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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **1152**

02/15/2021 Authored by Long, Garofalo, Pinto, Vang, Hertaus and others
The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy
03/17/2022 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law
03/28/2022 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to public safety; establishing the Clean Slate Act; providing for an
1.3 automatic expungement process for certain offenders; amending Minnesota Statutes
1.4 2020, sections 13.871, subdivision 14; 152.18, subdivision 1; 299C.10, subdivision
1.5 1; 299C.111; 299C.17; 609A.01; 609A.03, subdivisions 5, 9; 611A.03, subdivision
1.6 1; Minnesota Statutes 2021 Supplement, section 609A.03, subdivision 7a; proposing
1.7 coding for new law in Minnesota Statutes, chapters 299C; 609A.

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

1.9 **ARTICLE 1**
1.10 **EXPUNGEMENT WITHOUT PETITION**

1.11 Section 1. **[609A.015] AUTOMATIC EXPUNGEMENT OF RECORDS.**

1.12 **Subdivision 1. Eligibility; dismissal; exoneration.** A person who is the subject of a
1.13 criminal record or delinquency record is eligible for a grant of expungement relief without
1.14 the filing of a petition:

1.15 (1) if the person was arrested and all charges were dismissed after a case was filed unless
1.16 dismissal was based on a finding that the defendant was incompetent to proceed; or

1.17 (2) if all pending actions or proceedings were resolved in favor of the person.

1.18 For purposes of this chapter, a verdict of not guilty by reason of mental illness is not a
1.19 resolution in favor of the person. For purposes of this chapter, an action or proceeding is
1.20 resolved in favor of the person if the petitioner received an order under section 590.11
1.21 determining that the person is eligible for compensation based on exoneration.

1.22 **Subd. 2. Eligibility; diversion and stay of adjudication.** A person is eligible for a grant
1.23 of expungement relief if the person has successfully completed the terms of a diversion

2.1 program or stay of adjudication for an offense that is not a felony and has not been petitioned
2.2 or charged with a new offense, other than an offense that would be a petty misdemeanor,
2.3 for one year immediately following completion of the diversion program or stay of
2.4 adjudication.

2.5 Subd. 3. Eligibility; certain criminal and delinquency proceedings. (a) A person is
2.6 eligible for a grant of expungement relief if the person:

2.7 (1) was adjudicated delinquent for, convicted of, or received a stayed sentence for a
2.8 qualifying offense;

2.9 (2) has not been convicted of a new offense, other than an offense that would be a petty
2.10 misdemeanor, in Minnesota during the applicable waiting period immediately following
2.11 discharge of the disposition or sentence for the crime; and

2.12 (3) is not charged with an offense in Minnesota at the time the person reaches the end
2.13 of the applicable waiting period.

2.14 (b) As used in this subdivision, "qualifying offense" means an adjudication, conviction,
2.15 or stayed sentence for:

2.16 (1) any petty misdemeanor offense other than a violation of a traffic regulation relating
2.17 to the operation or parking of motor vehicles;

2.18 (2) any misdemeanor offense other than:

2.19 (i) section 169A.20 under the terms described in section 169A.27 (fourth-degree driving
2.20 while impaired);

2.21 (ii) section 518B.01, subdivision 14 (violation of an order for protection);

2.22 (iii) section 609.224 (assault in the fifth degree);

2.23 (iv) section 609.2242 (domestic assault);

2.24 (v) section 609.748 (violation of a harassment restraining order);

2.25 (vi) section 609.78 (interference with emergency call);

2.26 (vii) section 609.79 (obscene or harassing phone calls);

2.27 (viii) section 617.23 (indecent exposure);

2.28 (ix) section 609.746 (interference with privacy); or

2.29 (x) section 629.75 (violation of domestic abuse no contact order); or

2.30 (3) any gross misdemeanor offense other than:

