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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2462

03/13/2019 Authored by Scott, Neu, Jurgens, Robbins, Demuth 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; providing for enforcement of judicially ordered firearms
1.3 restrictions for abusing parties; amending Minnesota Statutes 2018, sections
1.4 260C.201, subdivision 3; 518B.01, subdivision 6; 609.2242, subdivision 3; 609.749,
1.5 subdivision 8.

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

1.7 Section 1. Minnesota Statutes 2018, section 260C.201, subdivision 3, is amended to read:

1.8 Subd. 3. Domestic child abuse. (a) If the court finds that the child is a victim of domestic
1.9 child abuse, as defined in section 260C.007, subdivision 13, it may order any of the following
1.10 dispositions of the case in addition to or as alternatives to the dispositions authorized under
1.11 subdivision 1:

1.12 (1) restrain any party from committing acts of domestic child abuse;

1.13 (2) exclude the abusing party from the dwelling which the family or household members
1.14 share or from the residence of the child;

1.15 (3) on the same basis as is provided in chapter 518, establish temporary visitation with
1.16 regard to minor children of the adult family or household members;

1.17 (4) on the same basis as is provided in chapter 518 or 518A, establish temporary support
1.18 or maintenance for a period of 30 days for minor children or a spouse;

1.19 (5) provide counseling or other social services for the family or household members; or

1.20 (6) order the abusing party to participate in treatment or counseling services.

1.21 Any relief granted by the order for protection shall be for a fixed period not to exceed
1.22 one year.

2.1 (b) No order excluding the abusing party from the dwelling may be issued unless the
2.2 court finds that:

2.3 (1) the order is in the best interests of the child or children remaining in the dwelling;

2.4 (2) a remaining adult family or household member is able to care adequately for the
2.5 child or children in the absence of the excluded party; and

2.6 (3) the local welfare agency has developed a plan to provide appropriate social services
2.7 to the remaining family or household members.

2.8 (c) Upon a finding that the remaining parent is able to care adequately for the child and
2.9 enforce an order excluding the abusing party from the home and that the provision of
2.10 supportive services by the responsible social services agency is no longer necessary, the
2.11 responsible social services agency may be dismissed as a party to the proceedings. Orders
2.12 entered regarding the abusing party remain in full force and effect and may be renewed by
2.13 the remaining parent as necessary for the continued protection of the child for specified
2.14 periods of time, not to exceed one year.

2.15 (d) An order granting relief that was issued after a hearing of which the abusing party
2.16 received actual notice and at which the abusing party had the opportunity to participate,
2.17 shall prohibit the abusing party from possessing firearms for the length the order is in effect
2.18 if the order (1) restrains the abusing party from harassing, stalking, or threatening the child
2.19 or restrains the abusing party from engaging in other conduct that would place the child in
2.20 reasonable fear of bodily injury, and (2) includes a finding that the abusing party represents
2.21 a credible threat to the physical safety of the child or prohibits the abusing party from using,
2.22 attempting to use, or threatening to use physical force against the child. The order shall
2.23 inform the abusing party of that party's prohibited status. Except as provided in paragraph
2.24 (f), the court shall order the abusing party to transfer any firearms that the person possesses,
2.25 within three business days, to a federally licensed firearms dealer, a law enforcement agency,
2.26 or a third party who may lawfully receive them. The transfer may be permanent or temporary.
2.27 A temporary firearm transfer only entitles the receiving party to possess the firearm. A
2.28 temporary transfer does not transfer ownership or title. An abusing party may not transfer
2.29 firearms to a third party who resides with the abusing party. If an abusing party makes a
2.30 temporary transfer, a federally licensed firearms dealer or law enforcement agency may
2.31 charge the abusing party a reasonable fee to store the person's firearms and may establish
2.32 policies for disposal of abandoned firearms, provided such policies require that the person
2.33 be notified via certified mail prior to disposal of abandoned firearms. For temporary firearms
2.34 transfers under this paragraph, a law enforcement agency, federally licensed firearms dealer,

3.1 or third party shall exercise due care to preserve the quality and function of the transferred
3.2 firearms and shall return the transferred firearms to the person upon request after the
3.3 expiration of the prohibiting time period, provided the person is not otherwise prohibited
3.4 from possessing firearms under state or federal law. The return of temporarily transferred
3.5 firearms to an abusing party shall comply with state and federal law. If an abusing party
3.6 permanently transfers the abusing party's firearms to a law enforcement agency, the agency
3.7 is not required to compensate the abusing party and may charge the abusing party a
3.8 reasonable processing fee. A law enforcement agency is not required to accept an abusing
3.9 party's firearm under this paragraph.

