

1.1 A bill for an act

1.2 relating to public safety; modifying provisions related to certain juvenile
1.3 records; authorizing the expungement of certain juvenile records; authorizing
1.4 the commissioner of human services to grant set asides or variances for certain
1.5 individuals disqualified from licensure because of an offense committed as a
1.6 juvenile; requiring chemical use screen of juvenile offenders; changing penalties
1.7 and prohibitions related to using or brandishing replica firearms and BB guns on
1.8 school property; requiring the revisor of statutes to publish a table in Minnesota
1.9 Statutes containing cross-references to collateral sanctions imposed on juveniles
1.10 as a result of an adjudication of delinquency; clarifying detention placement
1.11 options for extended jurisdiction juveniles pending revocation hearings;
1.12 modifying certain provisions regarding juvenile delinquency to include stays of
1.13 adjudication of delinquency; extending the duration of the continuance period
1.14 allowed in a juvenile delinquency matter; amending Minnesota Statutes 2008,
1.15 sections 121A.23, subdivision 1; 241.31, subdivision 1; 242.32, subdivision
1.16 2; 260B.125, subdivision 4; 260B.130, subdivision 5; 260B.157, subdivision
1.17 1; 260B.171, subdivision 5; 260B.176, subdivision 2; 260B.198, subdivision
1.18 7; 299C.105, subdivision 1; 299C.61, subdivision 8a; 609.117, subdivision
1.19 1; 609.344, subdivision 1; 609.66, subdivision 1d; 609A.02, subdivisions 2,
1.20 3; 609A.03, subdivisions 1, 2, 4, 5, 5a, 7; 624.713, subdivision 3; Minnesota
1.21 Statutes 2009 Supplement, sections 245C.24, subdivision 2; 624.713, subdivision
1.22 1; proposing coding for new law in Minnesota Statutes, chapter 609A.

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

1.24 Section 1. Minnesota Statutes 2008, section 121A.23, subdivision 1, is amended to
1.25 read:

1.26 Subdivision 1. **Sexually transmitted infections and diseases program.** The
1.27 commissioner of education, in consultation with the commissioner of health, shall assist
1.28 districts in developing and implementing a program to prevent and reduce the risk of
1.29 sexually transmitted infections and diseases, including but not exclusive to human
1.30 immune deficiency virus and human papilloma virus. Each district must have a program
1.31 that includes at least:

2.1 (1) planning materials, guidelines, and other technically accurate and updated
2.2 information;

2.3 (2) a comprehensive, technically accurate, and updated curriculum that includes
2.4 helping students to abstain from sexual activity until marriage and information on criminal
2.5 sexual conduct laws, specifically those based on the ages of the parties;

2.6 (3) cooperation and coordination among districts and SCs;

2.7 (4) a targeting of adolescents, especially those who may be at high risk of contracting
2.8 sexually transmitted infections and diseases, for prevention efforts;

2.9 (5) involvement of parents and other community members;

2.10 (6) in-service training for appropriate district staff and school board members;

2.11 (7) collaboration with state agencies and organizations having a sexually transmitted
2.12 infection and disease prevention or sexually transmitted infection and disease risk
2.13 reduction program;

2.14 (8) collaboration with local community health services, agencies and organizations
2.15 having a sexually transmitted infection and disease prevention or sexually transmitted
2.16 infection and disease risk reduction program; and

2.17 (9) participation by state and local student organizations.

2.18 The department may provide assistance at a neutral site to a nonpublic school
2.19 participating in a district's program. District programs must not conflict with the health
2.20 and wellness curriculum developed under Laws 1987, chapter 398, article 5, section 2,
2.21 subdivision 7.

2.22 If a district fails to develop and implement a program to prevent and reduce the
2.23 risk of sexually transmitted infection and disease, the department must assist the service
2.24 cooperative in the region serving that district to develop or implement the program.

2.25 **EFFECTIVE DATE.** This section is effective July 1, 2010.