- 3.1 (i) section 169A.25 (second-degree driving while impaired);
- 3.2 (ii) section 169A.26 (third-degree driving while impaired);
- 3.3 (iii) section 518B.01, subdivision 14 (violation of an order for protection);
- 3.4 (iv) section 609.2231 (assault in the fourth degree);
- 3.5 (v) section 609.224 (assault in the fifth degree);
- 3.6 (vi) section 609.2242 (domestic assault);
- 3.7 (vii) section 609.233 (criminal neglect);
- 3.8 (viii) section 609.3451 (criminal sexual conduct in the fifth degree);
- 3.9 (ix) section 609.377 (malicious punishment of child);
- 3.10 (x) section 609.485 (escape from custody);
- 3.11 (xi) section 609.498 (tampering with witness);
- 3.12 (xii) section 609.582, subdivision 4 (burglary in the fourth degree);
- 3.13 (xiii) section 609.746 (interference with privacy);
- 3.14 (xiv) section 609.748 (violation of a harassment restraining order);
- 3.15 (xv) section 609.749 (harassment; stalking);
- 3.16 (xvi) section 609.78 (interference with emergency call);
- 3.17 (xvii) section 617.23 (indecent exposure);
- 3.18 (xviii) section 617.261 (nonconsensual dissemination of private sexual images); or
- 3.19 (xix) section 629.75 (violation of domestic abuse no contact order).
- 3.20 (c) As used in this subdivision, "applicable waiting period" means:
- 3.21 (1) if the offense was a petty misdemeanor or a misdemeanor, two years; and
- 3.22 (2) if the offense was a gross misdemeanor, four years.
- 3.23 (d) Felony offenses deemed to be a gross misdemeanor or misdemeanor pursuant to
- 3.24 section 609.13, subdivision 1, remain ineligible for expungement under this section. Gross
- 3.25 misdemeanor offenses ineligible for a grant of expungement under this section remain
- 3.26 ineligible if deemed to be for a misdemeanor pursuant to section 609.13, subdivision 2.
- 3.27 Subd. 4. **Notice.** (a) The court shall notify a person who may become eligible for an
- 3.28 automatic expungement under this section of that eligibility at any hearing where the court

4.1 dismisses and discharges proceedings against a person under section 152.18, subdivision
4.2 1, for violation of section 152.024, 152.025, or 152.027 for possession of a controlled
4.3 substance; concludes that all pending actions or proceedings were resolved in favor of the
4.4 person; grants a person's placement into a diversion program; or sentences a person or
4.5 otherwise imposes a consequence for a qualifying offense.

4.6 (b) To the extent possible, prosecutors, defense counsel, supervising agents, and
4.7 coordinators or supervisors of a diversion program shall notify a person who may become
4.8 eligible for an automatic expungement under this section of that eligibility.

4.9 (c) If any party gives notification under this subdivision, the notification shall inform
4.10 the person that:

4.11 (1) an expunged record of a conviction may be opened for purposes of a background
4.12 study by the Department of Human Services under section 245C.08 and for purposes of a
4.13 background check by the Professional Educator Licensing and Standards Board as required
4.14 under section 122A.18, subdivision 8; and

4.15 (2) the person can file a petition to expunge the record and request that it be directed to
4.16 the commissioner of human services and the Professional Educator Licensing and Standards
4.17 Board.

4.18 **Subd. 5. Bureau of Criminal Apprehension to identify eligible persons and grant**
4.19 **expungement relief.** (a) The Bureau of Criminal Apprehension shall identify adjudications
4.20 and convictions that qualify for a grant of expungement relief pursuant to this subdivision
4.21 or subdivision 1, 2, or 3.

4.22 (b) In making the determination under paragraph (a), the Bureau of Criminal
4.23 Apprehension shall identify individuals who are the subject of relevant records through the
4.24 use of finger and thumb prints where finger and thumb prints are available. Where finger
4.25 and thumb prints are not available, the Bureau of Criminal Apprehension shall identify
4.26 individuals through the use of the person's name and date of birth. Records containing the
4.27 same name and date of birth shall be presumed to refer to the same individual unless other
4.28 evidence establishes, by a preponderance of the evidence, that they do not refer to the same
4.29 individual. The Bureau of Criminal Apprehension is not required to review any other
4.30 evidence in making its determination.

4.31 (c) The Bureau of Criminal Apprehension shall grant expungement relief to qualifying
4.32 persons and seal its own records without requiring an application, petition, or motion.
4.33 Records shall be sealed 60 days after notice is sent to the judicial branch pursuant to

5.1 paragraph (e) unless an order of the judicial branch prohibits sealing the records or additional
5.2 information establishes that the records are not eligible for expungement.

5.3 (d) Nonpublic criminal records maintained by the Bureau of Criminal Apprehension
5.4 and subject to a grant of expungement relief shall display a notation stating "expungement
5.5 relief granted pursuant to section 609A.015."

