

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 64

(SENATE AUTHORS: GOODWIN)

DATE	D-PG	OFFICIAL STATUS
01/22/2013	77	Introduction and first reading Referred to Judiciary
02/14/2013	240	Withdrawn and returned to author

A bill for an act

relating to public safety; permitting violent felons to petition the Board of Pardons to have their ability to possess a firearm restored; amending Minnesota Statutes 2012, sections 242.31, subdivision 2a; 260B.245, subdivision 1; 609.165, subdivisions 1a, 1b; 609A.03, subdivision 5a; 609B.611; 624.713, subdivision 2; 638.02, subdivision 1, by adding subdivisions; 638.07; repealing Minnesota Statutes 2012, section 609.165, subdivision 1d.

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

Section 1. Minnesota Statutes 2012, section 242.31, subdivision 2a, is amended to read:

Subd. 2a. **Crimes of violence; ineligibility to possess firearms.** The order of discharge must provide that a person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, is not entitled to ship, transport, possess, or receive a firearm for the remainder of the person's lifetime. Any person who has received such a discharge and who thereafter has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms has been restored under section ~~609.165, subdivision 1d~~ 638.02, subdivision 2a, shall not be subject to the restrictions of this subdivision.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2012, section 260B.245, subdivision 1, is amended to read:

Subdivision 1. **Effect.** (a) No adjudication upon the status of any child in the jurisdiction of the juvenile court shall operate to impose any of the civil disabilities imposed by conviction, nor shall any child be deemed a criminal by reason of this adjudication, nor shall this adjudication be deemed a conviction of crime, except as otherwise provided in this section or section 260B.255. An extended jurisdiction juvenile

2.1 conviction shall be treated in the same manner as an adult felony criminal conviction for
2.2 purposes of the Sentencing Guidelines. The disposition of the child or any evidence given
2.3 by the child in the juvenile court shall not be admissible as evidence against the child in
2.4 any case or proceeding in any other court, except that an adjudication may later be used to
2.5 determine a proper sentence, nor shall the disposition or evidence disqualify the child in
2.6 any future civil service examination, appointment, or application.

2.7 (b) A person who was adjudicated delinquent for, or convicted as an extended
2.8 jurisdiction juvenile of, a crime of violence as defined in section 624.712, subdivision 5, is
2.9 not entitled to ship, transport, possess, or receive a firearm for the remainder of the person's
2.10 lifetime. A person who has received a relief of disability under United States Code, title 18,
2.11 section 925, or whose ability to possess firearms has been restored under section ~~609.165,~~
2.12 ~~subdivision 1d~~ 638.02, subdivision 2a, is not subject to the restrictions of this subdivision.

2.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.14 Sec. 3. Minnesota Statutes 2012, section 609.165, subdivision 1a, is amended to read:

2.15 Subd. 1a. **Certain convicted felons ineligible to possess firearms.** The order of
2.16 discharge must provide that a person who has been convicted of a crime of violence, as
2.17 defined in section 624.712, subdivision 5, is not entitled to ship, transport, possess, or
2.18 receive a firearm for the remainder of the person's lifetime. Any person who has received
2.19 such a discharge and who thereafter has received a relief of disability under United States
2.20 Code, title 18, section 925, or whose ability to possess firearms has been restored under
2.21 ~~subdivision 1d~~ section 638.02, subdivision 2a, shall not be subject to the restrictions
2.22 of this subdivision.

2.23 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.24 Sec. 4. Minnesota Statutes 2012, section 609.165, subdivision 1b, is amended to read:

2.25 Subd. 1b. **Violation and penalty.** (a) Any person who has been convicted of a
2.26 crime of violence, as defined in section 624.712, subdivision 5, and who ships, transports,
2.27 possesses, or receives a firearm, commits a felony and may be sentenced to imprisonment
2.28 for not more than 15 years or to payment of a fine of not more than \$30,000, or both.

2.29 (b) A conviction and sentencing under this section shall be construed to bar a
2.30 conviction and sentencing for a violation of section 624.713, subdivision 2.

2.31 (c) The criminal penalty in paragraph (a) does not apply to any person who has
2.32 received a relief of disability under United States Code, title 18, section 925, or whose

3.1 ability to possess firearms has been restored under ~~subdivision 1d~~ section 638.02,
 3.2 subdivision 2a.

3.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.4 Sec. 5. Minnesota Statutes 2012, section 609A.03, subdivision 5a, is amended to read:

3.5 Subd. 5a. **Order concerning crimes of violence; firearms restriction.** An order
 3.6 expunging the record of a conviction for a crime of violence as defined in section 624.712,
 3.7 subdivision 5, must provide that the person is not entitled to ship, transport, possess, or
 3.8 receive a firearm for the remainder of the person's lifetime. Any person whose record of
 3.9 conviction is expunged under this section and who thereafter receives a relief of disability
 3.10 under United States Code, title 18, section 925, or whose ability to possess firearms has
 3.11 been restored under section ~~609.165, subdivision 1d~~ 638.02, subdivision 2a, is not subject
 3.12 to the restriction in this subdivision.

3.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.14 Sec. 6. Minnesota Statutes 2012, section 609B.611, is amended to read:

3.15 **609B.611 CRIME OF VIOLENCE; INELIGIBILITY TO POSSESS**
 3.16 **FIREARMS; RESTORATION OF CIVIL RIGHTS.**

3.17 (a) Under section 242.31, a person convicted of a crime of violence is not entitled to
 3.18 ship, transport, possess, or receive a firearm for the remainder of the person's lifetime,
 3.19 even after the person's civil rights have been restored, unless the exception under United
 3.20 States Code, title 18, section 925, or section ~~609.165, subdivision 1d~~ 638.02, subdivision
 3.21 2a, applies.