2.26 Sec. 2. Minnesota Statutes 2008, section 241.31, subdivision 1, is amended to read:

2.27 Subdivision 1. **Establishment of program.** Notwithstanding any provisions of
2.28 Minnesota Statutes to the contrary, any city, county or town, or any nonprofit corporation
2.29 approved by the commissioner of corrections, or any combination thereof may establish
2.30 and operate a community corrections program for the purpose of providing housing,
2.31 supervision, treatment, counseling or other correctional services;

2.32 (a) to persons convicted of crime in the courts of this state and placed on probation
2.33 by such courts pursuant to section 609.135;

2.34 (b) to persons not yet convicted of a crime but under criminal accusation who
2.35 voluntarily accept such treatment;

3.1 (c) to persons adjudicated a delinquent or who received a stay of adjudication of
3.2 delinquency under chapter 260 or chapter 260B;

3.3 (d) with the approval of the commissioner of corrections, to persons paroled under
3.4 chapter 242; and

3.5 (e) with the approval of the commissioner of corrections, to persons paroled under
3.6 section 243.05 or released under section 241.26.

3.7 Sec. 3. Minnesota Statutes 2008, section 242.32, subdivision 2, is amended to read:

3.8 Subd. 2. **Secure placement of juvenile offenders.** The commissioner shall license
3.9 several small regional facilities providing secure capacity programming for juveniles who
3.10 have been adjudicated delinquent, have received a stay of adjudication of delinquency,
3.11 or have been convicted as extended jurisdiction juveniles and require secure placement.
3.12 The programming shall be tailored to the types of juveniles being served, including their
3.13 offense history, age, gender, cultural and ethnic heritage, mental health and chemical
3.14 dependency problems, and other characteristics. Services offered shall include but not
3.15 be limited to:

3.16 (1) intensive general educational programs, with an individual educational plan for
3.17 each juvenile;

3.18 (2) specific educational components in the management of anger and nonviolent
3.19 conflict resolution;

3.20 (3) treatment for chemical dependency;

3.21 (4) mental health screening, assessment, and treatment; and

3.22 (5) programming to educate offenders about sexuality and address issues specific to
3.23 victims and perpetrators of sexual abuse.

3.24 The facilities shall collaborate with facilities providing nonsecure residential
3.25 programming and with community-based aftercare programs.

3.26 Sec. 4. Minnesota Statutes 2009 Supplement, section 245C.24, subdivision 2, is
3.27 amended to read:

3.28 Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as otherwise
3.29 provided in ~~paragraph (b)~~ this subdivision, the commissioner may not set aside the
3.30 disqualification of any individual disqualified pursuant to this chapter, regardless of how
3.31 much time has passed, if the individual was disqualified for a crime or conduct listed in
3.32 section 245C.15, subdivision 1.

3.33 (b) For an individual in the chemical dependency or corrections field who was
3.34 disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose

4.1 disqualification was set aside prior to July 1, 2005, the commissioner must consider
4.2 granting a variance pursuant to section 245C.30 for the license holder for a program
4.3 dealing primarily with adults. A request for reconsideration evaluated under this paragraph
4.4 must include a letter of recommendation from the license holder that was subject to the
4.5 prior set-aside decision addressing the individual's quality of care to children or vulnerable
4.6 adults and the circumstances of the individual's departure from that service.

4.7 (c) When a licensed foster care provider adopts an individual who had received
4.8 foster care services from the provider for over six months, and the adopted individual is
4.9 required to receive a background study under section 245C.03, subdivision 1, paragraph
4.10 (a), clause (2) or (6), the commissioner may grant a variance to the license holder under
4.11 section 245C.30 to permit the adopted individual with a permanent disqualification
4.12 to remain affiliated with the license holder under the conditions of the variance when
4.13 the variance is recommended by the county of responsibility for each of the remaining
4.14 individuals in placement in the home and the licensing agency for the home.

4.15 (d) The commissioner shall consider granting a set aside under section 245C.22 or a
4.16 variance under section 245C.30 to an individual who is now 21 years of age or older and
4.17 who was disqualified for a crime or conduct listed under section 245C.15, subdivision 1,
4.18 occurring while the individual was under the age of 18. This paragraph does not apply to
4.19 individuals who were convicted of the disqualifying crime following certification under
4.20 section 260B.125.

