receipt to the National Instant Criminal Background
6.28 Check System.

6.29 (b) The court must report the conviction and duration of the firearms disqualification
6.30 imposed as soon as practicable to the National Instant Criminal Background Check
6.31 System when a person is convicted of a gross misdemeanor that disqualifies the person
6.32 from possessing firearms under the following sections:

6.33 (1) 518B.01, subdivision 14;

6.34 (2) 609.224, subdivision 3;

6.35 (3) 609.2242, subdivision 3;

- 7.1 (4) 609.749, subdivision 8;
 7.2 (5) 624.713, subdivision 1, clause (11); or
 7.3 (6) 629.715, subdivision 2.

7.4 (c) If the court reports a firearms disqualification based on a charge of violating an
 7.5 offense listed in paragraph (b), the court must provide notice of the disposition of the charge
 7.6 to the National Instant Criminal Background Check System within three business days.

7.7 **EFFECTIVE DATE.** This section is effective August 1, 2013.

7.8 Sec. 10. **PRIOR CIVIL COMMITMENTS AND FELONY CONVICTIONS.**

7.9 (a) By September 1, 2013, a court shall electronically enter into the National Instant
 7.10 Criminal Background Check System information on all persons civilly committed during
 7.11 the period from January 1, 1994, to September 28, 2010, that has not already been entered
 7.12 in the system.

7.13 (b) By September 1, 2013, courts and law enforcement agencies shall electronically
 7.14 enter into a Bureau of Criminal Apprehension-managed database information on all
 7.15 persons convicted in a Minnesota court of a felony during the years 2008 to 2012 that has
 7.16 not already been entered into a searchable database. The bureau shall convert into an
 7.17 electronic format and enter into the searchable database, within three business days of
 7.18 receipt of the data, all data received from a court or law enforcement agency that is not
 7.19 entered by the court or agency into a bureau-managed searchable database.

7.20 (c) The governor or commissioner of public safety may extend the time for entering
 7.21 information of prior civil commitments and felony convictions under paragraphs (a) and
 7.22 (b) for a period not to exceed 60 days for good cause shown.

7.23 Sec. 11. **CRIMINAL AND JUVENILE JUSTICE INFORMATION POLICY**
 7.24 **GROUP.**

7.25 The Criminal and Juvenile Justice Information Policy Group shall report to the chairs
 7.26 and ranking minority members of the house of representatives and senate committees
 7.27 having jurisdiction over criminal justice policy and funding by January 1, 2014, on the
 7.28 search capabilities of the Bureau of Criminal Apprehension-managed databases and
 7.29 recommend how the search capabilities of the databases may be improved with, among
 7.30 other proposals, an increase in the number of identification data for each person included
 7.31 in the databases. The group shall also report on the progress made on reducing the number
 7.32 of bureau suspense files and recommendations to facilitate the reduction of these files. The
 7.33 group, in consultation with the revisor of statutes, shall review existing law relating to the

- 8.1 timely transmittal and entry of data and propose legislation for the 2014 legislative session
- 8.2 that clarifies, conforms, implements, and resolves any conflicts with this act.