

1.1 A bill for an act

1.2 relating to public safety; establishing a certification process for multijurisdictional
1.3 gang and drug task forces; regulating law enforcement criminal gang
1.4 investigative databases; classifying data received from law enforcement agencies
1.5 in other states; changing membership of a council; delineating uses of data in the
1.6 comprehensive incident-based reporting system; restricting the acquisition of cell
1.7 phone tracking devices; amending Minnesota Statutes 2008, sections 13.82, by
1.8 adding a subdivision; 299A.641; 299C.091, subdivision 4; 299C.40, subdivision
1.9 2; 609.531, subdivision 1; proposing coding for new law in Minnesota Statutes,
1.10 chapters 13; 626; 626A.

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

1.12 Section 1. Minnesota Statutes 2008, section 13.82, is amended by adding a subdivision
1.13 to read:

1.14 Subd. 30. **Gang criteria.** (a) For purposes of this subdivision, "gang criteria" are
1.15 those developed by the Violent Crime Oversight Council as required by section 299A.641,
1.16 subdivision 3.

1.17 (b) Data that document gang criteria about an individual are classified as private
1.18 data on individuals.

1.19 (c) While a law enforcement agency has an active criminal investigation as defined
1.20 in subdivision 7, data that document gang criteria about an individual are classified as
1.21 confidential data on individuals.

1.22 (d) Data about an individual classified under this subdivision may be shared as
1.23 provided under subdivision 24.

1.24 Sec. 2. [13.823] LAW ENFORCEMENT DATA FROM OTHER STATES.

1.25 Subdivision 1. **Definitions.** For purposes of this section:

2.1 (1) "investigative data" means data collected or created by a law enforcement
2.2 agency in order to prepare a case against a person, whether known or unknown, for the
2.3 commission of a crime or an act of delinquency; and

2.4 (2) "law enforcement agency" means a government agency with a law enforcement
2.5 function, as described in section 13.82, subdivision 1, or an equivalent agency in another
2.6 state.

2.7 Subd. 2. **Classification of data from other states.** (a) Except as provided in
2.8 paragraph (b) or (c), when a law enforcement agency in this state receives investigative
2.9 data from a law enforcement agency in another state, the data are classified in this state
2.10 in a manner that is the equivalent to the data classification or treatment of the data in the
2.11 other state that applies at the time a request for access to the data in this state is made.

2.12 (b) When investigative data classified under paragraph (a) become part of an active
2.13 criminal investigation in this state involving an adult, the data are classified as provided in
2.14 section 13.82.

2.15 (c) When investigative data classified under paragraph (a) become part of an active
2.16 juvenile delinquency investigation in this state involving a child, the data are governed
2.17 by section 260B.171, subdivision 4 or 5.

2.18 Subd. 4. **Transaction record.** A law enforcement agency in this state that receives
2.19 or disseminates data that are classified as not public under subdivision 2, paragraph (a),
2.20 shall maintain a record of each receipt or dissemination of the data.

2.21 Sec. 3. Minnesota Statutes 2008, section 299A.641, is amended to read:

2.22 **299A.641 GANG AND DRUG VIOLENT CRIME OVERSIGHT COUNCIL.**

2.23 Subdivision 1. **Oversight council established.** The ~~Gang and Drug~~ Violent Crime
2.24 Oversight Council is established to provide guidance related to the investigation and
2.25 prosecution of gang and drug crime. For the purposes of this section, "gang and drug
2.26 crime" includes violent crimes associated with gang activity.