4.21 Sec. 5. Minnesota Statutes 2008, section 260B.125, subdivision 4, is amended to read:

4.22 Subd. 4. **Public safety.** In determining whether the public safety is served by
4.23 certifying the matter, the court shall consider the following factors:

4.24 (1) the seriousness of the alleged offense in terms of community protection,
4.25 including the existence of any aggravating factors recognized by the Sentencing
4.26 Guidelines, the use of a firearm, and the impact on any victim;

4.27 (2) the culpability of the child in committing the alleged offense, including the level
4.28 of the child's participation in planning and carrying out the offense and the existence of
4.29 any mitigating factors recognized by the Sentencing Guidelines;

4.30 (3) the child's prior record of delinquency, including adjudications of delinquency
4.31 and delinquency petitions that resulted in stays of adjudication of delinquency;

4.32 (4) the child's programming history, including the child's past willingness to
4.33 participate meaningfully in available programming;

4.34 (5) the adequacy of the punishment or programming available in the juvenile justice
4.35 system; and

5.1 (6) the dispositional options available for the child.

5.2 In considering these factors, the court shall give greater weight to the seriousness of
5.3 the alleged offense and the child's prior record of delinquency, including adjudications
5.4 of delinquency and delinquency petitions that resulted in stays of adjudication of
5.5 delinquency, than to the other factors listed in this subdivision.

5.6 Sec. 6. Minnesota Statutes 2008, section 260B.130, subdivision 5, is amended to read:

5.7 Subd. 5. **Execution of adult sentence.** (a) When it appears that a person convicted
5.8 as an extended jurisdiction juvenile has violated the conditions of the stayed sentence,
5.9 or is alleged to have committed a new offense, the court may, without notice, revoke the
5.10 stay and probation and direct that the offender be taken into immediate custody. The court
5.11 shall notify the offender in writing of the reasons alleged to exist for revocation of the
5.12 stay of execution of the adult sentence. If the offender challenges the reasons, the court
5.13 shall hold a summary hearing on the issue at which the offender is entitled to be heard and
5.14 represented by counsel.

5.15 (b) If a person described in paragraph (a) is taken into custody, the person may be
5.16 detained in a secure juvenile detention facility. If there is no secure juvenile detention
5.17 facility or existing acceptable detention alternative available for juveniles within the
5.18 county, the child may be detained up to 24 hours, excluding Saturdays, Sundays, and
5.19 holidays, or for up to six hours in a standard metropolitan statistical area, in a jail, lockup,
5.20 or other facility used for the confinement of adults who have been charged with or
5.21 convicted of a crime. In this instance, the person must be confined in quarters separate
5.22 from any adult confined in the facility that allow for complete sight and sound separation
5.23 for all activities during the period of the detention, and the adult facility must be approved
5.24 for the detention of juveniles by the commissioner of corrections.

5.25 If the person is 18 years of age or older and is to be detained prior to the revocation
5.26 hearing, the person may be detained in a local adult correctional facility without the need
5.27 for sight and sound separation.

5.28 (c) After the hearing, if the court finds that reasons exist to revoke the stay of
5.29 execution of sentence, the court shall treat the offender as an adult and order any of the
5.30 adult sanctions authorized by section 609.14, subdivision 3, except that no credit shall
5.31 be given for time served in juvenile facility custody prior to a summary hearing. If the
5.32 offender was convicted of an offense described in subdivision 1, clause (2), and the court
5.33 finds that reasons exist to revoke the stay, the court must order execution of the previously
5.34 imposed sentence unless the court makes written findings regarding the mitigating factors
5.35 that justify continuing the stay.

6.1 (d) Upon revocation, the offender's extended jurisdiction status is terminated and
6.2 juvenile court jurisdiction is terminated. The ongoing jurisdiction for any adult sanction,
6.3 other than commitment to the commissioner of corrections, is with the adult court.