5.6 (e) The Bureau of Criminal Apprehension shall inform the judicial branch of all cases
5.7 for which expungement relief was granted pursuant to this section. Notification may be
5.8 through electronic means and may be made in real time or in the form of a monthly report.
5.9 Upon receipt of notice, the judicial branch shall seal all records relating to an arrest,
5.10 indictment or information, trial, verdict, or dismissal and discharge for any case in which
5.11 expungement relief was granted and shall issue any order deemed necessary to achieve this
5.12 purpose.

5.13 (f) Unless an order issued under paragraph (e) notifies the law enforcement agency that
5.14 made the arrest or issued the citation, the Bureau of Criminal Apprehension shall inform
5.15 each arresting or citing law enforcement agency whose records are affected by the grant of
5.16 expungement relief that expungement has been granted. Notification shall be made at the
5.17 time and under the conditions described in paragraph (c), except that notice may be sent in
5.18 real time or in the form of a monthly report sent no more than 30 days after the expiration
5.19 of the deadline established in paragraph (c). Notification may be through electronic means.
5.20 Each notified law enforcement agency shall seal all records relating to an arrest, indictment
5.21 or information, trial, verdict, or dismissal and discharge for any case in which expungement
5.22 relief was granted.

5.23 (g) Data on the person whose offense has been expunged under this subdivision, including
5.24 any notice sent pursuant to paragraph (f), are private data on individuals as defined in section
5.25 13.02, subdivision 12.

5.26 (h) The prosecuting attorney shall notify the victim that an offense qualifies for automatic
5.27 expungement under this section in the manner provided in section 611A.03, subdivisions
5.28 1 and 2.

5.29 (i) In any subsequent prosecution of a person granted expungement relief, the expunged
5.30 criminal record may be pleaded and has the same effect as if the relief had not been granted.

5.31 (j) The Bureau of Criminal Apprehension is directed to develop, modify, or update a
5.32 system to provide criminal justice agencies with uniform statewide access to criminal records
5.33 sealed by expungement.

6.1 Subd. 6. Immunity from civil liability. Employees of the Bureau of Criminal
6.2 Apprehension shall not be held civilly liable for the exercise or the failure to exercise, or
6.3 the decision to exercise or the decision to decline to exercise, the powers granted by this
6.4 section or for any act or omission occurring within the scope of the performance of their
6.5 duties under this section.

6.6 EFFECTIVE DATE. This section is effective January 1, 2024, and applies to offenses
6.7 that meet the eligibility criteria on or after that date and retroactively to offenses that met
6.8 those qualifications before January 1, 2024, and are stored in the Bureau of Criminal
6.9 Apprehension's criminal history system as of January 1, 2024.

6.10 ARTICLE 2

6.11 CONFORMING CHANGES

6.12 Section 1. Minnesota Statutes 2020, section 13.871, subdivision 14, is amended to read:

6.13 Subd. 14. **Expungement petitions.** (a) Provisions regarding the classification and sharing
6.14 of data contained in a petition for expungement of a criminal record are included in section
6.15 609A.03.

6.16 (b) Provisions regarding the classification and sharing of data related to automatic
6.17 expungements are included in sections 299C.097 and 609A.015.

6.18 Sec. 2. Minnesota Statutes 2020, section 152.18, subdivision 1, is amended to read:

6.19 Subdivision 1. **Deferring prosecution for certain first time drug offenders.** (a) A
6.20 court may defer prosecution as provided in paragraph (c) for any person found guilty, after
6.21 trial or upon a plea of guilty, of a violation of section 152.023, subdivision 2, 152.024,
6.22 subdivision 2, 152.025, subdivision 2, or 152.027, subdivision 2, 3, 4, or 6, paragraph (d),
6.23 for possession of a controlled substance, who:

6.24 (1) has not previously participated in or completed a diversion program authorized under
6.25 section 401.065;

6.26 (2) has not previously been placed on probation without a judgment of guilty and
6.27 thereafter been discharged from probation under this section; and

6.28 (3) has not been convicted of a felony violation of this chapter, including a felony-level
6.29 attempt or conspiracy, or been convicted by the United States or another state of a similar
6.30 offense that would have been a felony under this chapter if committed in Minnesota, unless
6.31 ten years have elapsed since discharge from sentence.