3.10 (e) An abusing party who is ordered to transfer firearms under paragraph (d) must file
3.11 proof of transfer as provided for in this paragraph. If the transfer is made to a third party,
3.12 the third party must sign an affidavit under oath before a notary public either acknowledging
3.13 that the abusing party permanently transferred the abusing party's firearms to the third party
3.14 or agreeing to temporarily store the abusing party's firearms until such time as the abusing
3.15 party is legally permitted to possess firearms. The affidavit shall indicate the serial number,
3.16 make, and model of all firearms transferred by the abusing party to the third party. The third
3.17 party shall acknowledge in the affidavit that the third party may be held criminally and
3.18 civilly responsible under section 624.7144 if the abusing party gains access to a transferred
3.19 firearm while the firearm is in the custody of the third party. If the transfer is to a law
3.20 enforcement agency or federally licensed firearms dealer, the law enforcement agency or
3.21 federally licensed firearms dealer shall provide proof of transfer to the abusing party. The
3.22 proof of transfer must specify whether the firearms were permanently or temporarily
3.23 transferred and include the name of the abusing party, date of transfer, and the serial number,
3.24 make, and model of all transferred firearms. The abusing party shall provide the court with
3.25 a signed and notarized affidavit or proof of transfer as described in this section within two
3.26 business days of the firearms transfer. The court shall seal affidavits and proofs of transfer
3.27 filed pursuant to this paragraph.

3.28 (f) When a court issues an order containing a firearms restriction provided for in
3.29 paragraph (d), the court shall determine by a preponderance of evidence if an abusing party
3.30 poses an imminent risk of causing another person substantial bodily harm. Upon a finding
3.31 of imminent risk, the court shall order that the local law enforcement agency take immediate
3.32 possession of all firearms in the abusing party's possession. The local law enforcement
3.33 agency shall exercise due care to preserve the quality and function of the abusing party's
3.34 firearms and shall return the firearms to the person upon request after the expiration of the
3.35 prohibiting time period, provided the person is not otherwise prohibited from possessing

4.1 firearms under state or federal law. The local law enforcement agency shall, upon written
 4.2 notice from the abusing party, transfer the firearms to a federally licensed firearms dealer
 4.3 or a third party who may lawfully receive them. Before a local law enforcement agency
 4.4 transfers a firearm under this paragraph, the agency shall require the third party or federally
 4.5 licensed firearms dealer receiving the firearm to submit an affidavit or proof of transfer that
 4.6 complies with the requirements for affidavits or proofs of transfer established in paragraph
 4.7 (e). The agency shall file all affidavits or proofs of transfer received with the court within
 4.8 two business days of the transfer. The court shall seal all affidavits or proofs of transfer
 4.9 filed pursuant to this paragraph. A federally licensed firearms dealer or third party who
 4.10 accepts a firearm transfer pursuant to this paragraph shall comply with paragraphs (d) and
 4.11 (e) as if accepting transfer from the abusing party. If the law enforcement agency does not
 4.12 receive written notice from the abusing party within three business days, the agency may
 4.13 charge a reasonable fee to store the abusing party's firearms. A law enforcement agency
 4.14 may establish policies for disposal of abandoned firearms, provided such policies require
 4.15 that the abusing party be notified via certified mail prior to disposal of abandoned firearms.

4.16 (g) The court shall ensure that all firearms have been transferred and all proofs of transfer
 4.17 submitted as required by paragraphs (d), (e), and (f), by scheduling and holding a compliance
 4.18 hearing within ten business days of issuing an order containing a firearms restriction. If, at
 4.19 the hearing, the court finds that the abusing party is not in compliance, the court shall take
 4.20 appropriate action under the circumstances, including but not limited to a contempt
 4.21 proceeding under section 588.01, subdivision 3.