6.4 Sec. 7. Minnesota Statutes 2008, section 260B.157, subdivision 1, is amended to read:

6.5 Subdivision 1. **Investigation.** Upon request of the court the local social services
6.6 agency or probation officer shall investigate the personal and family history and
6.7 environment of any minor coming within the jurisdiction of the court under section
6.8 260B.101 and shall report its findings to the court. The court may order any minor coming
6.9 within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or
6.10 psychologist appointed by the court.

6.11 The court shall order a chemical use assessment conducted when a child is (1) found
6.12 to be delinquent for violating a provision of chapter 152, or for committing a felony-level
6.13 violation of a provision of chapter 609 if the probation officer determines that alcohol or
6.14 drug use was a contributing factor in the commission of the offense, or (2) alleged to be
6.15 delinquent for violating a provision of chapter 152, if the child is being held in custody
6.16 under a detention order. The assessor's qualifications and the assessment criteria shall
6.17 comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under chapter
6.18 254B are to be used to pay for the recommended treatment, the assessment and placement
6.19 must comply with all provisions of Minnesota Rules, parts 9530.6600 to 9530.6655 and
6.20 9530.7000 to 9530.7030. The commissioner of human services shall reimburse the court
6.21 for the cost of the chemical use assessment, up to a maximum of \$100.

6.22 The court shall order a children's mental health screening and a chemical use
6.23 screening conducted when a child is found to be delinquent. The screening shall be
6.24 conducted with a screening instrument approved by the commissioner of human services
6.25 and shall be conducted by a mental health practitioner as defined in section 245.4871,
6.26 subdivision 26, or a probation officer who is trained in the use of the screening instrument.
6.27 If the screening indicates a need for a mental health assessment, the local social services
6.28 agency, in consultation with the child's family, shall have a diagnostic assessment
6.29 conducted, including a functional assessment, as defined in section 245.4871. If the
6.30 screening indicates a need for a chemical use assessment, the local social service agency,
6.31 in consultation with the child's family, shall have a chemical use assessment conducted, as
6.32 defined in section 254A.03, subdivision 3.

6.33 With the consent of the commissioner of corrections and agreement of the county to
6.34 pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction
6.35 in an institution maintained by the commissioner for the detention, diagnosis, custody and

7.1 treatment of persons adjudicated to be delinquent or who received a stay of adjudication of
7.2 delinquency, in order that the condition of the minor be given due consideration in the
7.3 disposition of the case. Any funds received under the provisions of this subdivision shall
7.4 not cancel until the end of the fiscal year immediately following the fiscal year in which the
7.5 funds were received. The funds are available for use by the commissioner of corrections
7.6 during that period and are hereby appropriated annually to the commissioner of corrections
7.7 as reimbursement of the costs of providing these services to the juvenile courts.

7.8 Sec. 8. Minnesota Statutes 2008, section 260B.171, subdivision 5, is amended to read:

7.9 Subd. 5. **Peace officer records of children.** (a) Except for records relating to
7.10 an offense where proceedings are public under section 260B.163, subdivision 1, Peace
7.11 officers' records of children who are or may be delinquent or who may be engaged in
7.12 criminal acts shall be kept separate from records of persons 18 years of age or older
7.13 and are private data but shall be disseminated: (1) by order of the juvenile court, (2) as
7.14 required by section 121A.28, (3) as authorized under section 13.82, subdivision 2, (4) to
7.15 the child or the child's parent or guardian unless disclosure of a record would interfere
7.16 with an ongoing investigation, (5) to the Minnesota crime victims reparations board as
7.17 required by section 611A.56, subdivision 2, clause (6), for the purpose of processing
7.18 claims for crime victims reparations, or (6) as otherwise provided in this subdivision.
7.19 Except as provided in paragraph (c), no photographs of a child taken into custody may be
7.20 taken without the consent of the juvenile court unless the child is alleged to have violated
7.21 section 169A.20. Peace officers' records containing data about children who are victims
7.22 of crimes or witnesses to crimes must be administered consistent with section 13.82,
7.23 subdivisions 2, 3, 6, and 17. Any person violating any of the provisions of this subdivision
7.24 shall be guilty of a misdemeanor.