7.1 (b) The court must defer prosecution as provided in paragraph (c) for any person found
7.2 guilty of a violation of section 152.025, subdivision 2, who:

7.3 (1) meets the criteria listed in paragraph (a), clauses (1) to (3); and

7.4 (2) has not previously been convicted of a felony offense under any state or federal law
7.5 or of a gross misdemeanor under section 152.025.

7.6 (c) In granting relief under this section, the court shall, without entering a judgment of
7.7 guilty and with the consent of the person, defer further proceedings and place the person
7.8 on probation upon such reasonable conditions as it may require and for a period, not to
7.9 exceed the maximum sentence provided for the violation. The court may give the person
7.10 the opportunity to attend and participate in an appropriate program of education regarding
7.11 the nature and effects of alcohol and drug abuse as a stipulation of probation. Upon violation
7.12 of a condition of the probation, the court may enter an adjudication of guilt and proceed as
7.13 otherwise provided. The court may, in its discretion, dismiss the proceedings against the
7.14 person and discharge the person from probation before the expiration of the maximum
7.15 period prescribed for the person's probation. If during the period of probation the person
7.16 does not violate any of the conditions of the probation, then upon expiration of the period
7.17 the court shall discharge the person and dismiss the proceedings against that person.
7.18 Discharge and dismissal under this subdivision shall be without court adjudication of guilt,
7.19 but a not public record of it shall be retained by the Bureau of Criminal Apprehension for
7.20 the purpose of use by the courts in determining the merits of subsequent proceedings against
7.21 the person. The not public record may also be opened only upon court order for purposes
7.22 of a criminal investigation, prosecution, or sentencing. Upon receipt of notice that the
7.23 proceedings were dismissed, the Bureau of Criminal Apprehension shall notify the arresting
7.24 or citing law enforcement agency and direct that agency to seal its records related to the
7.25 charge. Upon request by law enforcement, prosecution, or corrections authorities, the bureau
7.26 shall notify the requesting party of the existence of the not public record and the right to
7.27 seek a court order to open it pursuant to this section. The court shall forward a record of
7.28 any discharge and dismissal under this subdivision to the bureau which shall make and
7.29 maintain the not public record of it as provided under this subdivision. The discharge or
7.30 dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities
7.31 imposed by law upon conviction of a crime or for any other purpose.

7.32 For purposes of this subdivision, "not public" has the meaning given in section 13.02,
7.33 subdivision 8a.

8.1 **Sec. 3. [299C.097] DATABASE FOR IDENTIFYING INDIVIDUALS ELIGIBLE**
8.2 **FOR EXPUNGEMENT.**

8.3 (a) The superintendent of the Bureau of Criminal Apprehension shall maintain a
8.4 computerized data system relating to petty misdemeanor and misdemeanor offenses that
8.5 may become eligible for expungement pursuant to section 609A.015 and which do not
8.6 require fingerprinting pursuant to section 299C.10 and are not linked to an arrest record in
8.7 the criminal history system.

8.8 (b) This data is private data on individuals under section 13.02, subdivision 12.

8.9 **EFFECTIVE DATE.** This section is effective January 1, 2024.

8.10 Sec. 4. Minnesota Statutes 2020, section 299C.10, subdivision 1, is amended to read:

8.11 Subdivision 1. **Required fingerprinting.** (a) Sheriffs, peace officers, and community
8.12 corrections agencies operating secure juvenile detention facilities shall take or cause to be
8.13 taken immediately finger and thumb prints, photographs, distinctive physical mark
8.14 identification data, information on any known aliases or street names, and other identification
8.15 data requested or required by the superintendent of the bureau, of the following:

8.16 (1) persons arrested for, appearing in court on a charge of, or convicted of a felony, gross
8.17 misdemeanor, or targeted misdemeanor;

8.18 (2) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent for,
8.19 or alleged to have committed felonies or gross misdemeanors as distinguished from those
8.20 committed by adult offenders;

8.21 (3) adults and juveniles admitted to jails or detention facilities;

8.22 (4) persons reasonably believed by the arresting officer to be fugitives from justice;

8.23 (5) persons in whose possession, when arrested, are found concealed firearms or other
8.24 dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines,
8.25 or appliances usable for an unlawful purpose and reasonably believed by the arresting officer
8.26 to be intended for such purposes;

8.27 (6) juveniles referred by a law enforcement agency to a diversion program for a felony
8.28 or gross misdemeanor offense; and

8.29 (7) persons currently involved in the criminal justice process, on probation, on parole,
8.30 or in custody for any offense whom the superintendent of the bureau identifies as being the
8.31 subject of a court disposition record which cannot be linked to an arrest record, and whose
8.32 fingerprints are necessary to reduce the number of suspense files, or to comply with the

9.1 mandates of section 299C.111, relating to the reduction of the number of suspense files.
9.2 This duty to obtain fingerprints for the offenses in suspense at the request of the bureau
9.3 shall include the requirement that fingerprints be taken in post-arrest interviews, while
9.4 making court appearances, while in custody, or while on any form of probation, diversion,
9.5 or supervised release.

