

SF5153 - 1E - Firearm Transfer to Ineligible Person

Chief Author: **Heather Gustafson**
 Committee: **Finance**
 Date Completed: **4/2/2024 11:07:01 PM**
 Lead Agency: **Supreme Court**
 Other Agencies:
 Corrections Dept Public Defense Board
 Sentencing Guidelines
 Comm

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
State Total						
Total		-	-	-	-	-
Biennial Total				-		-

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 4/2/2024 11:07:01 PM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
Total		-	-	-	-	-
Biennial Total				-		-

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Chief Author: **Heather Gustafson**
 Committee: **Finance**
 Date Completed: **4/2/2024 11:07:01 PM**
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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Biennial Total				-		-

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 4/2/2024 11:05:03 PM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

State Cost (Savings) Calculation Details

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	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

The bill modifies Minn. Stat. § 299A.642 (Violent Crime Coordinating Council) by adding additional requirements to reports required under subd. 15.

The bill modifies Minn. Stat. § 609.67 (machine guns and short-barreled shotguns) by expanding the definition of “trigger activator” under subd. 1 (d). That portion of the bill is effective Jan. 1, 2025.

The bill modifies Minn. Stat. § 624.7141 (transfer of firearm to ineligible person). The primary changes to Minn. Stat. § 609.7141 include changing the offense level for a general prohibited firearm transfer from gross misdemeanor to a felony and making the current felony offense provision, which applies when the transferee uses the weapon in furtherance of a felony crime of violence within a year of the transfer, to an “aggravated offense” with enhanced penalties.

Assumptions

Because the underlying behavior is already prohibited under the current provisions of Minn. Stat. § 624.7141, it is assumed that the bill will not result in increased criminal case filings. Based on judicial branch data, it is assumed that the judge and staff time needed to process felony cases charged under the provisions of this bill would increase compared to the judge and staff time needed to process gross misdemeanor violations of Minn. Stat. § 624.7141, subd. 1.

Expenditure and/or Revenue Formula

Based on five years of judicial branch data (2019-2023), there was a total of 5 charges filed statewide alleging violations of Minn. Stat. § 624.7141. If each of those charges constituted a separate criminal case filing, that would amount to an annual statewide average of one case per year. If one case statewide per year requires additional judge and staff time for processing it is not anticipated to have a significant impact on the judicial branch. Although it is assumed that there will not be an increase in criminal case filings as a result of this bill, the average filings could triple and it would not have a significant impact on judge and staff resources needed to process the additional filings.

Therefore, it is anticipated that this bill will not have a significant fiscal impact on the judicial branch.

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Callie Lehman

Phone: 651-297-7579

Date: 4/2/2024 3:04:15 PM

Email: callie.lehman@courts.state.mn.us

SF5153 - 1E - Firearm Transfer to Ineligible Person

Chief Author: **Heather Gustafson**
 Committee: **Finance**
 Date Completed: **4/2/2024 11:07:01 PM**
 Agency: **Corrections Dept**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 4/2/2024 11:06:14 PM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

State Cost (Savings) Calculation Details

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Biennial Total				-		-

Bill Description

S.F. 5153-1E increases penalties for transferring certain firearms to persons who are ineligible to possess firearms.

Assumptions

The Minnesota Sentencing Guidelines Commission assumes a minimal impact on correctional resources.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

N/A

References/Sources

Department of Corrections Staff

Minnesota Sentencing Guidelines Commission

Agency Contact:

Agency Fiscal Note Coordinator Signature: Kwesi Pasley

Phone: 651-259-3667

Date: 4/2/2024 3:18:56 PM

Email: kwesi.pasley@state.mn.us

SF5153 - 1E - Firearm Transfer to Ineligible Person

Chief Author: **Heather Gustafson**
 Committee: **Finance**
 Date Completed: **4/2/2024 11:07:01 PM**
 Agency: **Public Defense Board**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 4/2/2024 11:05:25 PM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

State Cost (Savings) Calculation Details

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Bill Description

The bill would amend M.S. 624.7141 to make it a 2 year felony for anyone who transfers a pistol or semiautomatic weapon and the person knows that the transferee is not eligible to possess a pistol or semi automatic weapon.

The bill also amends Subd 2 of the statute to make it a seven year felony for the person if the transferee uses the weapon in commission of a felony crime of violence.

Assumptions

These cases are already being handled by public defenders. There would be no significant increase in the workloads or caseloads.

Expenditure and/or Revenue Formula**Long-Term Fiscal Considerations****Local Fiscal Impact****References/Sources****Agency Contact:**

Agency Fiscal Note Coordinator Signature: Kevin Kajer

Phone: 612-279-3508

Date: 3/22/2024 4:38:42 PM

Email: Kevin.kajer@pubdef.state.mn.us

SF5153 - 1E - Firearm Transfer to Ineligible Person

Chief Author: **Heather Gustafson**
 Committee: **Finance**
 Date Completed: **4/2/2024 11:07:01 PM**
 Agency: **Sentencing Guidelines Comm**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 4/2/2024 11:05:59 PM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

State Cost (Savings) Calculation Details

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Biennial Total				-		-

Bill Description

Section 1 expands the scope of the Commissioner of Public Safety's annual report on behalf of the Violent Crime Coordinating Council to include a report of actions taken by certain law-enforcement entities regarding firearms seizures and investigations, specifically including gun-trafficking investigations.