7.25 In the case of computerized records maintained about juveniles by peace officers,
7.26 the requirement of this subdivision that records about juveniles must be kept separate
7.27 from adult records does not mean that a law enforcement agency must keep its records
7.28 concerning juveniles on a separate computer system. Law enforcement agencies may keep
7.29 juvenile records on the same computer as adult records and may use a common index to
7.30 access both juvenile and adult records so long as the agency has in place procedures that
7.31 keep juvenile records in a separate place in computer storage and that comply with the
7.32 special data retention and other requirements associated with protecting data on juveniles.

7.33 (b) Nothing in this subdivision prohibits the exchange of information by law
7.34 enforcement agencies if the exchanged information is pertinent and necessary for law
7.35 enforcement purposes.

8.1 (c) A photograph may be taken of a child taken into custody pursuant to section
8.2 260B.175, subdivision 1, clause (b), provided that the photograph must be destroyed when
8.3 the child reaches the age of 19 years. The commissioner of corrections may photograph
8.4 juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles
8.5 authorized by this paragraph may be used only for institution management purposes,
8.6 case supervision by parole agents, and to assist law enforcement agencies to apprehend
8.7 juvenile offenders. The commissioner shall maintain photographs of juveniles in the same
8.8 manner as juvenile court records and names under this section.

8.9 (d) Traffic investigation reports are open to inspection by a person who has sustained
8.10 physical harm or economic loss as a result of the traffic accident. Identifying information
8.11 on juveniles who are parties to traffic accidents may be disclosed as authorized under
8.12 section 13.82, subdivision 6, and accident reports required under section 169.09 may be
8.13 released under section 169.09, subdivision 13, unless the information would identify a
8.14 juvenile who was taken into custody or who is suspected of committing an offense that
8.15 would be a crime if committed by an adult, or would associate a juvenile with the offense,
8.16 and the offense is not an adult court traffic offense under section 260B.225.

8.17 (e) The head of a law enforcement agency or a person specifically given the duty
8.18 by the head of the law enforcement agency shall notify the superintendent or chief
8.19 administrative officer of a juvenile's school of an incident occurring within the agency's
8.20 jurisdiction if:

8.21 (1) the agency has probable cause to believe that the juvenile has committed an
8.22 offense that would be a crime if committed as an adult, that the victim of the offense is a
8.23 student or staff member of the school, and that notice to the school is reasonably necessary
8.24 for the protection of the victim; or

8.25 (2) the agency has probable cause to believe that the juvenile has committed an
8.26 offense described in subdivision 3, paragraph (a), clauses (1) to (3), that would be a crime
8.27 if committed by an adult, regardless of whether the victim is a student or staff member
8.28 of the school.

8.29 A law enforcement agency is not required to notify the school under this paragraph
8.30 if the agency determines that notice would jeopardize an ongoing investigation. For
8.31 purposes of this paragraph, "school" means a public or private elementary, middle,
8.32 secondary, or charter school.

8.33 (f) In any county in which the county attorney operates or authorizes the operation
8.34 of a juvenile prepetition or pretrial diversion program, a law enforcement agency or
8.35 county attorney's office may provide the juvenile diversion program with data concerning
8.36 a juvenile who is a participant in or is being considered for participation in the program.

9.1 (g) Upon request of a local social services agency, peace officer records of
9.2 children who are or may be delinquent or who may be engaged in criminal acts may be
9.3 disseminated to the agency to promote the best interests of the subject of the data.

9.4 (h) Upon written request, the prosecuting authority shall release investigative data
9.5 collected by a law enforcement agency to the victim of a criminal act or alleged criminal
9.6 act or to the victim's legal representative, except as otherwise provided by this paragraph.

9.7 Data shall not be released if:

9.8 (1) the release to the individual subject of the data would be prohibited under
9.9 section 13.821; or

9.10 (2) the prosecuting authority reasonably believes:

9.11 (i) that the release of that data will interfere with the investigation; or

9.12 (ii) that the request is prompted by a desire on the part of the requester to engage in
9.13 unlawful activities.

9.14 (i) A consent to the release of a peace officer record governed by this subdivision
9.15 from the individual who is the subject of the record is not effective and a law enforcement
9.16 agency must not release the record or release information in a manner that reveals the
9.17 existence of the record. This paragraph does not apply to the release of a record for
9.18 purposes of enlistment in military forces, as defined in section 190.05, subdivision 3.