2.27 Subd. 2. **Membership.** The oversight council shall consist of the following
2.28 individuals or their designees:

2.29 (1) the director of the office of special investigations as the representative of the
2.30 commissioner of corrections;

2.31 (2) the superintendent of the Bureau of Criminal Apprehension as the representative
2.32 of the commissioner of public safety;

2.33 (3) the attorney general;

2.34 (4) ~~eight~~ two chiefs of police, selected by the Minnesota Chiefs of Police

2.35 Association, ~~two of which~~ including one who must be selected from cities with populations

3.1 ~~greater than 200,000~~ work in the seven-county metropolitan area and one who must work
3.2 in greater Minnesota;

3.3 (5) ~~eight~~ two sheriffs, selected by the Minnesota Sheriffs Association ~~to represent~~
3.4 ~~each district, two of which must be selected from counties with populations greater than~~
3.5 500,000, including one who must work in the seven-county metropolitan area and one
3.6 who must work in greater Minnesota;

3.7 (6) the Hennepin County and Ramsey County sheriffs;

3.8 (7) the chiefs of police of Minneapolis and St. Paul;

3.9 ~~(6)~~ (8) the United States attorney for the district of Minnesota;

3.10 ~~(7)~~ (9) two county attorneys, selected by the Minnesota County Attorneys
3.11 Association, including one who must work in the seven-county metropolitan area and
3.12 one who must work in greater Minnesota;

3.13 ~~(8) a command-level representative of a gang strike force;~~

3.14 ~~(9)~~ (10) a representative from a drug task force, selected by the Minnesota
3.15 State Association of Narcotics Investigators four citizen members appointed by the
3.16 commissioner of public safety in consultation with representatives from the councils
3.17 created in sections 3.922, 3.9223, 3.9225, and 3.9226; and

3.18 ~~(10)~~ (11) a representative from the United States Drug Enforcement Administration;

3.19 ~~(11)~~ (12) a representative from the United States Bureau of Alcohol, Tobacco,
3.20 Firearms and Explosives;

3.21 ~~(12)~~ (13) a representative from the Federal Bureau of Investigation;

3.22 ~~(13)~~ (14) a tribal peace officer, selected by the Minnesota Tribal Law Enforcement
3.23 Association;

3.24 ~~(14) two additional members who may be selected by the oversight council;~~

3.25 (15) a senator who serves on the committee having jurisdiction over criminal justice
3.26 policy, chosen by the Subcommittee on Committees of the senate Committee on Rules
3.27 and Administration; and

3.28 (16) a representative who serves on the committee having jurisdiction over criminal
3.29 justice policy, chosen by the speaker of the house.

3.30 The oversight council ~~may~~ shall adopt procedures to govern its conduct as necessary
3.31 and ~~may~~ shall select a chair from among its members. The legislative members of the
3.32 council may not vote on matters before the council. The chair shall serve a two-year term
3.33 and the appointment of the chair shall alternate between a person who works in greater
3.34 Minnesota and a person who works in the seven-county metropolitan area.

3.35 Subd. 3. **Oversight council's duties.** The oversight council shall develop an overall
3.36 strategy to ameliorate the harm caused to the public by gang and drug crime within

4.1 the state of Minnesota. ~~This strategy may include the development of protocols and~~
4.2 ~~procedures to investigate gang and drug crime and a structure for best addressing these~~
4.3 ~~issues in a multijurisdictional manner.~~ Additionally, the oversight council shall:

4.4 (1) subject to approval by the commissioner of public safety, develop an operating
4.5 procedures and policies manual to investigate gang and drug crime in a multijurisdictional
4.6 manner;

4.7 ~~(1)~~ (2) identify and recommend a candidate or candidates for statewide coordinator
4.8 to the commissioner of public safety;

4.9 ~~(2)~~ (3) establish multijurisdictional task forces ~~and strike forces~~ to combat gang
4.10 and drug crime, ~~to include a metro gang strike force and a gang strike force located in~~
4.11 ~~the St. Cloud metropolitan area;~~

4.12 ~~(3)~~ (4) assist the ~~Department of Public Safety~~ commissioner of public safety in
4.13 developing grant eligibility criteria and operating an objective and conflict-free grant
4.14 review application process that is free from conflicts of interest;

4.15 ~~(4)~~ ~~make funding recommendations to the commissioner of public safety on grants~~
4.16 ~~to support efforts to combat gang and drug crime;~~

