Overview

This bill changes current law regarding the issuance of permits to carry a pistol. Major changes include: providing a purpose statement describing the legislative intent behind the law; making the local county sheriff the sole issuing authority for carry permits; requiring that permits be issued to persons who are legally eligible to possess a pistol, demonstrate competence to use a pistol safely or have a permit to carry issued by another state, and are 21 years old or older; providing procedures for the granting and denial of permits to carry and for the issuance of renewal and replacement permits; authorizing the issuance of temporary permits to carry in emergency situations; providing new penalties for violating the law; providing for expedited judicial review of permit denials and for court orders to deny the issuance of a permit; authorizing holders of valid carry permits issued by another state to carry a pistol in this state according to the same conditions governing permit holders in this state; and requiring the annual collection and reporting of information on the administration of the law.

1 Short title; purpose; penalties.

Subd. 1. Short title. Provides that Minn. Stat. § 624.714 may be cited as the "Minnesota citizens personal protection act of 2000."

Subd. 1a. Purpose. Adds a "purpose" section to the law which states that this act is intended to provide a system under which responsible, competent adults can obtain a permit to carry a pistol in order to exercise their right to self protection and lawful self defense and, thereby, to better protect themselves and their families from suffering harm due to the criminal activity of others.

Subd. 1b. Penalty. Amends the penalty provision in the current permit to carry law as follows: eliminates the misdemeanor prohibition against engaging in activities other than those for which the carry permit has been issued. (Under the bill, permits will no longer specify that they are valid only for certain, specified activities); adds a new misdemeanor penalty for any person who carries a pistol in a public place while under the influence of alcohol or drugs; and
adds a new petty misdemeanor penalty for permit holders who fail to have their permit in their possession whenever they are carrying their pistol or who fail to display it to a peace officer upon lawful demand. Provides for dismissal of the charges if the permit holder later produces proof in court or at the law enforcement agency showing that the holder had a valid permit at the time of the demand.

2 **Authority to issue permit; criteria.** Establishes the authority and criteria for the issuance of state permits to carry a pistol. States that the county sheriffs are the issuing authority for these permits and provides that they are required to issue permits to responsible, competent adults who desire a legal means to carry a firearm for self-protection or another lawful purpose. Defines the following terms:

"responsible" means that the person is not prohibited under Minn. Stat. § 624.713 from possessing a firearm;
"Competent" means the person presents evidence of competence to use a pistol safely; and
"adult" means the person is at least 21 years old.

3 **Application processing agency; form and contents of application.**

- **Par. (a).** Designates the civil division of the sheriff's department as the application processing agency.

- **Par. (b).** Clarifies language in current law concerning the items to be included in the application. Provides that the applicant's statement concerning his or her legal eligibility to possess a firearm shall be based on the applicant's best knowledge and belief.

- **Par. (c).** Specifies that the following items must be included in the applicant's application packet: a complete signed and dated application form, a photocopy of the applicant's evidence of competence, and a recent color photograph of the applicant.

- **Par. (d).** Authorizes the agency to charge an application fee of up to $50.

- **Par. (e).** Defines "evidence of competence" to mean certain types of instruction in the safe use and handling of a pistol and provides that it also includes the fact that the applicant is licensed to carry a pistol in this state or another state. Defines who may qualify as a "certified instructor" of a pistol safety training course and defines the term "basic training."

- **Par. (f).** States that this subdivision prescribes the complete and exclusive set of items which an applicant can be required to submit in order to obtain a permit to carry. Prohibits requiring applicants to submit, voluntarily or involuntarily, any additional information, fees, or documentation.

- **Par. (g).** Requires the sheriff's department to make application forms freely and readily available at all its offices and locations. Requires the sheriff's department to accept an application packet at any its locations and to give the applicant a dated receipt for it. Requires the applicant to sign a blank official carry permit form at the time the application packet is submitted.

4 **Investigation.** Updates current statutory references to the various criminal justice data bases that the application processing agency must consult when performing the required criminal background check on an applicant. Authorizes the sheriff to conduct a repeat background check on a current permit holder when the sheriff believes it necessary.

5 **Granting and denial of permits.**

- **Par. (a).** Requires the application processing agency to either issue or deny a permit to carry within 15 business days of the application (current law provides for a 21-day application period). Provides that the agency may deny a permit only on the basis that the applicant failed to meet the criteria described in subdivision 2 (section 2).
Par. (b). Provides that the failure of the agency to deny a permit within 15 business days shall constitute the issuance of a permit (current law provides for a 21-day application processing period). Provides a process for the applicant to provide supplemental documentation and seek reconsideration of a permit denial. Requires the agency to inform the applicant of the right to seek de novo review of a permit denial decision in district court.

Par. (c). Requires the agency to send the approved permit to the applicant by U.S. mail by the close of the next business day following approval, unless personal delivery has been made.

Contents; expiration; renewal.
Par. (a). Provides that a permit to carry issued under this act is a state permit and is valid throughout the state for five years from the date of issuance. Specifies the information on the permit holder that may be contained in the permit and requires the permit to include a recent color photograph of the holder and the holder's signature.

Par. (b). Extends the period of time during which a permit to carry is valid from one year (current law) to five years. Provides a new process for renewal of a permit. Authorizes a permit holder to renew the permit 90 days before the expiration date of the existing permit by submitting an application packet, as described in subdivision 3 (section 3) and by paying a renewal fee of not more than $25. Authorizes a permit holder to renew a permit within 90 days after it has expired by complying with these renewal requirements and by paying an additional late fee of $15. Requires the application processing agency to follow the procedures provided under subdivisions 4 and 6 (sections 4 and 5) in renewing a permit. Provides that the renewal permit is effective as of the expiration date of the prior permit.

