

1.1 A bill for an act

1.2 relating to public safety; amending provisions relating to domestic abuse;  
1.3 providing that violations of a no contact order disqualify offenders from  
1.4 possessing a firearm; amending Minnesota Statutes 2008, sections 518B.01,  
1.5 subdivision 22; 609.5316, subdivision 3.

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

1.7 Section 1. Minnesota Statutes 2008, section 518B.01, subdivision 22, is amended to  
1.8 read:

1.9 Subd. 22. **Domestic abuse no contact order.** (a) A domestic abuse no contact order  
1.10 is an order issued by a court against a defendant in a criminal proceeding for:

1.11 (1) domestic abuse;

1.12 (2) harassment or stalking charged under section 609.749 and committed against  
1.13 a family or household member;

1.14 (3) violation of an order for protection charged under subdivision 14; or

1.15 (4) violation of a prior domestic abuse no contact order charged under this  
1.16 subdivision.

1.17 It includes pretrial orders before final disposition of the case and probationary orders  
1.18 after sentencing.

1.19 (b) A person who knows of the existence of a domestic abuse no contact order issued  
1.20 against the person and violates the order is guilty of a misdemeanor.

1.21 (c) A person is guilty of a gross misdemeanor who knowingly violates this  
1.22 subdivision within ten years of a previous qualified domestic violence-related offense  
1.23 conviction or adjudication of delinquency. Upon a gross misdemeanor conviction under  
1.24 this paragraph, the defendant must be sentenced to a minimum of ten days' imprisonment

2.1 and must be ordered to participate in counseling or other appropriate programs selected  
2.2 by the court as provided in section 518B.02. Notwithstanding section 609.135, the court  
2.3 must impose and execute the minimum sentence provided in this paragraph for gross  
2.4 misdemeanor convictions.

2.5 (d) A person is guilty of a felony and may be sentenced to imprisonment for not  
2.6 more than five years or to payment of a fine of not more than \$10,000, or both, if the  
2.7 person knowingly violates this subdivision: (1) within ten years of the first of two or  
2.8 more previous qualified domestic violence-related offense convictions or adjudications  
2.9 of delinquency; or (2) while possessing a dangerous weapon, as defined in section  
2.10 609.02, subdivision 6. Upon a felony conviction under this paragraph in which the  
2.11 court stays imposition or execution of sentence, the court shall impose at least a 30-day  
2.12 period of incarceration as a condition of probation. The court also shall order that the  
2.13 defendant participate in counseling or other appropriate programs selected by the court.  
2.14 Notwithstanding section 609.135, the court must impose and execute the minimum  
2.15 sentence provided in this paragraph for felony convictions.

2.16 (e) A peace officer shall arrest without a warrant and take into custody a person  
2.17 whom the peace officer has probable cause to believe has violated a domestic abuse no  
2.18 contact order, even if the violation of the order did not take place in the presence of the  
2.19 peace officer, if the existence of the order can be verified by the officer. The person shall  
2.20 be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays,  
2.21 unless the person is released earlier by a judge or judicial officer. A peace officer acting  
2.22 in good faith and exercising due care in making an arrest pursuant to this paragraph is  
2.23 immune from civil liability that might result from the officer's actions.

2.24 (f) When a person is convicted under paragraph (b) or (c) of violating a domestic  
2.25 abuse no contact order and the court determines that the person used a firearm in any way  
2.26 during commission of the violation, the court may order that the person is prohibited  
2.27 from possessing any type of firearm for any period longer than three years or for the  
2.28 remainder of the person's life. A person who violates this paragraph is guilty of a gross  
2.29 misdemeanor. At the time of conviction, the court shall inform the defendant whether and  
2.30 for how long the defendant is prohibited from possessing a firearm and that it is a gross  
2.31 misdemeanor to violate this paragraph. The failure of the court to provide this information  
2.32 to a defendant does not affect the applicability of the firearm possession prohibition or the  
2.33 gross misdemeanor penalty to that defendant.

2.34 (g) Except as otherwise provided in paragraph (f), when a person is convicted  
2.35 under paragraph (b) or (c) of violating a domestic abuse no contact order, the court shall  
2.36 inform the defendant that the defendant is prohibited from possessing a pistol for three

**S.F. No. 1239, as introduced - 86th Legislative Session (2009-2010) [09-2551]**

3.1 years from the date of conviction and that it is a gross misdemeanor offense to violate  
3.2 this prohibition. The failure of the court to provide this information to a defendant does  
3.3 not affect the applicability of the pistol possession prohibition or the gross misdemeanor  
3.4 penalty to that defendant.

3.5 (h) Except as otherwise provided in paragraph (f), a person is not entitled to possess  
3.6 a pistol if the person has been convicted under paragraph (b) or (c) of violating a domestic  
3.7 abuse no contact order, unless three years have elapsed from the date of conviction and,  
3.8 during that time, the person has not been convicted of any other violation of this section.  
3.9 Property rights may not be abated but access may be restricted by the courts. A person  
3.10 who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

3.11 (i) If the court determines that a person convicted under paragraph (b) or (c) of  
3.12 violating a domestic abuse no contact order owns or possesses a firearm and used it in any  
3.13 way during the commission of the violation, it shall order that the firearm be summarily  
3.14 forfeited under section 609.5316, subdivision 3.

3.15 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
3.16 committed on or after that date.

3.17 Sec. 2. Minnesota Statutes 2008, section 609.5316, subdivision 3, is amended to read:

3.18 Subd. 3. **Weapons, telephone cloning paraphernalia, and bullet-resistant**  
3.19 **vests.** Weapons used are contraband and must be summarily forfeited to the appropriate  
3.20 agency upon conviction of the weapon's owner or possessor for a controlled substance  
3.21 crime; for any offense of this chapter or chapter 624, ~~or~~ for a violation of an order for  
3.22 protection under section 518B.01, subdivision 14, or for a violation of a domestic abuse  
3.23 no contact order under section 518B.01, subdivision 22. Bullet-resistant vests, as defined  
3.24 in section 609.486, worn or possessed during the commission or attempted commission  
3.25 of a crime are contraband and must be summarily forfeited to the appropriate agency  
3.26 upon conviction of the owner or possessor for a controlled substance crime or for any  
3.27 offense of this chapter. Telephone cloning paraphernalia used in a violation of section  
3.28 609.894 are contraband and must be summarily forfeited to the appropriate agency upon a  
3.29 conviction. Notwithstanding this subdivision, weapons used, bullet-resistant vests worn  
3.30 or possessed, and telephone cloning paraphernalia may be forfeited without a conviction  
3.31 under sections 609.531 to 609.5315.

3.32 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
3.33 committed on or after that date.