9.19 Sec. 9. Minnesota Statutes 2008, section 260B.176, subdivision 2, is amended to read:

9.20 Subd. 2. **Reasons for detention.** (a) If the child is not released as provided in
9.21 subdivision 1, the person taking the child into custody shall notify the court as soon as
9.22 possible of the detention of the child and the reasons for detention.

9.23 (b) No child may be detained in a juvenile secure detention facility or shelter care
9.24 facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, after being
9.25 taken into custody for a delinquent act as defined in section 260B.007, subdivision 6,
9.26 unless a petition has been filed and the judge or referee determines pursuant to section
9.27 260B.178 that the child shall remain in detention.

9.28 (c) No child may be detained in an adult jail or municipal lockup longer than 24
9.29 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult
9.30 jail or municipal lockup in a standard metropolitan statistical area, after being taken into
9.31 custody for a delinquent act as defined in section 260B.007, subdivision 6, unless:

9.32 (1) a petition has been filed under section 260B.141; and

9.33 (2) a judge or referee has determined under section 260B.178 that the child shall
9.34 remain in detention.

10.1 After August 1, 1991, no child described in this paragraph may be detained in an
10.2 adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and
10.3 holidays, or longer than six hours in an adult jail or municipal lockup in a standard
10.4 metropolitan statistical area, unless the requirements of this paragraph have been met and,
10.5 in addition, a motion to refer the child for adult prosecution has been made under section
10.6 260B.125. Notwithstanding this paragraph, continued detention of a child in an adult
10.7 detention facility outside of a standard metropolitan statistical area county is permissible if:

10.8 (i) the facility in which the child is detained is located where conditions of distance
10.9 to be traveled or other ground transportation do not allow for court appearances within 24
10.10 hours. A delay not to exceed 48 hours may be made under this clause; or

10.11 (ii) the facility is located where conditions of safety exist. Time for an appearance
10.12 may be delayed until 24 hours after the time that conditions allow for reasonably safe
10.13 travel. "Conditions of safety" include adverse life-threatening weather conditions that do
10.14 not allow for reasonably safe travel.

10.15 The continued detention of a child under clause (i) or (ii) must be reported to the
10.16 commissioner of corrections.

10.17 (d) If a child described in paragraph (c) is to be detained in a jail beyond 24 hours,
10.18 excluding Saturdays, Sundays, and holidays, the judge or referee, in accordance with
10.19 rules and procedures established by the commissioner of corrections, shall notify the
10.20 commissioner of the place of the detention and the reasons therefor. The commissioner
10.21 shall thereupon assist the court in the relocation of the child in an appropriate juvenile
10.22 secure detention facility or approved jail within the county or elsewhere in the state, or in
10.23 determining suitable alternatives. The commissioner shall direct that a child detained in a
10.24 jail be detained after eight days from and including the date of the original detention order
10.25 in an approved juvenile secure detention facility with the approval of the administrative
10.26 authority of the facility. If the court refers the matter to the prosecuting authority pursuant
10.27 to section 260B.125, notice to the commissioner shall not be required.

10.28 (e) When a child is detained for an alleged delinquent act in a state licensed juvenile
10.29 facility or program, or when a child is detained in an adult jail or municipal lockup as
10.30 provided in paragraph (c), the supervisor of the facility shall, if the child's parent or legal
10.31 guardian consents, have a children's mental health screening conducted with a screening
10.32 instrument approved by the commissioner of human services, unless a screening has been
10.33 performed within the previous 180 days or the child is currently under the care of a mental
10.34 health professional. The screening shall be conducted by a mental health practitioner
10.35 as defined in section 245.4871, subdivision 26, or a probation officer who is trained in
10.36 the use of the screening instrument. The screening shall be conducted after the initial

11.1 detention hearing has been held and the court has ordered the child continued in detention.
11.2 The results of the screening may only be presented to the court at the dispositional phase
11.3 of the court proceedings on the matter unless the parent or legal guardian consents to
11.4 presentation at a different time. If the screening indicates a need for assessment, the
11.5 local social services agency or probation officer, with the approval of the child's parent
11.6 or legal guardian, shall have a diagnostic assessment conducted, including a functional
11.7 assessment, as defined in section 245.4871.