4.17 (5) make recommendations to the commissioner of public safety to terminate grant
4.18 funding for multijurisdictional entities if an entity no longer operates in accordance with
4.19 guidelines established under subdivision 3a, or no longer functions in a manner consistent
4.20 with the best interests of the state or public;

4.21 ~~(5)~~ (6) assist in developing a process to collect and share information to improve the
4.22 investigation and prosecution of gang and drug offenses;

4.23 ~~(6)~~ (7) develop and approve an operational budget for the ~~office of the statewide~~
4.24 ~~coordinator and the oversight council; and~~

4.25 (8) develop policies that prohibit the improper use of personal characteristics such as
4.26 race, color, national origin, gender, or religion to target individuals for law enforcement
4.27 action, prosecution, or forfeiture action; and

4.28 ~~(7)~~ (9) subject to approval by the commissioner of public safety, adopt narrowly
4.29 tailored, objective criteria and identifying characteristics for use in determining whether
4.30 individuals are or may be members of gangs involved in criminal activity. The council
4.31 shall review and update the criteria and characteristics adopted under this clause every
4.32 two years with the objective of ensuring effectiveness and relevance to the accurate
4.33 identification of subjects actively involved in criminal gang activity. As part of its review
4.34 process, the council shall obtain input from members of communities that are impacted by
4.35 criminal gang activity. Before adopting any changes under this clause, the council must
4.36 submit its recommendations to the commissioner of public safety for approval.

5.1 Subd. 3a. **Duties and authority of commissioner.** (a) By September 1, 2010,
5.2 the commissioner of public safety shall establish guidelines for the certification of
5.3 multijurisdictional entities that are established under this section. The guidelines shall
5.4 require that all multijurisdictional entities:

5.5 (1) be subject to the operational command and supervision of one of the participating
5.6 agencies; and

5.7 (2) have adequate staffing and funding to support law enforcement, prosecutorial, and
5.8 financial operations, including bookkeeping, evidence handling, and inventory recording.

5.9 (b) A multijurisdictional entity may not operate unless it meets the guidelines
5.10 established by, and is annually certified by, the commissioner of public safety. If, at any
5.11 time, the commissioner revokes an entity's certification, the commissioner may order
5.12 any or all of the following:

5.13 (1) dissolution of the entity, its governing boards, or both;

5.14 (2) transfer of responsibilities of the entity, its governing boards, or both, to the
5.15 commissioner of public safety; and

5.16 (3) any other actions deemed necessary by the commissioner.

5.17 Notwithstanding any action taken by the commissioner, any outstanding obligations
5.18 or liabilities of the entity remain with the entity and the parties to the agreement and
5.19 do not transfer.

5.20 (c) Except as provided in section 8, a multijurisdictional entity that is operating on
5.21 the effective date of this section has six months from the date guidelines are established
5.22 under paragraph (a) to be certified under this section.

5.23 Subd. 4. **Statewide coordinator.** ~~The current gang strike force commander shall~~
5.24 ~~serve as a transition coordinator until July 1, 2006, at which time the commissioner of~~
5.25 ~~public safety shall appoint a statewide coordinator as recommended by the oversight~~
5.26 ~~council.~~ The coordinator serving in the unclassified service shall:

5.27 (1) coordinate and monitor all multijurisdictional gang and drug enforcement
5.28 activities;

5.29 (2) facilitate local efforts and ensure statewide coordination with efforts to combat
5.30 gang and drug crime;

5.31 (3) facilitate training for personnel; and

5.32 (4) monitor compliance with investigative protocols; ~~and~~

5.33 ~~(5) implement an outcome evaluation and data quality control process.~~

5.34 Subd. 5. **Participating officers; employment status.** All participating law
5.35 enforcement officers must be licensed peace officers as defined in section 626.84,
5.36 subdivision 1, or qualified federal law enforcement officers as defined in section 626.8453.