4.22 Sec. 2. Minnesota Statutes 2018, section 518B.01, subdivision 6, is amended to read:

4.23 Subd. 6. **Relief by court.** (a) Upon notice and hearing, the court may provide relief as
 4.24 follows:

4.25 (1) restrain the abusing party from committing acts of domestic abuse;

4.26 (2) exclude the abusing party from the dwelling which the parties share or from the
 4.27 residence of the petitioner;

4.28 (3) exclude the abusing party from a reasonable area surrounding the dwelling or
 4.29 residence, which area shall be described specifically in the order;

4.30 (4) award temporary custody or establish temporary parenting time with regard to minor
 4.31 children of the parties on a basis which gives primary consideration to the safety of the
 4.32 victim and the children. In addition to the primary safety considerations, the court may
 4.33 consider particular best interest factors that are found to be relevant to the temporary custody

5.1 and parenting time award. Findings under section 257.025, 518.17, or 518.175 are not
5.2 required with respect to the particular best interest factors not considered by the court. If
5.3 the court finds that the safety of the victim or the children will be jeopardized by unsupervised
5.4 or unrestricted parenting time, the court shall condition or restrict parenting time as to time,
5.5 place, duration, or supervision, or deny parenting time entirely, as needed to guard the safety
5.6 of the victim and the children. The court's decision on custody and parenting time shall in
5.7 no way delay the issuance of an order for protection granting other relief provided for in
5.8 this section. The court must not enter a parenting plan under section 518.1705 as part of an
5.9 action for an order for protection;

5.10 (5) on the same basis as is provided in chapter 518 or 518A, establish temporary support
5.11 for minor children or a spouse, and order the withholding of support from the income of
5.12 the person obligated to pay the support according to chapter 518A;

5.13 (6) provide upon request of the petitioner counseling or other social services for the
5.14 parties, if married, or if there are minor children;

5.15 (7) order the abusing party to participate in treatment or counseling services, including
5.16 requiring the abusing party to successfully complete a domestic abuse counseling program
5.17 or educational program under section 518B.02;

5.18 (8) award temporary use and possession of property and restrain one or both parties from
5.19 transferring, encumbering, concealing, or disposing of property except in the usual course
5.20 of business or for the necessities of life, and to account to the court for all such transfers,
5.21 encumbrances, dispositions, and expenditures made after the order is served or communicated
5.22 to the party restrained in open court;

5.23 (9) exclude the abusing party from the place of employment of the petitioner, or otherwise
5.24 limit access to the petitioner by the abusing party at the petitioner's place of employment;

5.25 (10) order the abusing party to have no contact with the petitioner whether in person,
5.26 by telephone, mail, or electronic mail or messaging, through a third party, or by any other
5.27 means;

5.28 (11) order the abusing party to pay restitution to the petitioner;

5.29 (12) order the continuance of all currently available insurance coverage without change
5.30 in coverage or beneficiary designation;

5.31 (13) order, in its discretion, other relief as it deems necessary for the protection of a
5.32 family or household member, including orders or directives to the sheriff or other law
5.33 enforcement or corrections officer as provided by this section;

6.1 (14) direct the care, possession, or control of a pet or companion animal owned,
6.2 possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent;
6.3 and

6.4 (15) direct the respondent to refrain from physically abusing or injuring any pet or
6.5 companion animal, without legal justification, known to be owned, possessed, kept, or held
6.6 by either party or a minor child residing in the residence or household of either party as an
6.7 indirect means of intentionally threatening the safety of such person.

6.8 (b) Any relief granted by the order for protection shall be for a period not to exceed two
6.9 years, except when the court determines a longer period is appropriate. When a referee
6.10 presides at the hearing on the petition, the order granting relief becomes effective upon the
6.11 referee's signature.

6.12 (c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated
6.13 or modified in a proceeding for dissolution of marriage or legal separation, except that the
6.14 court may hear a motion for modification of an order for protection concurrently with a
6.15 proceeding for dissolution of marriage upon notice of motion and motion. The notice required
6.16 by court rule shall not be waived. If the proceedings are consolidated and the motion to
6.17 modify is granted, a separate order for modification of an order for protection shall be issued.

6.18 (d) An order granting the relief authorized in paragraph (a), clause (2) or (3), is not
6.19 voided by the admittance of the abusing party into the dwelling from which the abusing
6.20 party is excluded.

6.21 (e) If a proceeding for dissolution of marriage or legal separation is pending between
6.22 the parties, the court shall provide a copy of the order for protection to the court with
6.23 jurisdiction over the dissolution or separation proceeding for inclusion in its file.