11.8 (f) When a child is detained for an alleged delinquent act in a state licensed juvenile
11.9 facility or program, or when a child is detained in an adult jail or municipal lockup as
11.10 provided in paragraph (c), the supervisor of the facility shall, if the child's parent or legal
11.11 guardian consents, have a chemical use screen conducted with a screening instrument
11.12 approved by the commissioner of human services, unless a screening has been performed
11.13 within the previous 180 days or the child is currently under the care of a licensed alcohol
11.14 and drug counselor. The screening shall be conducted by a mental health practitioner as
11.15 defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use
11.16 of the screening instrument. The screening shall be conducted after the initial detention
11.17 hearing has been held and the court has ordered the child continued in detention.

11.18 Sec. 10. Minnesota Statutes 2008, section 260B.198, subdivision 7, is amended to read:

11.19 Subd. 7. **Continuance.** When it is in the best interests of the child and public safety
11.20 to do so and when the child has admitted the allegations contained in the petition before
11.21 the judge or referee, or when a hearing has been held as provided for in section 260B.163
11.22 and the allegations contained in the petition have been duly proven but, in either case,
11.23 before a finding of delinquency has been entered, the court may stay the adjudication of
11.24 delinquency and continue the case for a period not to exceed ~~90~~ 180 days on any one
11.25 order. With the consent of the prosecutor, such a continuance may be extended renewed
11.26 for one additional successive a period not to exceed 90 days extend beyond the child's
11.27 19th birthday and only after the court has reviewed the case and entered its order for an
11.28 additional continuance without a finding of delinquency. During ~~this~~ either continuance
11.29 the court may enter an order in accordance with the provisions of subdivision 1, ~~clause (1)~~
11.30 ~~or (2)~~; or enter an order to hold the child in detention for a period not to exceed 15 days on
11.31 any one order for the purpose of completing any consideration, or any investigation or
11.32 examination ordered in accordance with the provisions of section 260B.157. The court
11.33 shall not stay adjudication on any felony offense if the child has previously received a
11.34 stay of adjudication of delinquency by a court in any judicial district. This subdivision
11.35 does not apply to an extended jurisdiction juvenile proceeding. In calculating an adult

12.1 criminal history score, a stay of adjudication for a felony-level offense ordered by the
12.2 court pursuant to this subdivision shall be counted as an adjudication by the Minnesota
12.3 Sentencing Guidelines Commission.

12.4 Sec. 11. Minnesota Statutes 2008, section 299C.105, subdivision 1, is amended to read:

12.5 Subdivision 1. **Required collection of biological specimen for DNA testing.** (a)
12.6 Sheriffs, peace officers, and community corrections agencies operating secure juvenile
12.7 detention facilities shall take or cause to be taken biological specimens for the purpose of
12.8 DNA analysis as defined in section 299C.155, of the following:

12.9 (1) persons who have appeared in court and have had a judicial probable cause
12.10 determination on a charge of committing, or persons having been convicted of or
12.11 attempting to commit, any of the following:

12.12 (i) murder under section 609.185, 609.19, or 609.195;

12.13 (ii) manslaughter under section 609.20 or 609.205;

12.14 (iii) assault under section 609.221, 609.222, or 609.223;

12.15 (iv) robbery under section 609.24 or aggravated robbery under section 609.245;

12.16 (v) kidnapping under section 609.25;

12.17 (vi) false imprisonment under section 609.255;

12.18 (vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345,
12.19 609.3451, subdivision 3, or 609.3453;

12.20 (viii) incest under section 609.365;

12.21 (ix) burglary under section 609.582, subdivision 1; or

12.22 (x) indecent exposure under section 617.23, subdivision 3;

12.23 (2) persons sentenced as patterned sex offenders under section 609.3455, subdivision
12.24 3a; or