6.1 Participating officers remain employees of the same entity that employed them before
6.2 joining any multijurisdictional entity established under this section. Participating officers
6.3 are not employees of the state. Participating officers are subject to annual performance
6.4 reviews conducted by the entity's governing board.

6.5 Subd. 6. **Jurisdiction and powers.** Law enforcement officers participating in any
6.6 multijurisdictional entity established under this section have statewide jurisdiction to
6.7 conduct criminal investigations and have the same powers of arrest as those possessed by
6.8 a sheriff.

6.9 Subd. 6a. **Evidence handling.** A multijurisdictional entity established under this
6.10 section shall process all seized cash, physical assets, and evidence through the standard
6.11 evidence handling procedures established by the participating agencies.

6.12 Subd. 7. **Grants authorized.** The commissioner of public safety, ~~upon~~
6.13 ~~recommendation of the council,~~ may make grants to state and local units of government to
6.14 combat gang and drug crime. When awarding grants, the commissioner shall consider
6.15 awarding grants under this section to fund community-based gang intervention and
6.16 prevention efforts for youth.

6.17 Subd. 8. **Oversight council is permanent.** Notwithstanding section 15.059, this
6.18 section does not expire.

6.19 Subd. 8a. **Governing board; prosecutor's role.** (a) A multijurisdictional entity
6.20 established under this section shall create a governing board consisting of the chief law
6.21 enforcement officer, or designee, from each participating agency, a prosecutor from one of
6.22 the participating agencies, and up to three additional members selected by the governing
6.23 board. A governing board shall have no less than six members.

6.24 (b) The prosecutor on the governing board shall have the following responsibilities:

6.25 (1) to oversee training for officers assigned to a multijurisdictional entity in order to
6.26 increase successful prosecutions;

6.27 (2) to advise on the lawful handling and processing of seized property and evidence
6.28 and forfeited property and money; and

6.29 (3) to ensure that seizures and forfeitures are reported in accordance with section
6.30 609.5315, subdivision 6.

6.31 Subd. 9. **Funding.** Participating agencies may accept lawful grants or contributions
6.32 from any federal source or legal business or entity.

6.33 Subd. 10. **Role of attorney general.** The attorney general or a designee shall
6.34 generally advise on any matters that the oversight council deems appropriate.

6.35 Subd. 11. **Attorney general; community liaison.** (a) The attorney general or a
6.36 designee shall serve as a liaison between the oversight council and the councils created

7.1 in sections 3.922, 3.9223, 3.9225, and 3.9226. The attorney general or designee will
7.2 be responsible for:

7.3 (1) informing the councils of the plans, activities, and decisions and hearing their
7.4 reactions to those plans, activities, and decisions; and

7.5 (2) providing the oversight council with the ~~councils'~~ position of the councils on the
7.6 oversight council's plan, activities, and decisions.

7.7 (b) In no event is the oversight council required to disclose the names of individuals
7.8 identified by it to the councils referenced in this subdivision.

7.9 (c) Nothing in this subdivision changes the data classification of any data held
7.10 by the oversight council.

7.11 Subd. 12. **Required report reports.** (a) By ~~March~~ February 1 of each year,
7.12 the ~~council~~ commissioner of public safety shall report submit the following reports
7.13 to the chairs and ranking minority members of the senate and house of representatives
7.14 committees and divisions having jurisdiction over criminal justice policy and funding ~~on~~
7.15 ~~the activities of the council and any strike or task forces. This annual report shall include:~~

7.16 ~~(1) a description of the council's goals for the previous year and for the coming year;~~

7.17 ~~(2) (1) a description of the outcomes the council achieved or did not achieve during~~
7.18 ~~the preceding year and a description of the outcomes the council will seek to achieve~~
7.19 during the coming year report on the results of audits conducted on data submitted to the
7.20 criminal gang investigative data system under section 299C.091; and

7.21 ~~(3) any legislative recommendations the council has including, where necessary, a~~
7.22 ~~description of the specific legislation needed to implement the recommendations~~

7.23 (2) a report on the activities and goals of the oversight council.

