

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1270

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DATE	D-PG	OFFICIAL STATUS
03/02/2015	501	Introduction and first reading Referred to Judiciary
04/07/2015	1489a	Comm report: To pass as amended
	1490	Second reading
05/05/2015	3272	Special Order
	3272	Third reading Passed See SF878, Art. 6, Sec. 11-13, 15,18

A bill for an act

1.1 relating to public safety; amending provisions on data privacy, evidence, crime
 1.2 victim protections, and criminal defenses relating to sex trafficking; creating
 1.3 new criminal penalties; amending Minnesota Statutes 2014, sections 13.82,
 1.4 subdivision 17; 609.324, subdivision 1; 609.325, subdivision 4, by adding a
 1.5 subdivision; 609.3471; 611A.26, subdivisions 1, 6; 617.242, subdivision 6;
 1.6 628.26.
 1.7

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

1.9 Section 1. Minnesota Statutes 2014, section 13.82, subdivision 17, is amended to read:

1.10 Subd. 17. **Protection of identities.** A law enforcement agency or a law enforcement
 1.11 dispatching agency working under direction of a law enforcement agency shall withhold
 1.12 public access to data on individuals to protect the identity of individuals in the following
 1.13 circumstances:

1.14 (a) when access to the data would reveal the identity of an undercover law
 1.15 enforcement officer, as provided in section 13.43, subdivision 5;

1.16 (b) when access to the data would reveal the identity of a victim or alleged victim of
 1.17 criminal sexual conduct or ~~of a violation of~~ sex trafficking under section 609.322, 609.341
 1.18 to 609.3451, or 617.246, subdivision 2;

1.19 (c) when access to the data would reveal the identity of a paid or unpaid informant
 1.20 being used by the agency if the agency reasonably determines that revealing the identity of
 1.21 the informant would threaten the personal safety of the informant;

1.22 (d) when access to the data would reveal the identity of a victim of or witness to a
 1.23 crime if the victim or witness specifically requests not to be identified publicly, unless the
 1.24 agency reasonably determines that revealing the identity of the victim or witness would
 1.25 not threaten the personal safety or property of the individual;

2.1 (e) when access to the data would reveal the identity of a deceased person whose
2.2 body was unlawfully removed from a cemetery in which it was interred;

2.3 (f) when access to the data would reveal the identity of a person who placed a call to a
2.4 911 system or the identity or telephone number of a service subscriber whose phone is used
2.5 to place a call to the 911 system and: (1) the agency determines that revealing the identity
2.6 may threaten the personal safety or property of any person; or (2) the object of the call is
2.7 to receive help in a mental health emergency. For the purposes of this paragraph, a voice
2.8 recording of a call placed to the 911 system is deemed to reveal the identity of the caller;

2.9 (g) when access to the data would reveal the identity of a juvenile witness and
2.10 the agency reasonably determines that the subject matter of the investigation justifies
2.11 protecting the identity of the witness; or

2.12 (h) when access to the data would reveal the identity of a mandated reporter under
2.13 section 609.456, 626.556, or 626.557.

2.14 Data concerning individuals whose identities are protected by this subdivision are
2.15 private data about those individuals. Law enforcement agencies shall establish procedures
2.16 to acquire the data and make the decisions necessary to protect the identity of individuals
2.17 described in clauses (c), (d), (f), and (g).

2.18 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
2.19 violations committed on or after that date.

2.20 Sec. 2. Minnesota Statutes 2014, section 609.324, subdivision 1, is amended to read:

2.21 Subdivision 1. **Engaging in, hiring, or agreeing to hire minor to engage in**
2.22 **prostitution; penalties.** (a) Whoever intentionally does any of the following may be
2.23 sentenced to imprisonment for not more than 20 years or to payment of a fine of not
2.24 more than \$40,000, or both:

2.25 (1) engages in prostitution with an individual under the age of 13 years; or

2.26 (2) hires or offers or agrees to hire an individual under the age of 13 years to engage
2.27 in sexual penetration or sexual contact.

2.28 (b) Whoever intentionally does any of the following may be sentenced to
2.29 imprisonment for not more than ten years or to payment of a fine of not more than
2.30 \$20,000, or both:

2.31 (1) engages in prostitution with an individual under the age of 16 years but at least
2.32 13 years; or

2.33 (2) hires or offers or agrees to hire an individual under the age of 16 years but at
2.34 least 13 years to engage in sexual penetration or sexual contact.