6.24 (f) An order for restitution issued under this subdivision is enforceable as civil judgment.

6.25 (g) An order granting relief shall prohibit the abusing party from possessing firearms
6.26 for the length the order is in effect if the order (1) restrains the abusing party from harassing,
6.27 stalking, or threatening the petitioner or restrains the abusing party from engaging in other
6.28 conduct that would place the petitioner in reasonable fear of bodily injury, and (2) includes
6.29 a finding that the abusing party represents a credible threat to the physical safety of the
6.30 petitioner or prohibits the abusing party from using, attempting to use, or threatening to use
6.31 physical force against the petitioner. The order shall inform the abusing party of that party's
6.32 prohibited status. Except as provided in paragraph (i), the court shall order the abusing party
6.33 to transfer any firearms that the person possesses, within three business days, to a federally
6.34 licensed firearms dealer, a law enforcement agency, or a third party who may lawfully

7.1 receive them. The transfer may be permanent or temporary. A temporary firearm transfer
7.2 only entitles the receiving party to possess the firearm. A temporary transfer does not transfer
7.3 ownership or title. An abusing party may not transfer firearms to a third party who resides
7.4 with the abusing party. If an abusing party makes a temporary transfer, a federally licensed
7.5 firearms dealer or law enforcement agency may charge the abusing party a reasonable fee
7.6 to store the person's firearms and may establish policies for disposal of abandoned firearms,
7.7 provided such policies require that the person be notified via certified mail prior to disposal
7.8 of abandoned firearms. For temporary firearms transfers under this paragraph, a law
7.9 enforcement agency, federally licensed firearms dealer, or third party shall exercise due
7.10 care to preserve the quality and function of the transferred firearms and shall return the
7.11 transferred firearms to the person upon request after the expiration of the prohibiting time
7.12 period, provided the person is not otherwise prohibited from possessing firearms under state
7.13 or federal law. The return of temporarily transferred firearms to an abusing party shall
7.14 comply with state and federal law. If an abusing party permanently transfers the abusing
7.15 party's firearms to a law enforcement agency, the agency is not required to compensate the
7.16 abusing party and may charge the abusing party a reasonable processing fee. A law
7.17 enforcement agency is not required to accept an abusing party's firearm under this paragraph.

7.18 (h) An abusing party who is ordered to transfer firearms under paragraph (g) must file
7.19 proof of transfer as provided for in this paragraph. If the transfer is made to a third party,
7.20 the third party must sign an affidavit under oath before a notary public either acknowledging
7.21 that the abusing party permanently transferred the abusing party's firearms to the third party
7.22 or agreeing to temporarily store the abusing party's firearms until such time as the abusing
7.23 party is legally permitted to possess firearms. The affidavit shall indicate the serial number,
7.24 make, and model of all firearms transferred by the abusing party to the third party. The third
7.25 party shall acknowledge in the affidavit that the third party may be held criminally and
7.26 civilly responsible under section 624.7144 if the abusing party gains access to a transferred
7.27 firearm while the firearm is in the custody of the third party. If the transfer is to a law
7.28 enforcement agency or federally licensed firearms dealer, the law enforcement agency or
7.29 federally licensed firearms dealer shall provide proof of transfer to the abusing party. The
7.30 proof of transfer must specify whether the firearms were permanently or temporarily
7.31 transferred and include the name of the abusing party, date of transfer, and the serial number,
7.32 make, and model of all transferred firearms. The abusing party shall provide the court with
7.33 a signed and notarized affidavit or proof of transfer as described in this section within two
7.34 business days of the firearms transfer. The court shall seal affidavits and proofs of transfer
7.35 filed pursuant to this paragraph.

