

File Number: H.F. 1605
Version: As introduced

Date: February 28, 2018

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Subject: Firearms

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Overview

The bill provides a procedure under which family or household members, a chief law enforcement officer or his or her deputies, a city or county attorney, or a guardian can petition for a “gun violence protective order” which would prohibit the respondent from possessing firearms for a fixed period.

Section

1 Gun violence protective orders.

Subd. 1. Definitions. Defines “family or household members” for the purposes of the bill. The bill uses the definition of “family or household member” from chapter 518B.01, the Domestic Abuse Act.

Subd. 2. Court jurisdiction. Provides that an application for relief may be filed in the county of residence of either party and that actions under this section shall be given docket priority by the court.

Subd. 3. Information on petitioner’s location or residence. Provides that upon the petitioner’s request, information on the petitioner’s location or residence is private data.

Subd. 4. Generally.

Paragraph (a) creates an action called a petition for gun violence protective order for protection from gun violence, which prohibits respondents to the action from possessing firearms for a certain period of time.

Paragraph (b) provides that petitioners may be family or household members, chief law enforcement officers or their deputies, city or county attorneys, or guardians.

Section

Paragraph (c) provides that the petition shall allege that the respondent poses a significant danger of bodily injury to self or to others by possessing a firearm. The petition must be accompanied by an affidavit made under oath stating specific facts and circumstances forming a basis to allege that a gun violence protective order should be granted.

Paragraph (d) provides that the petition must also allege that the respondent presents an immediate and present danger of bodily injury.

Paragraph (e) provides that the petition must state whether there are any existing orders between the parties. States that a petition for relief must be granted by the court whether or not there is a pending action between the parties.

Paragraph (f) provides that when the only evidence to support the issuance of a gun violence protective order is a domestic abuse order, the petitioner must be either the victim of the abuse or obtain the consent of the victim.

Paragraph (g) provides that a petition for relief must describe, to the best of the petitioner's knowledge, the types and locations of any firearms possessed by the respondent.

Paragraph (h) provides that the court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition.

Paragraph (i) provides that the state court administrator shall create all court forms necessary to implement the bill.

Paragraph (j) provides that the court must advise a petitioner of the right to file a motion and affidavit and to sue in forma pauperis, and must assist with the writing and filing of the motion and affidavit.

Paragraph (k) provides that the court must advise the petitioner of the right to serve the respondent by published notice if the respondent is avoiding personal service by concealment, and must assist in the writing and filing of the affidavit.

Paragraph (l) provides that the court must advise the petitioner of the right to request a hearing to gain relief under this section.

Paragraph (m) provides that a gun violence protective order applies throughout the state.

Paragraph (n) provides that any proceedings under this section shall be in addition to other civil or criminal remedies.

Paragraph (o) provides that any health records provided in a petition are private data.

Paragraph (p) provides that any gun violence protective order or subsequent extension shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the respondent, which then must make the order known to other law enforcement agencies.

Section

Subd. 1. Hearing. Provides the specific procedures for service of a gun violence protective order petition and hearing of the petition.

Subd. 2. Relief by court. Provides the specific criteria a petitioner must prove by a preponderance of evidence at the hearing to receive relief from the court. If the court finds there is evidence to issue a protective order, the court must inform the respondent that the respondent is prohibited from possessing firearms and shall issue a transfer order for the firearms. The order shall state a fixed period of not less than six months and not more than two years, subject to renewal or extension.

- 3 Subsequent extensions and termination.** Provides the specific procedures for subsequent extension and termination of a gun violence protective order. Provides that a respondent may apply for the order to be terminated at a hearing at which the respondent must prove by clear and convincing evidence that the respondent does not pose a significant danger of bodily injury to himself or others by possessing a firearm. Application for termination of an order is limited to one application for each year the order is in effect.
- 4 Emergency issuance of gun violence protective order.** Provides procedures for the emergency issuance of a gun violence protective order. Emergency orders are for a fixed period of 14 days.
- 5 Transfer of firearms.** Provides procedures for the transfer of a respondent's firearms upon the issuance of a gun violence protective order. Transfer must be made, within 24 hours, to a federally licensed firearms dealer, a law enforcement agency or a third party, who may charge the respondent a reasonable storage fee. There is no transfer of ownership. When an emergency order is issued, the court shall issue a search warrant to law enforcement to take immediate possession of the respondent's firearms.
- 6 Return of firearms.** Provides for the return of a respondent's firearms upon the expiration of the protective order.
- 7 Offenses.** Provides that petitioners who file false information in a protective order proceeding are guilty of a misdemeanor. Respondents who continue to possess firearms after the issuance of an order are guilty of a misdemeanor and prohibited from possessing firearms for five years.
- 8 Liability protection.** Provides that law enforcement officers who decide to not petition for a protective order are immune from criminal or civil liability. Provides limited liability protection for law enforcement agencies or federally licensed firearms dealers for damage to stored firearms.
- 9 Ineligible person.** Amends section 624.713, subdivision 1, (Persons Ineligible to Possess Firearms) to include persons subject to a gun violence protective order.
- 10 Effective date.** Provides that the bill has a January 1, 2018 effective date, and applies to firearm permit background checks made on or after that date.