3.1 (c) Whoever intentionally does any of the following may be sentenced to
 3.2 imprisonment for not more than five years or to payment of a fine of not more than
 3.3 \$10,000, or both:

3.4 (1) engages in prostitution with an individual under the age of 18 years but at least
 3.5 16 years; ~~or~~

3.6 (2) hires or offers or agrees to hire an individual under the age of 18 years but at
 3.7 least 16 years to engage in sexual penetration or sexual contact; or

3.8 (3) hires or offers or agrees to hire an individual who the actor reasonably believes
 3.9 to be under the age of 18 years to engage in sexual penetration or sexual contact.

3.10 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 3.11 committed on or after that date.

3.12 Sec. 3. Minnesota Statutes 2014, section 609.325, is amended by adding a subdivision
 3.13 to read:

3.14 Subd. 3a. **No defense; undercover operative.** The fact that an undercover operative
 3.15 or law enforcement officer was involved in the detection or investigation of an offense
 3.16 shall not be a defense to a prosecution under section 609.324.

3.17 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 3.18 committed on or after that date.

3.19 Sec. 4. Minnesota Statutes 2014, section 609.325, subdivision 4, is amended to read:

3.20 Subd. 4. **Affirmative defense.** It is an affirmative defense to a charge under section
 3.21 609.324, subdivision 6 or 7, if the defendant proves by a preponderance of the evidence
 3.22 that the defendant is a labor trafficking victim, as defined in section 609.281, or a sex
 3.23 trafficking victim, as defined in section 609.321, and that the defendant committed the act
 3.24 ~~only under compulsion by another who by explicit or implicit threats created a reasonable~~
 3.25 ~~apprehension in the mind of the defendant that if the defendant did not commit the act,~~
 3.26 ~~the person would inflict bodily harm upon the defendant~~ acts underlying the charge as a
 3.27 result of being a labor trafficking or sex trafficking victim.

3.28 Sec. 5. Minnesota Statutes 2014, section 609.3471, is amended to read:

3.29 **609.3471 RECORDS PERTAINING TO VICTIM IDENTITY**
 3.30 **CONFIDENTIAL.**

3.31 Notwithstanding any provision of law to the contrary, no data contained in records or
 3.32 reports relating to petitions, complaints, or indictments issued pursuant to section 609.322,

4.1 609.342, 609.343, 609.344, 609.345, or 609.3453, which specifically identifies a victim
4.2 who is a minor shall be accessible to the public, except by order of the court. Nothing
4.3 in this section authorizes denial of access to any other data contained in the records or
4.4 reports, including the identity of the defendant.

4.5 Sec. 6. Minnesota Statutes 2014, section 611A.26, subdivision 1, is amended to read:

4.6 Subdivision 1. **Polygraph prohibition.** No law enforcement agency or prosecutor
4.7 shall require that a complainant of a criminal sexual conduct or sex trafficking offense
4.8 submit to a polygraph examination as part of or a condition to proceeding with the
4.9 investigation, charging, or prosecution of such offense.

4.10 Sec. 7. Minnesota Statutes 2014, section 611A.26, subdivision 6, is amended to read:

4.11 Subd. 6. **Definitions.** For the purposes of this section, the following terms have
4.12 the meanings given.

4.13 (a) "Criminal sexual conduct" means a violation of section 609.342, 609.343,
4.14 609.344, 609.345, or 609.3451.

4.15 (b) "Sex trafficking" means a violation of section 609.322.

4.16 (c) "Complainant" means a person reporting to have been subjected to criminal
4.17 sexual conduct or sex trafficking.

4.18 ~~(e)~~ (d) "Polygraph examination" means any mechanical or electrical instrument or
4.19 device of any type used or allegedly used to examine, test, or question individuals for
4.20 the purpose of determining truthfulness.