Section 2 amends the definition of a trigger activator, possession of which is banned by Minn. Stat. § 609.67, to include a device that allows a semiautomatic firearm to shoot more than one shot with a single pull and release of the trigger ("binary trigger").

Section 2 is effective January 1, 2025.

Section 3 amends Minn. Stat. section 624.7141 (Transfer to Ineligible Person), by increasing penalties for transferring certain firearms to persons who are ineligible to possess firearms.

Section 3 amends subdivision 1 (Transfer prohibited), by converting the existing gross misdemeanor offense into a felony, with a statutory maximum of two years imprisonment and a \$10,000 fine. The section also expands the offense in two ways. First, while the current offense is limited to the transfer of a pistol or semiautomatic military-style assault weapon ("SAMSAS"), it expands the offense to encompass the transfer of any firearm. Second, while the current offense requires that the defendant know that the transferee was ineligible to possess the firearm, it relaxes the knowledge requirement to include defendants who did not know, but should have known, of such ineligibility. The section excepts from the offense the transfer of a firearm, other than a pistol or SAMSAS, to a person under the age of 18 who is not disqualified from possessing any other firearm.

Section 3 also amends subdivision 2, which now provides an enhanced, felony penalty if the transferee possessed the improperly transferred firearm within one year after the transfer in furtherance of a felony crime of violence and specifies that the now-unspecified statutory maximum penalty is seven years imprisonment and a \$20,000 fine; and changes the title from "felony offense" to "aggravated offense."

Section 3 also appends a new subdivision 4, which supplies an affirmative defense for transferors who acted under compulsion by the transferee, who created a reasonable apprehension in the mind of the transferor that refusal would result in substantial bodily harm or death to the transferor.

Section 3 is effective August 1, 2024, and applies to crimes committed on or after that date.

Assumptions

It is assumed that due to the COVID-19 health pandemic, the cases sentenced in 2020 and 2021 may not be a fair approximation of cases sentenced in the future. Therefore, averages from 2017 to 2021, and 2018 to 2022, will be used for this fiscal note.

Section 2 (banning binary triggers). According to MSGC Monitoring data, from 2019 to 2021, there were 24 cases sentenced under Minn. Stat. § 609.67. MSGC staff reviewed the criminal complaints of these 24 cases to determine how many were short-barreled shotguns, machine guns, trigger activators, or machine gun conversion kits. Of the 24 cases, 23 involved possessions of short-barreled shotguns and one involved possession of “two Glock handgun conversion devices.” None of the cases involved binary triggers, which may be because the current definition may not apply to binary triggers.

It is assumed that people possess binary triggers to increase the rate of a semiautomatic firearm’s fire above the rate at which a trigger can be repeatedly pulled by hand. After the bill’s enactment, binary triggers will be an illegal method to do this. It is assumed the people who wish to illegally increase the rate of a firearm’s fire above the rate at which a trigger can be repeatedly pulled by hand are represented in number by the defendant who possessed the Glock handgun conversion devices, discussed above, and that this number will not increase as a result of the bill.

Section 3 (regarding transfers to ineligible persons). One of the responsibilities of the Commission is to assign severity-level (SL) rankings to new felony offenses passed by the Legislature. The Commission bases its decisions, in part, on level of harm and culpability. The statutory maximum is also considered. It is assumed that the Commission would rank the new felony firearms-transfer offense in section 3, subdivision 1 (with a statutory maximum of 2 years) at SL 1 where it is a presumptive commitment offense at a criminal history score of 6 or more.

It is assumed that the existing firearm-transfer felony’s statutory maximum penalty is now the default felony maximum penalty of five years imprisonment, a \$10,000 fine, or both, per Minn. Stat. section 609.03(1). The existing felony is ranked at SL 2. With unchanged elements but a two-year increase in the maximum penalty, it is assumed that the Commission will increase the severity ranking to SL 3 or SL 4, where it is a presumptive commitment offense at a criminal history score of 4 or more.

According to MSGC Monitoring Data from 2017 to 2021, there were no felony convictions under Minn. Stat. section 624.7141, subd. 2. According to the Minn. Judicial Branch, from 2018 to 2022, there was one conviction for the gross misdemeanor offense under Minn. Stat. section 624.7141, subd. 1. In the future, it is assumed that this gross misdemeanor offense will become a SL 1 felony, sentenced at a frequency of approximately once every five years.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Because there were no felonies and one gross misdemeanor offense in the last five years, it is estimated that this bill will have negligible impact on state correctional resources.

Local Fiscal Impact

Based on the above assumptions, the local government fiscal impact will be negligible.

References/Sources

MSGC Monitoring Data, 2017-2021.

Minn. Judicial Branch, 2018-2022.

Agency Contact:

Agency Fiscal Note Coordinator Signature: Jill Payne

Date: 4/2/2024 5:47:08 PM

Phone: 651-757-1725

Email: jill.payne@state.mn.us