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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 128

01/14/2021 Authored by Novotny and Lucero

The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to data; providing that data held by law enforcement agencies regarding
1.3 the person or entity that posted bail is public; requiring notice to the agency having
1.4 custody of the arrested or detained person when bail or a bond is posted; amending
1.5 Minnesota Statutes 2020, sections 13.82, subdivision 2; 629.53; 629.67; 629.70.

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

1.7 Section 1. Minnesota Statutes 2020, section 13.82, subdivision 2, is amended to read:

1.8 Subd. 2. Arrest data. The following data created or collected by law enforcement
1.9 agencies which document any actions taken by them to cite, arrest, incarcerate or otherwise
1.10 substantially deprive an adult individual of liberty shall be public at all times in the
1.11 originating agency:

- 1.12 (a) time, date and place of the action;
1.13 (b) any resistance encountered by the agency;
1.14 (c) any pursuit engaged in by the agency;
1.15 (d) whether any weapons were used by the agency or other individual;
1.16 (e) the charge, arrest or search warrants, or other legal basis for the action;
1.17 (f) the identities of the agencies, units within the agencies and individual persons taking
1.18 the action;
1.19 (g) whether and where the individual is being held in custody or is being incarcerated
1.20 by the agency;

2.1 (h) the date, time and legal basis for any transfer of custody and the identity of the agency
2.2 or person who received custody;

2.3 (i) the date, time and legal basis for any release from custody or incarceration including,
2.4 to the extent known, the identity of any person or entity who posted bail or a bond to secure
2.5 the release of the individual who was held in custody for a crime against a person listed in
2.6 section 611A.031 or a crime of violence as defined in section 629.725;

2.7 (j) the name, age, sex and last known address of an adult person or the age and sex of
2.8 any juvenile person cited, arrested, incarcerated or otherwise substantially deprived of
2.9 liberty;

2.10 (k) whether the agency employed a portable recording system, automated license plate
2.11 reader, wiretaps or other eavesdropping techniques, unless the release of this specific data
2.12 would jeopardize an ongoing investigation;

2.13 (l) the manner in which the agencies received the information that led to the arrest and
2.14 the names of individuals who supplied the information unless the identities of those
2.15 individuals qualify for protection under subdivision 17; and

2.16 (m) response or incident report number.

2.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.18 Sec. 2. Minnesota Statutes 2020, section 629.53, is amended to read:

2.19 **629.53 PROVIDING RELEASE ON BAIL; COMMITMENT.**

2.20 A person charged with a criminal offense may be released with or without bail in
2.21 accordance with rule 6.02 of the Rules of Criminal Procedure. Money bail is the property
2.22 of the accused, whether deposited by that person or by a third person on the accused's behalf.
2.23 When money bail is accepted by a judge, that judge shall order it to be deposited with the
2.24 court administrator and shall notify the agency having custody of the arrested or detained
2.25 person or the agency's designee that money bail has been posted, the amount posted, and,
2.26 if the arrested or detained person is being held in custody for a crime against a person listed
2.27 in section 611A.031 or a crime of violence as defined in section 629.725, the identity of the
2.28 person or entity that posted the bail. The court administrator shall retain it until the final
2.29 disposition of the case and the final order of the court disposing of the case. Upon release,
2.30 the amount released must be paid to the accused personally or upon that person's written
2.31 order. In case of conviction, the judge may order the money bail deposit to be applied to
2.32 any fine or restitution imposed on the defendant by the court and, if the fine or restitution
2.33 is less than the deposit, order the balance to be paid to the defendant. Money bail deposited

3.1 with the court or any officer of it is exempt from garnishment or levy under attachment or
3.2 execution.

3.3 Sec. 3. Minnesota Statutes 2020, section 629.67, is amended to read:

3.4 **629.67 SURETIES ON BOND, RECOGNIZANCE, OR UNDERTAKING;**
3.5 **AFFIDAVITS REQUIRED.**

3.6 (a) A personal surety upon any bond, recognizance, or undertaking given to secure the
3.7 appearance of a defendant in a criminal case shall make an affidavit, to be attached to the
3.8 bond, recognizance, or undertaking, stating:

3.9 (1) the surety's full name;

3.10 (2) the surety's residence and post office address;

3.11 (3) whether or not the affiant is surety upon any other bond, recognizance, or undertaking
3.12 in any criminal case, and, if so, stating the name of the principal, the amount of each
3.13 obligation, and the court in which the obligation was given; and

3.14 (4) the legal description of all real property owned by the surety and specifying as to
3.15 each parcel of property its fair market value, what liens or encumbrances, if any, exist on
3.16 it, and whether or not the property is the surety's homestead or is otherwise exempt from
3.17 execution. The court may require the surety to disclose all or some of the surety's personal
3.18 property by affidavit as required for real property.

3.19 (b) The court may, in its discretion, by written order endorsed on the bond, recognizance,
3.20 or undertaking, dispense with the affidavit disclosing the surety's real or personal property,
3.21 or any part of it, if the court is satisfied that the surety is worth the amount necessary to act
3.22 as surety on the bond, recognizance or undertaking to secure the defendant in a criminal
3.23 case and is not a professional or habitual bonding agent in criminal cases.

3.24 (c) The court shall provide the agency having custody of a defendant in a criminal case
3.25 who is charged with a crime against a person listed in section 611A.031 or a crime of
3.26 violence as defined in section 629.725 with a copy of the affidavit identified in paragraph
3.27 (a).

3.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.1 Sec. 4. Minnesota Statutes 2020, section 629.70, is amended to read:

4.2 **629.70 AUTHORIZED CORPORATE BONDS AND RECOGNIZANCES.**

4.3 A defendant required to give a bond, recognizance, or undertaking to secure an appearance
4.4 in a criminal case may choose to give a surety bond, recognizance, or undertaking executed
4.5 by a corporation authorized by law to execute bonds, recognizances, or undertakings.

4.6 However, the amount of the bond, recognizance, or undertaking as fixed by the court must
4.7 be the same regardless of the kind of bond, recognizance, or undertaking given. When a
4.8 corporation authorized by law to execute bonds, recognizances, or undertakings has given
4.9 a surety bond, recognizance, or undertaking on behalf of a defendant charged with a crime
4.10 against a person listed in section 611A.031 or a crime of violence as defined in section
4.11 629.725, the court shall notify the agency having custody of the defendant or the agency's
4.12 designee that a surety bond, recognizance, or undertaking has been given; the amount of
4.13 the surety bond, recognizance, or undertaking; and the identity of the person or entity that
4.14 posted the surety bond, recognizance, or undertaking.

4.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.