3.22 (b) Under section 609.165, subdivision 1a, a person convicted of a crime of violence
 3.23 is not entitled to ship, transport, possess, or receive a firearm for the remainder of the
 3.24 person's lifetime, even after the person's civil rights have been restored.

3.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.26 Sec. 7. Minnesota Statutes 2012, section 624.713, subdivision 2, is amended to read:

3.27 Subd. 2. **Penalties.** (a) A person named in subdivision 1, clause (1), who possesses
 3.28 a pistol or semiautomatic military-style assault weapon is guilty of a felony and may
 3.29 be sentenced to imprisonment for not more than five years or to payment of a fine of
 3.30 not more than \$10,000, or both.

4.1 (b) A person named in subdivision 1, clause (2), who possesses any type of firearm
 4.2 is guilty of a felony and may be sentenced to imprisonment for not more than 15 years or
 4.3 to payment of a fine of not more than \$30,000, or both. This paragraph does not apply
 4.4 to any person who has received a relief of disability under United States Code, title 18,
 4.5 section 925, or whose ability to possess firearms has been restored under section ~~609.165,~~
 4.6 ~~subdivision 1d~~ 638.02, subdivision 2a.

4.7 (c) A person named in any other clause of subdivision 1 who possesses any type of
 4.8 firearm is guilty of a gross misdemeanor.

4.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.10 Sec. 8. Minnesota Statutes 2012, section 638.02, subdivision 1, is amended to read:

4.11 Subdivision 1. **Absolute or conditional pardons; commutation of sentences.** The
 4.12 Board of Pardons may grant an absolute or a conditional pardon, but every conditional
 4.13 pardon shall state the terms and conditions on which it was granted. Every pardon,
 4.14 restoration of firearm rights, or commutation of sentence shall be in writing and shall have
 4.15 no force or effect unless granted by a unanimous vote of the board duly convened.

4.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.17 Sec. 9. Minnesota Statutes 2012, section 638.02, is amended by adding a subdivision
 4.18 to read:

4.19 Subd. 2a. **Application for restoration of firearm rights.** A person prohibited by
 4.20 state law from shipping, transporting, possessing, or receiving a firearm because of a
 4.21 conviction or a delinquency adjudication for committing a crime of violence, and who
 4.22 meets the filing and time requirements of subdivision 2, may file an application for relief
 4.23 with the Board of Pardons to restore the person's ability to possess, receive, ship, or
 4.24 transport firearms and otherwise deal with firearms.

4.25 The Board of Pardons may grant the relief sought if the board determines that the
 4.26 person is of good character and reputation and shows good cause to do so. The application
 4.27 for a restoration of firearm rights, the proceedings to review an application, and the notice
 4.28 requirements are governed by the statutes and the rules of the board in respect to other
 4.29 proceedings before the board. The application shall contain any further information that
 4.30 the board may require.

4.31 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.1 Sec. 10. Minnesota Statutes 2012, section 638.02, is amended by adding a subdivision
5.2 to read:

5.3 Subd. 3a. **Restoration of firearm rights; filing; copies sent.** Upon restoring
5.4 a person's firearm rights, the Board of Pardons shall file a copy of its order and the
5.5 restoration with the district court of the county in which the conviction occurred, and the
5.6 court shall order the person's firearm rights to be fully restored and include a copy of the
5.7 restoration from the Board of Pardons in the court file. The court shall send a copy of its
5.8 order and the restoration to the Bureau of Criminal Apprehension.

5.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.10 Sec. 11. Minnesota Statutes 2012, section 638.07, is amended to read:

5.11 **638.07 RECORDS; SECRETARY.**

5.12 The Board of Pardons shall keep a record of every petition received, and of every
5.13 pardon, reprieve, restoration of firearm rights, or commutation of sentence granted or
5.14 refused, and the reasons assigned therefor, and shall have a seal, with which every pardon,
5.15 reprieve, restoration of firearm rights, or commutation of sentence shall be attested. It
5.16 may adopt such additional necessary and proper rules as are not inconsistent herewith.
5.17 The commissioner of corrections or a designee shall be the secretary of the board. The
5.18 commissioner shall have charge of and keep its records and perform such other duties as
5.19 the board may from time to time direct. The commissioner is hereby authorized and
5.20 empowered to serve subpoenas and other writs or processes necessary to return parole
5.21 violators to prison, and to bring before the board witnesses to be heard in matters pending
5.22 before it. The records and all the files shall be kept and preserved by the secretary, and
5.23 shall be open to public inspection at all reasonable times.

5.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.25 Sec. 12. **RESTORATION OF ABILITY TO POSSESS FIREARM; PENDING.**

5.26 All petitions filed for relief under Minnesota Statutes 2012, section 609.165,
5.27 subdivision 1d, that are pending and have not received a final judgment, shall be dismissed
5.28 and any filing fees shall be refunded to the petitioner.

5.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.30 Sec. 13. **REPEALER.**

5.31 Minnesota Statutes 2012, section 609.165, subdivision 1d, is repealed.

6.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

APPENDIX
Repealed Minnesota Statutes: 13-0690

609.165 RESTORATION OF CIVIL RIGHTS; POSSESSION OF FIREARMS.

Subd. 1d. **Judicial restoration of ability to possess firearm by felon.** A person prohibited by state law from shipping, transporting, possessing, or receiving a firearm because of a conviction or a delinquency adjudication for committing a crime of violence may petition a court to restore the person's ability to possess, receive, ship, or transport firearms and otherwise deal with firearms.

The court may grant the relief sought if the person shows good cause to do so and the person has been released from physical confinement.

If a petition is denied, the person may not file another petition until three years have elapsed without the permission of the court.