8.1 (i) When a court issues an order containing a firearms restriction provided for in paragraph
8.2 (g), the court shall determine by a preponderance of evidence if an abusing party poses an
8.3 imminent risk of causing another person substantial bodily harm. Upon a finding of imminent
8.4 risk, the court shall order that the local law enforcement agency take immediate possession
8.5 of all firearms in the abusing party's possession. The local law enforcement agency shall
8.6 exercise due care to preserve the quality and function of the abusing party's firearms and
8.7 shall return the firearms to the person upon request after the expiration of the prohibiting
8.8 time period, provided the person is not otherwise prohibited from possessing firearms under
8.9 state or federal law. The local law enforcement agency shall, upon written notice from the
8.10 abusing party, transfer the firearms to a federally licensed firearms dealer or a third party
8.11 who may lawfully receive them. Before a local law enforcement agency transfers a firearm
8.12 under this paragraph, the agency shall require the third party or federally licensed firearms
8.13 dealer receiving the firearm to submit an affidavit or proof of transfer that complies with
8.14 the requirements for affidavits or proofs of transfer established in paragraph (h). The agency
8.15 shall file all affidavits or proofs of transfer received with the court within two business days
8.16 of the transfer. The court shall seal all affidavits or proofs of transfer filed pursuant to this
8.17 paragraph. A federally licensed firearms dealer or third party who accepts a firearm transfer
8.18 pursuant to this paragraph shall comply with paragraphs (g) and (h) as if accepting transfer
8.19 from the abusing party. If the law enforcement agency does not receive written notice from
8.20 the abusing party within three business days, the agency may charge a reasonable fee to
8.21 store the abusing party's firearms. A law enforcement agency may establish policies for
8.22 disposal of abandoned firearms, provided such policies require that the abusing party be
8.23 notified via certified mail prior to disposal of abandoned firearms.

8.24 (j) The court shall ensure that all firearms have been transferred and all proofs of transfer
8.25 submitted as required by paragraphs (g), (h), and (i), by scheduling and holding a compliance
8.26 hearing within ten business days of issuing an order containing a firearms restriction. If, at
8.27 the hearing, the court finds that the abusing party is not in compliance, the court shall take
8.28 appropriate action under the circumstances, including but not limited to a contempt
8.29 proceeding under section 588.01, subdivision 3.

8.30 Sec. 3. Minnesota Statutes 2018, section 609.2242, subdivision 3, is amended to read:

8.31 Subd. 3. **Domestic assaults; firearms.** (a) When a person is convicted of a violation of
8.32 this section or section 609.221, 609.222, 609.223, 609.224, or 609.2247, the court shall
8.33 determine and make written findings on the record as to whether:

9.1 (1) the assault was committed against a family or household member, as defined in
9.2 section 518B.01, subdivision 2;

9.3 (2) the defendant owns or possesses a firearm; and

9.4 (3) the firearm was used in any way during the commission of the assault.

9.5 (b) If the court determines that the assault was of a family or household member, and
9.6 that the offender owns or possesses a firearm and used it in any way during the commission
9.7 of the assault, it shall order that the firearm be summarily forfeited under section 609.5316,
9.8 subdivision 3.

9.9 (c) When a person is convicted of assaulting a family or household member and is
9.10 determined by the court to have used a firearm in any way during commission of the assault,
9.11 the court may order that the person is prohibited from possessing any type of firearm for
9.12 any period longer than three years or for the remainder of the person's life. A person who
9.13 violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the
9.14 court shall inform the defendant for how long the defendant is prohibited from possessing
9.15 a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the
9.16 court to provide this information to a defendant does not affect the applicability of the
9.17 firearm possession prohibition or the gross misdemeanor penalty to that defendant.

9.18 (d) Except as otherwise provided in paragraph (c), when a person is convicted of a
9.19 violation of this section or section 609.224 and the court determines that the victim was a
9.20 family or household member, the court shall inform the defendant that the defendant is
9.21 prohibited from possessing a firearm for three years from the date of conviction and that it
9.22 is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide
9.23 this information to a defendant does not affect the applicability of the firearm possession
9.24 prohibition or the gross misdemeanor penalty to that defendant.

9.25 (e) Except as otherwise provided in paragraph (c), a person is not entitled to possess a
9.26 pistol if the person has been convicted after August 1, 1992, or a firearm if a person has
9.27 been convicted on or after August 1, 2014, of domestic assault under this section or assault
9.28 in the fifth degree under section 609.224 and the assault victim was a family or household
9.29 member as defined in section 518B.01, subdivision 2, unless three years have elapsed from
9.30 the date of conviction and, during that time, the person has not been convicted of any other
9.31 violation of this section or section 609.224. Property rights may not be abated but access
9.32 may be restricted by the courts. A person who possesses a firearm in violation of this
9.33 paragraph is guilty of a gross misdemeanor.