9.6 (b) Unless the superintendent of the bureau requires a shorter period, within 24 hours
9.7 of taking the fingerprints and data, the fingerprint records and other identification data
9.8 specified under paragraph (a) must be electronically entered into a bureau-managed
9.9 searchable database in a manner as may be prescribed by the superintendent.

9.10 (c) Prosecutors, courts, and probation officers and their agents, employees, and
9.11 subordinates shall attempt to ensure that the required identification data is taken on a person
9.12 described in paragraph (a). Law enforcement may take fingerprints of an individual who is
9.13 presently on probation.

9.14 (d) Finger and thumb prints must be obtained no later than:

9.15 (1) release from booking; or

9.16 (2) if not booked prior to acceptance of a plea of guilty or not guilty.

9.17 Prior to acceptance of a plea of guilty or not guilty, an individual's finger and thumb
9.18 prints must be submitted to the Bureau of Criminal Apprehension for the offense. If finger
9.19 and thumb prints have not been successfully received by the bureau, an individual may,
9.20 upon order of the court, be taken into custody for no more than eight hours so that the taking
9.21 of prints can be completed. Upon notice and motion of the prosecuting attorney, this time
9.22 period may be extended upon a showing that additional time in custody is essential for the
9.23 successful taking of prints.

9.24 (e) For purposes of this section, a targeted misdemeanor is a misdemeanor violation of
9.25 section 169A.20 (driving while impaired), 518B.01 (order for protection violation), 609.224
9.26 (fifth-degree assault), 609.2242 (domestic assault), 609.746 (interference with privacy),
9.27 609.748 (harassment or restraining order violation), 609.749 (obscene or harassing telephone
9.28 calls), 617.23 (indecent exposure), or 629.75 (domestic abuse no contact order).

10.1 Sec. 5. Minnesota Statutes 2020, section 299C.111, is amended to read:

10.2 **299C.111 SUSPENSE FILE REPORTING.**

10.3 The superintendent shall immediately notify the appropriate entity or individual when
10.4 a disposition record for a felony, gross misdemeanor, or targeted misdemeanor is received
10.5 that cannot be linked to an arrest record.

10.6 **EFFECTIVE DATE.** This section is effective January 1, 2024.

10.7 Sec. 6. Minnesota Statutes 2020, section 299C.17, is amended to read:

10.8 **299C.17 REPORT BY COURT ADMINISTRATOR.**

10.9 The superintendent shall require the court administrator of every court which sentences
10.10 a defendant for a felony, gross misdemeanor, ~~or targeted misdemeanor,~~ or petty misdemeanor
10.11 to electronically transmit within 24 hours of the disposition of the case a report, in a form
10.12 prescribed by the superintendent providing information required by the superintendent with
10.13 regard to the prosecution and disposition of criminal cases. A copy of the report shall be
10.14 kept on file in the office of the court administrator.

10.15 **EFFECTIVE DATE.** This section is effective January 1, 2024.

10.16 Sec. 7. Minnesota Statutes 2020, section 609A.01, is amended to read:

10.17 **609A.01 EXPUNGEMENT OF CRIMINAL RECORDS.**

10.18 This chapter provides the grounds and procedures for expungement of criminal records
10.19 under section 13.82; 152.18, subdivision 1; 299C.11, where expungement is automatic under
10.20 section 609A.015, or a petition is authorized under section 609A.02, subdivision 3; or other
10.21 applicable law. The remedy available is limited to a court order sealing the records and
10.22 prohibiting the disclosure of their existence or their opening except under court order or
10.23 statutory authority. Nothing in this chapter authorizes the destruction of records or their
10.24 return to the subject of the records.

10.25 **EFFECTIVE DATE.** This section is effective January 1, 2024.