4.21 Sec. 8. Minnesota Statutes 2014, section 617.242, subdivision 6, is amended to read:

4.22 Subd. 6. **Restrictions on ownership or management by persons convicted of**
4.23 **certain crimes.** A person who has been convicted of one of the following offenses may
4.24 not operate or manage an adult business establishment for three years after discharge of
4.25 the sentence for the offense, or a similar offense in another state or jurisdiction:

4.26 (1) prostitution or sex trafficking under section 609.321; 609.322; 609.324; or
4.27 609.3242;

4.28 (2) criminal sexual conduct under sections 609.342 to 609.3451;

4.29 (3) solicitation of children under section 609.352;

4.30 (4) indecent exposure under section 617.23;

4.31 (5) distribution or exhibition of obscene materials and performances under section
4.32 617.241;

4.33 (6) use of a minor in a sexual performance under section 617.246; or

5.1 (7) possession of pornographic work involving minors under section 617.247.

5.2 Sec. 9. Minnesota Statutes 2014, section 628.26, is amended to read:

5.3 **628.26 LIMITATIONS.**

5.4 (a) Indictments or complaints for any crime resulting in the death of the victim may
5.5 be found or made at any time after the death of the person killed.

5.6 (b) Indictments or complaints for a violation of section 609.25 may be found or
5.7 made at any time after the commission of the offense.

5.8 (c) Indictments or complaints for violation of section 609.282 may be found or made
5.9 at any time after the commission of the offense if the victim was under the age of 18 at
5.10 the time of the offense.

5.11 (d) Indictments or complaints for violation of section 609.282 where the victim
5.12 was 18 years of age or older at the time of the offense, or 609.42, subdivision 1, clause
5.13 (1) or (2), shall be found or made and filed in the proper court within six years after
5.14 the commission of the offense.

5.15 (e) Indictments or complaints for violation of sections 609.322 and 609.342 to
5.16 609.345, if the victim was under the age of 18 years at the time the offense was committed,
5.17 shall be found or made and filed in the proper court within the later of nine years after
5.18 the commission of the offense or three years after the offense was reported to law
5.19 enforcement authorities.

5.20 (f) Notwithstanding the limitations in paragraph (e), indictments or complaints for
5.21 violation of sections 609.322 and 609.342 to 609.344 may be found or made and filed
5.22 in the proper court at any time after commission of the offense, if physical evidence is
5.23 collected and preserved that is capable of being tested for its DNA characteristics. If
5.24 this evidence is not collected and preserved and the victim was 18 years old or older
5.25 at the time of the offense, the prosecution must be commenced within nine years after
5.26 the commission of the offense.

5.27 (g) Indictments or complaints for violation of sections 609.466 and 609.52,
5.28 subdivision 2, clause (3), item (iii), shall be found or made and filed in the proper court
5.29 within six years after the commission of the offense.

5.30 (h) Indictments or complaints for violation of section 609.2335, 609.52, subdivision
5.31 2, clause (3), items (i) and (ii), (4), (15), or (16), 609.631, or 609.821, where the value of
5.32 the property or services stolen is more than \$35,000, shall be found or made and filed in
5.33 the proper court within five years after the commission of the offense.

6.1 (i) Except for violations relating to false material statements, representations or
6.2 omissions, indictments or complaints for violations of section 609.671 shall be found or
6.3 made and filed in the proper court within five years after the commission of the offense.

6.4 (j) Indictments or complaints for violation of sections 609.561 to 609.563, shall
6.5 be found or made and filed in the proper court within five years after the commission
6.6 of the offense.

6.7 (k) In all other cases, indictments or complaints shall be found or made and filed in
6.8 the proper court within three years after the commission of the offense.

6.9 (l) The limitations periods contained in this section shall exclude any period of time
6.10 during which the defendant was not an inhabitant of or usually resident within this state.

6.11 (m) The limitations periods contained in this section for an offense shall not include
6.12 any period during which the alleged offender participated under a written agreement in a
6.13 pretrial diversion program relating to that offense.

6.14 (n) The limitations periods contained in this section shall not include any period
6.15 of time during which physical evidence relating to the offense was undergoing DNA
6.16 analysis, as defined in section 299C.155, unless the defendant demonstrates that the
6.17 prosecuting or law enforcement agency purposefully delayed the DNA analysis process in
6.18 order to gain an unfair advantage.

6.19 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
6.20 committed on or after that date and to crimes committed before that date if the limitations
6.21 period for the crime did not expire before August 1, 2015.