7.24 Sec. 4. Minnesota Statutes 2008, section 299C.091, subdivision 4, is amended to read:

7.25 Subd. 4. **Audit of data submitted to system; reports.** (a) At least once every two
7.26 years, the bureau shall conduct periodic random audits of data under subdivision 2 that
7.27 documents inclusion of an individual in, and removal of an individual from, the criminal
7.28 gang investigative data system for the purpose of determining the validity, completeness,
7.29 and accuracy of data submitted to the system. The bureau has access to the documenting
7.30 data for purposes of conducting an audit. By October 1 of each year, the bureau shall
7.31 submit a report on the results of the audits to the commissioner of public safety.

7.32 (b) If any audit requirements under federal rule or statute overlap with requirements
7.33 in paragraph (a), the audit required by paragraph (a) may be done in conjunction with the
7.34 federal audit to the extent they overlap. Nothing in this paragraph shall be construed to
7.35 eliminate any audit requirements specified in this subdivision.

8.1 Sec. 5. Minnesota Statutes 2008, section 299C.40, subdivision 2, is amended to read:

8.2 Subd. 2. **Purpose.** CIBRS is a statewide system containing data from law
8.3 enforcement agencies. Data in CIBRS must be made available to law enforcement
8.4 agencies ~~in order to~~:

8.5 (1) prepare a case against a person, whether known or unknown, for the commission
8.6 of a crime or other offense for which the agency has investigative authority;

8.7 (2) serve process in a criminal case;

8.8 (3) inform law enforcement officers of possible safety issues before service of
8.9 process;

8.10 (4) enforce no contact orders;

8.11 (5) locate missing persons; or

8.12 ~~for purposes of~~ (6) conduct background investigations required by section 626.87.

8.13 Sec. 6. Minnesota Statutes 2008, section 609.531, subdivision 1, is amended to read:

8.14 Subdivision 1. **Definitions.** For the purpose of sections 609.531 to 609.5318, the
8.15 following terms have the meanings given them.

8.16 (a) "Conveyance device" means a device used for transportation and includes, but
8.17 is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any
8.18 equipment attached to it. The term "conveyance device" does not include property which
8.19 is, in fact, itself stolen or taken in violation of the law.

8.20 (b) "Weapon used" means a dangerous weapon as defined under section 609.02,
8.21 subdivision 6, that the actor used or had in possession in furtherance of a crime.

8.22 (c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

8.23 (d) "Contraband" means property which is illegal to possess under Minnesota law.

8.24 (e) "Appropriate agency" means the Bureau of Criminal Apprehension, the
8.25 Department of Commerce Division of Insurance Fraud Prevention, the Minnesota
8.26 Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's
8.27 department, the Three Rivers Park District park rangers, the Department of Natural
8.28 Resources Division of Enforcement, the University of Minnesota Police Department, the
8.29 Department of Corrections Fugitive Apprehension Unit, ~~or~~ a city, metropolitan transit,
8.30 or airport police department; or a multijurisdictional entity established under section
8.31 299A.641 or 299A.681.

8.32 (f) "Designated offense" includes:

8.33 (1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;

8.34 (2) for driver's license or identification card transactions: any violation of section
8.35 171.22; and

9.1 (3) for all other purposes: a felony violation of, or a felony-level attempt or
9.2 conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21;
9.3 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.282;
9.4 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1,
9.5 clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345,
9.6 subdivision 1, clauses (a) to (e), and (h) to (j); 609.352; 609.42; 609.425; 609.466;
9.7 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561;
9.8 609.562; 609.563; 609.582; 609.59; 609.595; 609.611; 609.631; 609.66, subdivision 1e;
9.9 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88;
9.10 609.89; 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation
9.11 of section 609.891 or 624.7181; or any violation of section 609.324.