10.26 Sec. 8. Minnesota Statutes 2020, section 609A.03, subdivision 5, is amended to read:

10.27 Subd. 5. **Nature of remedy; standard.** (a) Except as otherwise provided by paragraph
10.28 (b), expungement of a criminal record under this section is an extraordinary remedy to be
10.29 granted only upon clear and convincing evidence that it would yield a benefit to the petitioner
10.30 commensurate with the disadvantages to the public and public safety of:

11.1 (1) sealing the record; and

11.2 (2) burdening the court and public authorities to issue, enforce, and monitor an
11.3 expungement order.

11.4 (b) Except as otherwise provided by this paragraph, if the petitioner is petitioning for
11.5 the sealing of a criminal record under section 609A.02, subdivision 3, paragraph (a), clause
11.6 (1) or (2), the court shall grant the petition to seal the record unless the agency or jurisdiction
11.7 whose records would be affected establishes by clear and convincing evidence that the
11.8 interests of the public and public safety outweigh the disadvantages to the petitioner of not
11.9 sealing the record.

11.10 (c) In making a determination under this subdivision, the court shall consider:

11.11 (1) the nature and severity of the underlying crime, the record of which would be sealed;

11.12 (2) the risk, if any, the petitioner poses to individuals or society;

11.13 (3) the length of time since the crime occurred;

11.14 (4) the steps taken by the petitioner toward rehabilitation following the crime;

11.15 (5) aggravating or mitigating factors relating to the underlying crime, including the
11.16 petitioner's level of participation and context and circumstances of the underlying crime;

11.17 (6) the reasons for the expungement, including the petitioner's attempts to obtain
11.18 employment, housing, or other necessities;

11.19 (7) the petitioner's criminal record;

11.20 (8) the petitioner's record of employment and community involvement;

11.21 (9) the recommendations of interested law enforcement, prosecutorial, and corrections
11.22 officials;

11.23 (10) the recommendations of victims or whether victims of the underlying crime were
11.24 minors;

11.25 (11) the amount, if any, of restitution outstanding, past efforts made by the petitioner
11.26 toward payment, and the measures in place to help ensure completion of restitution payment
11.27 after expungement of the record if granted; and

11.28 (12) other factors deemed relevant by the court.

11.29 (d) Notwithstanding section 13.82, 13.87, or any other law to the contrary, if the court
11.30 issues an expungement order it may require that the criminal record be sealed, the existence

12.1 of the record not be revealed, and the record not be opened except as required under
12.2 subdivision 7. Records must not be destroyed or returned to the subject of the record.

12.3 (e) Information relating to a criminal history record of an employee, former employee,
12.4 or tenant that has been expunged before the occurrence of the act giving rise to the civil
12.5 action may not be introduced as evidence in a civil action against a private employer or
12.6 landlord or its employees or agents that is based on the conduct of the employee, former
12.7 employee, or tenant.

12.8 **EFFECTIVE DATE.** This section is effective January 1, 2024.

12.9 Sec. 9. Minnesota Statutes 2021 Supplement, section 609A.03, subdivision 7a, is amended
12.10 to read:

12.11 Subd. 7a. **Limitations of order effective January 1, 2015, and later.** (a) Upon issuance
12.12 of an expungement order related to a charge supported by probable cause, the DNA samples
12.13 and DNA records held by the Bureau of Criminal Apprehension and collected under authority
12.14 other than section 299C.105 shall not be sealed, returned to the subject of the record, or
12.15 destroyed.

12.16 (b) Notwithstanding the issuance of an expungement order:

12.17 (1) except as provided in clause (2), an expunged record may be opened, used, or
12.18 exchanged between criminal justice agencies without a court order for the purposes of
12.19 initiating, furthering, or completing a criminal investigation or prosecution or for sentencing
12.20 purposes or providing probation or other correctional services;

12.21 (2) when a criminal justice agency seeks access to a record that was sealed under section
12.22 609A.02, subdivision 3, paragraph (a), clause (1), after an acquittal or a court order dismissing
12.23 for lack of probable cause, for purposes of a criminal investigation, prosecution, or
12.24 sentencing, the requesting agency must obtain an ex parte court order after stating a
12.25 good-faith basis to believe that opening the record may lead to relevant information;

12.26 (3) an expunged record of a conviction may be opened for purposes of evaluating a
12.27 prospective employee in a criminal justice agency without a court order;

12.28 (4) an expunged record of a conviction may be opened for purposes of a background
12.29 study under section 245C.08 unless the commissioner had been properly served with notice
12.30 of the petition for expungement and the court order for expungement is directed specifically
12.31 to the commissioner of human services;

