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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1232

02/14/2017 Authored by Scott, Zerwas, Peterson and Pugh
The bill was read for the first time and referred to the Committee on Civil Law and Data Practices Policy

1.1 A bill for an act
1.2 relating to data practices; amending access to portable recording system data;
1.3 amending audit requirements; amending Minnesota Statutes 2016, section 13.825,
1.4 subdivisions 7, 9.

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

1.6 Section 1. Minnesota Statutes 2016, section 13.825, subdivision 7, is amended to read:

1.7 Subd. 7. Authorization to access data. (a) A law enforcement agency must comply
1.8 with sections 13.05, subdivision 5, and 13.055 in the operation of portable recording systems
1.9 and in maintaining portable recording system data.

1.10 (b) The responsible authority for a law enforcement agency must establish written
1.11 procedures to ensure that law enforcement personnel have access to the portable recording
1.12 system data that are not public only if authorized in writing by the chief of police, sheriff,
1.13 or head of the law enforcement agency, or their designee, to obtain access to the data for a
1.14 legitimate, specified law enforcement purpose. based on a reasonable suspicion that the
1.15 data are pertinent to an active criminal investigation. Consistent with the requirements of
1.16 paragraph (c), each access must include a record of the factual basis for the access and any
1.17 associated case number, complaint, or incident that is the basis for the access.

1.18 (c) The ability of authorized individuals to enter, update, or access portable recording
1.19 system data must be limited through the use of role-based access that corresponds to the
1.20 official duties or training level of the individual and the statutory authorization that grants
1.21 access for that purpose. All queries and responses, and all actions in which data are entered,
1.22 updated, accessed, shared, or disseminated, must be recorded in a data audit trail. Data

2.1 contained in the audit trail are public to the extent that the data are not otherwise classified  
2.2 by law.

2.3 Sec. 2. Minnesota Statutes 2016, section 13.825, subdivision 9, is amended to read:

2.4 Subd. 9. **Biennial audit.** (a) A law enforcement agency must maintain records showing  
2.5 the date and time portable recording system data were collected and the applicable  
2.6 classification of the data. The law enforcement agency shall arrange for an independent,  
2.7 biennial audit of the data to determine whether data are appropriately classified according  
2.8 to this section, how the data are used, and whether the data are destroyed as required under  
2.9 this section, and to verify compliance with subdivisions 7 and 8. If the ~~governing body with~~  
2.10 ~~jurisdiction over the budget of the agency determines~~ commissioner of administration  
2.11 believes that the agency is not complying with this section or other applicable law, the  
2.12 ~~governing body~~ commissioner may order a law enforcement agency to arrange for additional  
2.13 independent audits. Data in the records required under this paragraph are classified as  
2.14 provided in subdivision 2.

2.15 (b) The results of the audit are public, ~~except for data that are otherwise classified under~~  
2.16 ~~law.~~ The ~~governing body with jurisdiction over the budget of the law enforcement agency~~  
2.17 commissioner of administration shall review the results of the audit. If the ~~governing body~~  
2.18 commissioner determines that there is a pattern of substantial noncompliance with this  
2.19 section by the law enforcement agency, the ~~governing body~~ agency must order that  
2.20 immediately suspend operation of all portable recording systems ~~be suspended~~ until the  
2.21 ~~governing body~~ commissioner has authorized the agency to reinstate their use. An order of  
2.22 suspension under this paragraph may ~~only be made~~ be issued by the commissioner following  
2.23 review of the results of the audit and review of the applicable provisions of this chapter,  
2.24 and after providing the agency ~~and members of the public~~ a reasonable opportunity to  
2.25 respond to the audit's findings ~~in a public meeting~~.

2.26 (c) A report summarizing the results of each audit must be provided to the ~~governing~~  
2.27 ~~body with jurisdiction over the budget of the law enforcement agency~~ commissioner of  
2.28 administration, to the chairs and ranking minority members of the committees of the house  
2.29 of representatives and the senate with jurisdiction over data practices and public safety  
2.30 issues, and to the Legislative Commission on Data Practices and Personal Data Privacy no  
2.31 later than ~~60~~ 30 days following completion of the audit.