9.12 (g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

9.13 Sec. 7. **[626.8442] CRIMINAL GANG INVESTIGATIVE AND EVIDENCE**
9.14 **DATABASES.**

9.15 Subdivision 1. Duties of agencies. A law enforcement agency that administers and
9.16 maintains a computerized database for the purposes of identifying gang members and
9.17 investigating and prosecuting criminal activity by gang members shall:

9.18 (1) destroy data entered into the database when five years have elapsed since the
9.19 last entry of data on the individual into the system; and

9.20 (2) promptly notify a parent or legal guardian, if known, of an individual under
9.21 the age of 18 who is included in the database, except in active or ongoing criminal
9.22 investigations or in cases where notice may threaten an individual's personal safety. If
9.23 the agency does not send notice as prescribed in this clause, the agency shall cause a
9.24 written report to be made in the database record stating the agency's reasonable belief
9.25 that an exception exists.

9.26 Subd. 2. Report by agencies; parental notification. (a) By July 1, 2011, any law
9.27 enforcement agency that is subject to subdivision 1 shall file a report with the Bureau of
9.28 Criminal Apprehension that includes the following information:

9.29 (1) a description of the agency's parental notification process;

9.30 (2) the number of notifications that were sent by the agency;

9.31 (3) the number of notifications that were not sent by the agency because an exception
9.32 existed or because the agency could not locate a parent or legal guardian; and

9.33 (4) any feedback on the parental notification process from recipients of the notices,
9.34 community members, or peace officers.

10.1 (b) The Bureau of Criminal Apprehension shall review, analyze, and summarize the
10.2 information collected from law enforcement agencies on the parental notification process
10.3 under paragraph (a). By December 1, 2011, the bureau shall file a report with the chairs
10.4 and ranking minority members of the senate and house of representatives committees
10.5 and divisions having jurisdiction over criminal justice policy and funding that provides
10.6 the following:

10.7 (1) a summary of the information collected from all of the law enforcement
10.8 agencies; and

10.9 (2) any recommendations for legislation or policies based on its review and analysis
10.10 of the information.

10.11 Sec. 8. **[626A.281] USE OF CELLULAR TELEPHONE TRACKING DEVICES.**

10.12 A state or local law enforcement agency may track the location of a cellular
10.13 telephone only in the manner provided under section 626A.28, subdivision 3, paragraph
10.14 (b), clauses (2) to (4).

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

10.16 Sec. 9. **APPOINTMENTS AND FIRST MEETING OF COUNCIL.**

10.17 The new appointments specified in Minnesota Statutes, section 299A.641,
10.18 subdivision 2, must be completed by September 1, 2010. The superintendent of the
10.19 Bureau of Criminal Apprehension shall convene the first meeting of the Violent Crime
10.20 Oversight Council with the new members no later than October 1, 2010. The council
10.21 shall select a chair as provided in Minnesota Statutes, section 299A.641, subdivision 2,
10.22 at the first meeting.

10.23 Sec. 10. **WORK GROUP.**

10.24 The director of the Information Policy Analysis Division of the Department of
10.25 Administration shall convene and chair a work group of stakeholders and interested
10.26 parties to discuss issues and laws pertaining to criminal intelligence databases. In its
10.27 discussions, the work group shall balance considerations of public safety needs and
10.28 privacy interests, oversight, minimization of discretion, and regulation of the collection
10.29 of these data, including the individualized criteria for inclusion in a computerized gang
10.30 database. By February 1, 2011, the work group shall submit an executive summary
10.31 document to the chairs and ranking minority members of the committees of the senate
10.32 and house of representatives with jurisdiction over data practices issues. The document
10.33 must summarize the work group meetings and outline proposed legislative changes to

11.1 implement recommendations on which there is agreement. The Department of Public
11.2 Safety shall provide administrative support to the work group.

11.3 Sec. 11. **REVISOR'S INSTRUCTION.**

11.4 The revisor of statutes shall replace references in statute to the "Gang and Drug
11.5 Oversight Council" with the "Violent Crime Oversight Council."