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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1928

02/25/2014 Authored by Drazkowski
The bill was read for the first time and referred to the Committee on Judiciary Finance and Policy

1.1 A bill for an act
1.2 relating to expungement; requiring that certain nonconviction records be
1.3 automatically expunged or destroyed; amending Minnesota Statutes 2012, section
1.4 609A.03, subdivision 8; Minnesota Statutes 2013 Supplement, section 299C.11,
1.5 subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 609A.

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

1.7 Section 1. Minnesota Statutes 2013 Supplement, section 299C.11, subdivision 1, is
1.8 amended to read:

1.9 Subdivision 1. **Identification data other than DNA.** (a) Each sheriff and chief of
1.10 police shall furnish the bureau, upon such form as the superintendent shall prescribe, with
1.11 such finger and thumb prints, photographs, distinctive physical mark identification data,
1.12 information on known aliases and street names, and other identification data as may be
1.13 requested or required by the superintendent of the bureau, which must be taken under the
1.14 provisions of section 299C.10. In addition, sheriffs and chiefs of police shall furnish this
1.15 identification data to the bureau for individuals found to have been convicted of a felony,
1.16 gross misdemeanor, or targeted misdemeanor, within the ten years immediately preceding
1.17 their arrest. When the bureau learns that an individual who is the subject of a background
1.18 check has used, or is using, identifying information, including, but not limited to, name and
1.19 date of birth, other than those listed on the criminal history, the bureau shall convert into
1.20 an electronic format, if necessary, and enter into a bureau-managed searchable database
1.21 the new identifying information when supported by fingerprints within three business days
1.22 of learning the information if the information is not entered by a law enforcement agency.

1.23 (b) No petition under chapter 609A is required if the person has not been convicted
1.24 of any felony or gross misdemeanor, either within or without the state, within the period

2.1 of ten years immediately preceding the determination of all pending criminal actions or
 2.2 proceedings in favor of the arrested person, and either of the following occurred:

- 2.3 (1) all charges were dismissed prior to a determination of probable cause; or
 2.4 (2) the prosecuting authority declined to file any charges and a grand jury did not
 2.5 return an indictment.

2.6 Where these conditions are met, the bureau or agency ~~shall, upon demand,~~ after giving
 2.7 the person 30 days' notice, must destroy the arrested person's finger and thumb prints,
 2.8 photographs, distinctive physical mark identification data, information on known aliases
 2.9 and street names, and other identification data, and all copies and duplicates of them.

2.10 Upon timely demand, the bureau or agency must return the person's records and provide
 2.11 paper copies of electronic records to the person. If the person requests copies of electronic
 2.12 records, the electronic records must be destroyed no later than five days after the agency
 2.13 provides copies to the person. The bureau and each agency and jurisdiction required to
 2.14 destroy records under this section must send a letter to the person confirming that the
 2.15 records were destroyed.

2.16 (c) Except as otherwise provided in paragraph (b), upon the determination of all
 2.17 pending criminal actions or proceedings in favor of the arrested person, and the granting
 2.18 of the petition of the arrested person under chapter 609A, the bureau shall seal finger and
 2.19 thumb prints, photographs, distinctive physical mark identification data, information on
 2.20 known aliases and street names, and other identification data, and all copies and duplicates
 2.21 of them if the arrested person has not been convicted of any felony or gross misdemeanor,
 2.22 either within or without the state, within the period of ten years immediately preceding
 2.23 such determination.

2.24 Sec. 2. Minnesota Statutes 2012, section 609A.03, subdivision 8, is amended to read:

2.25 Subd. 8. **Distribution of expungement orders.** (a) The court administrator shall
 2.26 send a copy of an expungement order to each agency and jurisdiction whose records are
 2.27 affected by the terms of the order.

2.28 (b) The court shall send a letter to the petitioner identifying each agency and
 2.29 jurisdiction that received notice under this subdivision.

2.30 (c) The court and each agency and jurisdiction receiving notice under this section
 2.31 must send a letter to the petitioner confirming that the records were expunged.

2.32 Sec. 3. **[609A.04] AUTOMATIC EXPUNGEMENT.**

2.33 (a) Except as provided in paragraph (b), the court and each agency that holds records
 2.34 related to actions or proceedings resolved in favor of a defendant under section 609A.02,

3.1 subdivision 3, must expunge the records upon resolution of the action or proceeding. No
3.2 petition under section 609A.03 is required to initiate expungement of records covered
3.3 under this section.

3.4 (b) The court and each agency that holds records related to actions dismissed, either
3.5 on motion of the court or the prosecutor, shall destroy the records within 30 days of the
3.6 dismissal.

3.7 (c) Upon final resolution of an action or proceeding in favor of a defendant, the court
3.8 must issue an order directing each agency and jurisdiction with records of the defendant's
3.9 case to expunge or destroy them as required under this section. The court shall send a copy
3.10 of the court's order and a letter to the defendant identifying each agency and jurisdiction
3.11 that received the court's order. The defendant may serve the order on, and demand
3.12 compliance from, any agency that did not receive a copy of the order from the court and
3.13 that the defendant reasonably believes holds records related to the defendant's case.

3.14 (d) The court and each agency and jurisdiction receiving notice under this section
3.15 must send a letter to the defendant confirming that the records were expunged or destroyed.

3.16 (e) The court shall order an agency that fails to comply with an order issued under
3.17 this section to pay the defendant \$10,000, plus reasonable attorney fees and court costs
3.18 incurred by the defendant in enforcing compliance with the court's order.