10.1 (f) Except as otherwise provided in paragraphs (b) and (h), when a person is convicted
10.2 of a violation of this section or section 609.221, 609.222, 609.223, 609.224, or 609.2247
10.3 and the court determines that the assault was against a family or household member, the
10.4 court shall order the defendant to transfer any firearms that the person possesses, within
10.5 three business days, to a federally licensed firearms dealer, a law enforcement agency, or
10.6 a third party who may lawfully receive them. The transfer may be permanent or temporary,
10.7 unless the court prohibits the person from possessing a firearm for the remainder of the
10.8 person's life under paragraph (c). A temporary firearm transfer only entitles the receiving
10.9 party to possess the firearm. A temporary transfer does not transfer ownership or title. A
10.10 defendant may not transfer firearms to a third party who resides with the defendant. If a
10.11 defendant makes a temporary transfer, a federally licensed firearms dealer or law enforcement
10.12 agency may charge the defendant a reasonable fee to store the person's firearms and may
10.13 establish policies for disposal of abandoned firearms, provided such policies require that
10.14 the person be notified by certified mail prior to disposal of abandoned firearms. For temporary
10.15 firearms transfers under this paragraph, a law enforcement agency, federally licensed firearms
10.16 dealer, or third party shall exercise due care to preserve the quality and function of the
10.17 transferred firearms and shall return the transferred firearms to the person upon request after
10.18 the expiration of the prohibiting time period imposed under this subdivision, provided the
10.19 person is not otherwise prohibited from possessing firearms under state or federal law. The
10.20 return of temporarily transferred firearms to a person shall comply with state and federal
10.21 law. If a defendant permanently transfers the defendant's firearms to a law enforcement
10.22 agency, the agency is not required to compensate the defendant and may charge the defendant
10.23 a reasonable processing fee. A law enforcement agency is not required to accept a person's
10.24 firearm under this paragraph. The court shall order that the person surrender all permits to
10.25 carry and purchase firearms to the sheriff.

10.26 (g) A defendant who is ordered to transfer firearms under paragraph (f) must file proof
10.27 of transfer as provided for in this paragraph. If the transfer is made to a third party, the third
10.28 party must sign an affidavit under oath before a notary public either acknowledging that
10.29 the defendant permanently transferred the defendant's firearms to the third party or agreeing
10.30 to temporarily store the defendant's firearms until such time as the defendant is legally
10.31 permitted to possess firearms. The affidavit shall indicate the serial number, make, and
10.32 model of all firearms transferred by the defendant to the third party. The third party shall
10.33 acknowledge in the affidavit that the third party may be held criminally and civilly
10.34 responsible under section 624.7144 if the defendant gains access to a transferred firearm
10.35 while the firearm is in the custody of the third party. If the transfer is to a law enforcement
10.36 agency or federally licensed firearms dealer, the law enforcement agency or federally

11.1 licensed firearms dealer shall provide proof of transfer to the defendant. The proof of transfer
11.2 must specify whether the firearms were permanently or temporarily transferred and include
11.3 the name of the defendant, date of transfer, and the serial number, make, and model of all
11.4 transferred firearms. The defendant shall provide the court with a signed and notarized
11.5 affidavit or proof of transfer as described in this section within two business days of the
11.6 firearms transfer. The court shall seal affidavits and proofs of transfer filed pursuant to this
11.7 paragraph.