Change of address; loss or destruction of permit.
Par. (a). Requires the permit holder to notify the agency within 30 days of a change in the holder's permanent address or within 30 days of having lost or destroyed the permit. Failure to do so is a civil infraction punishable by a fine of not more than $25.

Par. (b). Provides that a lost or destroyed permit is immediately invalid. Permits a permit holder to obtain a replacement permit for a lost or destroyed permit by paying $15 to the application processing agency. Requires the request for a replacement permit to be made on a standardized form and to include a notarized statement that the permit has been lost or destroyed.

Permit to carry voided. Continues the provision in current law that voids a permit to carry if the holder becomes a “prohibited person” under Minn. Stat. § 624.713. Requires the holder to return the permit to the application processing authority within five business days after the holder knows or should know he or she is prohibited from possessing a firearm under Minn. Stat. § 624.713. (Current law requires the return of the permit within five days after the holder becomes a prohibited person.)

False representation. Amends current law regarding the criminal penalty applicable to a person who gives or causes to be given false information in applying for a permit to carry. Limits this prohibition to false material information.

Emergency issuance of permit. Provides new procedures under which a person may apply for a temporary permit to carry a pistol in an emergency situation. The application for an emergency permit must include a completed application for a permit to carry, a recent color photograph of the applicant, and a notarized statement describing the emergency situation that may constitute an immediate risk to the applicant or another person residing in the applicant's household. The applicant is not required to submit evidence of competence to use the pistol safely in order to be eligible for the emergency permit. The emergency permit, if issued, is valid for 30 business days, may not be renewed, and may be revoked without a hearing. The emergency permit shall be converted to a regular permit to carry upon subsequent completion of the application, where
necessary, and upon completion of processing in accordance with subdivisions 4 and 6 (sections 4 and 5).

11 **Hearing upon denial.** Amends current law regarding the availability of de novo review in district court of a permit denial. Adds a requirement that the court provide an expedited hearing on the matter and authorizes the court to issue a writ of mandamus or other relief as the court deems appropriate. Requires the court to award reasonable attorneys fees and costs to a person granted relief under this provision.

12 **Denial by court order.** Provides a new procedure under which a sheriff may seek a court order to deny an application for a permit to carry a pistol. Requires the court, after a hearing on the matter, to grant the sheriff's petition if the sheriff establishes, by clear and convincing evidence, that there is a substantial likelihood that the applicant will act under the permit in a manner dangerous to the public. Provides the following standard for establishing the applicant's dangerousness: the applicant has engaged in a pattern of behavior during the previous three years involving verified, reported incidents of violence; the applicant was criminally charged for these incidents; and the applicant was not acquitted of them. Provides that if the court does not issue an order denying the permit, it must order the sheriff to issue a permit immediately and to pay the applicant costs and reasonable expenses, including attorneys fees.

13 **Records.** Prohibits the sheriff and the application processing agency from maintaining any records on an applicant or permit holder that are not necessary to support a permit that is outstanding or eligible for renewal. Requires the sheriff and the agency to purge all files and data bases concerning former permit holders by March 1 of each year.

14 **Funds.** Requires the application processing agency to deposit all money collected under this act in a separate account as a supplement to the sheriff's operating fund. Requires the money to be used first to pay the costs of implementing this act, and then for other law enforcement purposes.

15 **Recognition.** Provides that any person holding a valid permit to carry a pistol issued by another state is authorized to carry a firearm in this state under the same conditions and for the same purposes as a holder of a permit issued under this act.

16 **Immunity.** Provides the sheriff, the application processing authority, their employees, and certified instructors with immunity from any damages resulting from acts committed with a firearm by a permit holder unless the agency or person had actual knowledge at the time the permit was issued or instruction was given that the holder was disqualified by law from possessing a pistol.

17 **Reports.**

Par. (a). Requires the department of public safety, by March 1 of each year, to submit a statistical report to the governor containing the following information: the number of permits to carry issued, denied, or revoked since the previous report, the number of currently valid permits, the reasons for permit denials, the number of convictions and types of crimes committed by permit holders since the previous report, and data on whether a firearm carried lawfully pursuant to a permit was used by the permit holder in furtherance of the commission of a crime. To the extent available, the report also shall include data on the lawful and justifiable use of firearms by permit holders. Requires sheriffs and application processing agencies to supply the department of public safety with the basic data needed to complete this report. Requires that copies of the report be made available to the public at the actual cost of duplication.

Par. (b). Provides that nothing in this act or any other law shall be construed to require or authorize the registration, documentation, collection, or providing of serial numbers or other data on firearms or firearms owners.

18 **Exclusivity.** States that this act sets forth the complete and exclusive criteria and procedures for
the issuance of permits to carry and prohibits sheriffs, application processing agencies, and other persons from changing, modifying, or supplementing these criteria and procedures.

19 **Repealer.** Repeals Minn. Stat. § 614.714, subdivision 5. This subdivision sets forth the current criteria under which permits to carry a pistol may be issued by sheriffs and chiefs of police. These criteria include: legal eligibility to possess a firearm, firearm safety training or other proof of the ability to use a pistol safely, and either an occupation or personal safety hazard that requires a permit to carry a pistol.

20 **Effective date.** August 1, 2000, for crimes committed on or after that date.