13.1 (5) an expunged record of a conviction may be opened for purposes of a background
13.2 check required under section 122A.18, subdivision 8, unless the court order for expungement
13.3 is directed specifically to the Professional Educator Licensing and Standards Board; ~~and~~

13.4 (6) the court may order an expunged record opened upon request by the victim of the
13.5 underlying offense if the court determines that the record is substantially related to a matter
13.6 for which the victim is before the court;

13.7 (7) a prosecutor may request, and the district court shall provide, certified records of
13.8 conviction for a record expunged pursuant to sections 609A.015, 609A.02, and 609A.025,
13.9 and the certified records of conviction may be disclosed and introduced in criminal court
13.10 proceedings as provided by the rules of court and applicable law; and

13.11 (8) the subject of an expunged record may request, and the court shall provide, certified
13.12 or uncertified records of conviction for a record expunged pursuant to sections 609A.015,
13.13 609A.02, and 609A.025.

13.14 (c) An agency or jurisdiction subject to an expungement order shall maintain the record
13.15 in a manner that provides access to the record by a criminal justice agency under paragraph
13.16 (b), clause (1) or (2), but notifies the recipient that the record has been sealed. The Bureau
13.17 of Criminal Apprehension shall notify the commissioner of human services or the
13.18 Professional Educator Licensing and Standards Board of the existence of a sealed record
13.19 and of the right to obtain access under paragraph (b), clause (4) or (5). Upon request, the
13.20 agency or jurisdiction subject to the expungement order shall provide access to the record
13.21 to the commissioner of human services or the Professional Educator Licensing and Standards
13.22 Board under paragraph (b), clause (4) or (5).

13.23 (d) An expunged record that is opened or exchanged under this subdivision remains
13.24 subject to the expungement order in the hands of the person receiving the record.

13.25 (e) A criminal justice agency that receives an expunged record under paragraph (b),
13.26 clause (1) or (2), must maintain and store the record in a manner that restricts the use of the
13.27 record to the investigation, prosecution, or sentencing for which it was obtained.

13.28 (f) For purposes of this section, a "criminal justice agency" means a court or government
13.29 agency that performs the administration of criminal justice under statutory authority.

13.30 (g) This subdivision applies to expungement orders subject to its limitations and effective
13.31 on or after January 1, 2015, and grants of expungement relief issued on or after January 1,
13.32 2024.

13.33 **EFFECTIVE DATE.** This section is effective January 1, 2024.

14.1 Sec. 10. Minnesota Statutes 2020, section 609A.03, subdivision 9, is amended to read:

14.2 Subd. 9. **Stay of order; appeal.** An expungement order issued under this section shall
14.3 be stayed automatically for 60 days after the order is filed and, if the order is appealed,
14.4 during the appeal period. A person or an agency or jurisdiction whose records would be
14.5 affected by the order may appeal the order within 60 days of service of notice of filing of
14.6 the order. An agency or jurisdiction or its officials or employees need not file a cost bond
14.7 or supersedeas bond in order to further stay the proceedings or file an appeal.

14.8 **EFFECTIVE DATE.** This section is effective January 1, 2024.

14.9 Sec. 11. Minnesota Statutes 2020, section 611A.03, subdivision 1, is amended to read:

14.10 Subdivision 1. **Plea agreements; notification of victim.** Prior to the entry of the factual
14.11 basis for a plea pursuant to a plea agreement recommendation, a prosecuting attorney shall
14.12 make a reasonable and good faith effort to inform the victim of:

14.13 (1) the contents of the plea agreement recommendation, including the amount of time
14.14 recommended for the defendant to serve in jail or prison if the court accepts the agreement;
14.15 ~~and~~

14.16 (2) the right to be present at the sentencing hearing and at the hearing during which the
14.17 plea is presented to the court and to express orally or in writing, at the victim's option, any
14.18 objection to the agreement or to the proposed disposition. If the victim is not present when
14.19 the court considers the recommendation, but has communicated objections to the prosecuting
14.20 attorney, the prosecuting attorney shall make these objections known to the court; and

14.21 (3) the eligibility of the offense for automatic expungement pursuant to section 609A.015.

14.22 **EFFECTIVE DATE.** This section is effective January 1, 2024, and applies to plea
14.23 agreements entered into on or after that date.