11.8 (h) When a person is convicted of a violation of this section or section 609.221, 609.222,
11.9 609.223, 609.224, or 609.2247, and the court determines that the assault was against a family
11.10 or household member, the court shall determine by a preponderance of the evidence if the
11.11 person poses an imminent risk of causing another person substantial bodily harm. Upon a
11.12 finding of imminent risk, the court shall order that the local law enforcement agency take
11.13 immediate possession of all firearms in the person's possession. The local law enforcement
11.14 agency shall exercise due care to preserve the quality and function of the defendant's firearms
11.15 and shall return the firearms to the person upon request after the expiration of the prohibiting
11.16 time period, provided the person is not otherwise prohibited from possessing firearms under
11.17 state or federal law. The local law enforcement agency shall, upon written notice from the
11.18 person, transfer the firearms to a federally licensed firearms dealer or a third party who may
11.19 lawfully receive them. Before a local law enforcement agency transfers a firearm under this
11.20 paragraph, the agency shall require the third party or federally licensed firearms dealer
11.21 receiving the firearm to submit an affidavit or proof of transfer that complies with the
11.22 requirements for affidavits or proofs of transfer established in paragraph (g). The agency
11.23 shall file all affidavits or proofs of transfer received with the court within two business days
11.24 of the transfer. The court shall seal all affidavits or proofs of transfer filed pursuant to this
11.25 paragraph. A federally licensed firearms dealer or third party who accepts a firearm transfer
11.26 pursuant to this paragraph shall comply with paragraphs (f) and (g) as if accepting transfer
11.27 from the defendant. If the law enforcement agency does not receive written notice from the
11.28 defendant within three business days, the agency may charge a reasonable fee to store the
11.29 defendant's firearms. A law enforcement agency may establish policies for disposal of
11.30 abandoned firearms, provided such policies require that the person be notified via certified
11.31 mail prior to disposal of abandoned firearms.

11.32 (i) The court shall ensure that all firearms have been transferred and all proofs of transfer
11.33 submitted as required by paragraphs (f), (g), and (h), by scheduling and holding a compliance
11.34 hearing within ten business days of issuing an order containing a firearms restriction. If, at
11.35 the hearing, the court finds that the abusing party is not in compliance, the court shall take

12.1 appropriate action under the circumstances, including but not limited to a contempt
12.2 proceeding under section 588.01, subdivision 3.

12.3 Sec. 4. Minnesota Statutes 2018, section 609.749, subdivision 8, is amended to read:

12.4 Subd. 8. **Stalking; firearms.** (a) When a person is convicted of a stalking crime under
12.5 this section and the court determines that the person used a firearm in any way during
12.6 commission of the crime, the court may order that the person is prohibited from possessing
12.7 any type of firearm for any period longer than three years or for the remainder of the person's
12.8 life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of
12.9 the conviction, the court shall inform the defendant for how long the defendant is prohibited
12.10 from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The
12.11 failure of the court to provide this information to a defendant does not affect the applicability
12.12 of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

12.13 (b) Except as otherwise provided in paragraph (a), when a person is convicted of a
12.14 stalking crime under this section, the court shall inform the defendant that the defendant is
12.15 prohibited from possessing a firearm for three years from the date of conviction and that it
12.16 is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide
12.17 this information to a defendant does not affect the applicability of the firearm possession
12.18 prohibition or the gross misdemeanor penalty to that defendant.

12.19 (c) Except as otherwise provided in paragraph (a), a person is not entitled to possess a
12.20 pistol if the person has been convicted after August 1, 1996, of a stalking crime under this
12.21 section, or to possess a firearm if the person has been convicted on or after August 1, 2014,
12.22 of a stalking crime under this section, unless three years have elapsed from the date of
12.23 conviction and, during that time, the person has not been convicted of any other violation
12.24 of this section. Property rights may not be abated but access may be restricted by the courts.
12.25 A person who possesses a firearm in violation of this paragraph is guilty of a gross
12.26 misdemeanor.

12.27 (d) If the court determines that a person convicted of a stalking crime under this section
12.28 owns or possesses a firearm and used it in any way during the commission of the crime, it
12.29 shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

12.30 (e) Except as otherwise provided in paragraphs (d) and (g), when a person is convicted
12.31 of a stalking crime under this section, the court shall order the defendant to transfer any
12.32 firearms that the person possesses, within three business days, to a federally licensed firearms
12.33 dealer, a law enforcement agency, or a third party who may lawfully receive them. The
12.34 transfer may be permanent or temporary. A temporary firearm transfer only entitles the

