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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **4424**

02/28/2024   Authored by Frazier
The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

1.1   A bill for an act

1.2   relating to government data practices; requiring disclosure of personnel data on
1.3   peace officers and other potential government witnesses to a prosecuting authority
1.4   to comply with the authority's constitutional disclosure obligations; amending
1.5   Minnesota Statutes 2022, sections 13.03, subdivision 6; 13.43, by adding a
1.6   subdivision; 626.8457, subdivision 3; Minnesota Statutes 2023 Supplement, section
1.7   626.8457, subdivision 5.

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

1.9   Section 1. Minnesota Statutes 2022, section 13.03, subdivision 6, is amended to read:

1.10   Subd. 6. **Discoverability of not public data.** (a) If a government entity opposes discovery

1.11   of government data or release of data pursuant to court order on the grounds that the data

1.12   are classified as not public, the party that seeks access to the data may bring before the

1.13   appropriate presiding judicial officer, arbitrator, or administrative law judge an action to

1.14   compel discovery or an action in the nature of an action to compel discovery.

1.15   The presiding officer shall first decide whether the data are discoverable or releasable

1.16   pursuant to the rules of evidence and of criminal, civil, or administrative procedure

1.17   appropriate to the action.

1.18   If the data are discoverable the presiding officer shall decide whether the benefit to the

1.19   party seeking access to the data outweighs any harm to the confidentiality interests of the

1.20   entity maintaining the data, or of any person who has provided the data or who is the subject

1.21   of the data, or to the privacy interest of an individual identified in the data. In making the

1.22   decision, the presiding officer shall consider whether notice to the subject of the data is

1.23   warranted and, if warranted, what type of notice must be given. The presiding officer may

1.24   fashion and issue any protective orders necessary to assure proper handling of the data by

2.1   the parties. If the data are a videotape of a child victim or alleged victim alleging, explaining,

2.2   denying, or describing an act of physical or sexual abuse, the presiding officer shall consider

2.3   the provisions of section 611A.90, subdivision 2, paragraph (b). If the data are data subject

2.4   to the protections under chapter 5B or section 13.045, the presiding officer shall consider

2.5   the provisions of section 5B.11.

2.6   (b) This subdivision does not apply to requests by a prosecuting authority to review

2.7   government data for the purposes of complying with the prosecuting authority's constitutional

2.8   obligation to disclose evidence to a criminal defendant.

2.9   Sec. 2. Minnesota Statutes 2022, section 13.43, is amended by adding a subdivision to

2.10   read:

2.11   Subd. 20. **Required disclosures by prosecuting authority.** (a) Notwithstanding any

2.12   other provision of this section, and regardless of the data's classification, a responsible

2.13   authority must release personnel data of an individual to a prosecuting authority if the

2.14   individual may be a witness in a criminal prosecution and the prosecuting authority requests

2.15   the information for the purposes of complying with a constitutional obligation to disclose

2.16   evidence to a criminal defendant. The prosecuting authority is not required to obtain a court

2.17   order for the release of this personnel data. If the prosecuting authority determines that

2.18   personnel data that is not public data must be disclosed to the defendant, the classification

2.19   of the data does not change, and the prosecuting authority must secure a protective order

2.20   prior to disclosure to the defendant. Nothing in this subdivision prohibits a standing request

2.21   by a prosecuting authority to a government entity for real-time personnel data of potential

2.22   witnesses.

2.23   (b) A government entity or person that releases personnel data to a prosecuting authority

2.24   under paragraph (a) is immune from civil and criminal liability, including any liability under

2.25   section 13.08, unless the government entity or person presented false information to the

2.26   prosecuting authority with the intention of causing reputational harm to the subject of the

2.27   personnel data.

2.28   Sec. 3. Minnesota Statutes 2022, section 626.8457, subdivision 3, is amended to read:

2.29   Subd. 3. **Report on alleged misconduct; database; report.** (a) A chief law enforcement

2.30   officer shall report annually to the board summary data regarding the investigation and

2.31   disposition of cases involving alleged misconduct, indicating the total number of

2.32   investigations, the total number by each subject matter, the number dismissed as unfounded,

2.33   and the number dismissed on grounds that the allegation was unsubstantiated.

3.1 (b) Beginning July 1, 2021, a chief law enforcement officer, in real time, must submit

3.2 individual peace officer data classified as public data on individuals, as defined by section

3.3 13.02, subdivision 15, or private data on individuals, as defined by section 13.02, subdivision

3.4 12, and submitted using encrypted data that the board determines is necessary to:

3.5 (1) evaluate the effectiveness of statutorily required training;

3.6 (2) assist the Ensuring Police Excellence and Improving Community Relations Advisory

3.7 Council in accomplishing the council's duties; and

3.8 (3) allow for the board, the Ensuring Police Excellence and Improving Community

3.9 Relations Advisory Council, and the board's complaint investigation committee to identify

3.10 patterns of behavior that suggest an officer is in crisis or is likely to violate a board-mandated

3.11 model policy.

3.12 (c) The reporting obligation in paragraph (b) is ongoing. A chief law enforcement officer

3.13 must update data within 30 days of final disposition of a complaint or investigation.

3.14 (d) Law enforcement agencies and political subdivisions are prohibited from entering

3.15 into a confidentiality agreement that would prevent disclosure of the data identified in

3.16 paragraph (b) to the board. Any such confidentiality agreement is void as to the requirements

3.17 of this section.

3.18 (e) By February 1 of each year, the board shall prepare a report that contains summary

3.19 data provided under paragraph (b). The board must post the report on its publicly accessible

3.20 website and provide a copy to the chairs and ranking minority members of the senate and

3.21 house of representatives committees and divisions having jurisdiction over criminal justice

3.22 policy.

3.23 (f) The board shall make all individual peace officer data submitted under paragraph (b)

3.24 accessible to a prosecuting authority for purposes of complying with the constitutional

3.25 obligation to disclose evidence to a criminal defendant. If the prosecuting authority

3.26 determines that personnel data that is not public data, as defined by section 13.02, subdivision

3.27 8a, must be disclosed to the defendant, the classification of the data does not change, and

3.28 the prosecuting authority must secure a protective order prior to disclosure to the defendant.

3.29 Sec. 4. Minnesota Statutes 2023 Supplement, section 626.8457, subdivision 5, is amended

3.30 to read:

3.31 Subd. 5. **Immunity from liability.** A chief law enforcement officer, city, county, or

3.32 public official and employees of the law enforcement agency are immune from civil or

3.33 criminal liability, including any liability under chapter 13, for reporting or releasing public

4.1   or not public data to the board <u>or a prosecuting authority</u> under subdivisions 3 and 4, unless

4.2   the chief law enforcement officer, city, county, or public official or employees of the law

4.3   enforcement agency presented false information to the board <u>or a prosecuting authority</u> with

4.4   the intention of causing reputational harm to the peace officer.

4.5   Sec. 5. **EFFECTIVE DATE.**

4.6   <u>This act is effective the day following final enactment.</u>