13.1 receiving party to possess the firearm. A temporary transfer does not transfer ownership or
13.2 title. A defendant may not transfer firearms to a third party who resides with the defendant.
13.3 If a defendant makes a temporary transfer, a federally licensed firearms dealer or law
13.4 enforcement agency may charge the defendant a reasonable fee to store the person's firearms
13.5 and may establish policies for disposal of abandoned firearms, provided such policies require
13.6 that the person be notified via certified mail prior to disposal of abandoned firearms. For
13.7 temporary firearms transfers under this paragraph, a law enforcement agency, federally
13.8 licensed firearms dealer, or third party shall exercise due care to preserve the quality and
13.9 function of the transferred firearms and shall return the transferred firearms to the person
13.10 upon request after the expiration of the prohibiting time period imposed under this
13.11 subdivision, provided the person is not otherwise prohibited from possessing firearms under
13.12 state or federal law. The return of temporarily transferred firearms to a defendant shall
13.13 comply with state and federal law. If a defendant permanently transfers the defendant's
13.14 firearms to a law enforcement agency, the agency is not required to compensate the defendant
13.15 and may charge the defendant a reasonable processing fee. A law enforcement agency is
13.16 not required to accept a person's firearm under this paragraph. The court shall order that the
13.17 person surrender all permits to carry and purchase firearms to the sheriff.

13.18 (f) A defendant who is ordered to transfer firearms under paragraph (e) must file proof
13.19 of transfer as provided for in this paragraph. If the transfer is made to a third party, the third
13.20 party must sign an affidavit under oath before a notary public either acknowledging that
13.21 the defendant permanently transferred the defendant's firearms to the third party or agreeing
13.22 to temporarily store the defendant's firearms until such time as the defendant is legally
13.23 permitted to possess firearms. The affidavit shall indicate the serial number, make, and
13.24 model of all firearms transferred by the defendant to the third party. The third party shall
13.25 acknowledge in the affidavit that the third party may be held criminally and civilly
13.26 responsible under section 624.7144 if the defendant gains access to a transferred firearm
13.27 while the firearm is in the custody of the third party. If the transfer is to a law enforcement
13.28 agency or federally licensed firearms dealer, the law enforcement agency or federally
13.29 licensed firearms dealer shall provide proof of transfer to the defendant. The proof of transfer
13.30 must specify whether the firearms were permanently or temporarily transferred and include
13.31 the name of the defendant, date of transfer, and the serial number, make, and model of all
13.32 transferred firearms. The defendant shall provide the court with a signed and notarized
13.33 affidavit or proof of transfer as described in this section within two business days of the
13.34 firearms transfer. The court shall seal affidavits and proofs of transfer filed pursuant to this
13.35 paragraph.

14.1 (g) When a person is convicted of a stalking crime under this section, the court shall
14.2 determine by a preponderance of the evidence if the person poses an imminent risk of
14.3 causing another person substantial bodily harm. Upon a finding of imminent risk, the court
14.4 shall order that the local law enforcement agency take immediate possession of all firearms
14.5 in the person's possession. The local law enforcement agency shall exercise due care to
14.6 preserve the quality and function of the defendant's firearms and shall return the firearms
14.7 to the person upon request after the expiration of the prohibiting time period, provided the
14.8 person is not otherwise prohibited from possessing firearms under state or federal law. The
14.9 local law enforcement agency shall, upon written notice from the person, transfer the firearms
14.10 to a federally licensed firearms dealer or a third party who may lawfully receive them.
14.11 Before a local law enforcement agency transfers a firearm under this paragraph, the agency
14.12 shall require the third party or federally licensed firearms dealer receiving the firearm to
14.13 submit an affidavit or proof of transfer that complies with the requirements for affidavits
14.14 or proofs of transfer established in paragraph (f). The agency shall file all affidavits or proofs
14.15 of transfer received with the court within two business days of the transfer. The court shall
14.16 seal all affidavits or proofs of transfer filed pursuant to this paragraph. A federally licensed
14.17 firearms dealer or third party who accepts a firearm transfer pursuant to this paragraph shall
14.18 comply with paragraphs (e) and (f) as if accepting transfer from the defendant. If the law
14.19 enforcement agency does not receive written notice from the defendant within three business
14.20 days, the agency may charge a reasonable fee to store the defendant's firearms. A law
14.21 enforcement agency may establish policies for disposal of abandoned firearms, provided
14.22 such policies require that the person be notified via certified mail prior to disposal of
14.23 abandoned firearms.

14.24 (h) The court shall ensure that all firearms have been transferred and all proofs of transfer
14.25 submitted as required in paragraphs (e), (f), and (g), by scheduling and holding a compliance
14.26 hearing within ten business days of issuing an order containing a firearms restriction. If, at
14.27 the hearing, the court finds that the abusing party is not in compliance, the court shall take
14.28 appropriate action under the circumstances, including but not limited to a contempt
14.29 proceeding under section 588.01, subdivision 3.