12.25 (3) juveniles who have appeared in court and have had a judicial probable cause
12.26 determination on a charge of committing, ~~or~~ juveniles having been adjudicated delinquent,
12.27 or juveniles who have received a stay of adjudication of delinquency for committing or
12.28 attempting to commit, any of the following:

12.29 (i) murder under section 609.185, 609.19, or 609.195;

12.30 (ii) manslaughter under section 609.20 or 609.205;

12.31 (iii) assault under section 609.221, 609.222, or 609.223;

12.32 (iv) robbery under section 609.24 or aggravated robbery under section 609.245;

12.33 (v) kidnapping under section 609.25;

12.34 (vi) false imprisonment under section 609.255;

13.1 (vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345,
13.2 609.3451, subdivision 3, or 609.3453;

13.3 (viii) incest under section 609.365;

13.4 (ix) burglary under section 609.582, subdivision 1; or

13.5 (x) indecent exposure under section 617.23, subdivision 3.

13.6 (b) Unless the superintendent of the bureau requires a shorter period, within 72 hours
13.7 the biological specimen required under paragraph (a) must be forwarded to the bureau in
13.8 such a manner as may be prescribed by the superintendent.

13.9 (c) Prosecutors, courts, and probation officers shall attempt to ensure that the
13.10 biological specimen is taken on a person described in paragraph (a).

13.11 Sec. 12. Minnesota Statutes 2008, section 299C.61, subdivision 8a, is amended to read:

13.12 Subd. 8a. **Conviction.** "Conviction" means a criminal conviction or an adjudication
13.13 of delinquency or a stay of adjudication of delinquency for an offense that would be a
13.14 crime if committed by an adult.

13.15 Sec. 13. Minnesota Statutes 2008, section 609.117, subdivision 1, is amended to read:

13.16 Subdivision 1. **Upon sentencing.** If an offender has not already done so, the court
13.17 shall order an offender to provide a biological specimen for the purpose of DNA analysis
13.18 as defined in section 299C.155 when:

13.19 (1) the court sentences a person charged with committing or attempting to commit
13.20 a felony offense and the person is convicted of that offense or of any offense arising
13.21 out of the same set of circumstances; or

13.22 (2) the juvenile court ~~adjudicates a person a delinquent child who is petitioned for~~
13.23 ~~committing or attempting to commit a felony offense and is adjudicated delinquent for~~
13.24 ~~that offense or any offense arising out of the same set of circumstances~~ finds that a child
13.25 who was petitioned for committing or attempting to commit a felony offense did commit
13.26 that offense or any offense arising out of the same set of circumstances.

13.27 The biological specimen or the results of the analysis shall be maintained by the Bureau of
13.28 Criminal Apprehension as provided in section 299C.155.

13.29 Sec. 14. Minnesota Statutes 2008, section 609.344, subdivision 1, is amended to read:

13.30 Subdivision 1. **Crime defined.** A person who engages in sexual penetration with
13.31 another person is guilty of criminal sexual conduct in the third degree if any of the
13.32 following circumstances exists:

14.1 (a) the complainant is under 13 years of age and the actor is no more than 36 months
14.2 older than the complainant. Neither mistake as to the complainant's age nor consent to the
14.3 act by the complainant shall be a defense;

14.4 (b) the complainant is at least 13 but less than 16 years of age and the actor is more
14.5 than ~~24~~ 36 months older than the complainant. In any such case if the actor is no more
14.6 than 120 months older than the complainant, it shall be an affirmative defense, which
14.7 must be proved by a preponderance of the evidence, that the actor reasonably believes
14.8 the complainant to be 16 years of age or older. In all other cases, mistake as to the
14.9 complainant's age shall not be a defense. If the actor in such a case is no more than 48
14.10 months but more than ~~24~~ 36 months older than the complainant, the actor may be sentenced
14.11 to imprisonment for not more than five years. Consent by the complainant is not a defense;

14.12 (c) the actor uses force or coercion to accomplish the penetration;

14.13 (d) the actor knows or has reason to know that the complainant is mentally impaired,
14.14 mentally incapacitated, or physically helpless;

14.15 (e) the complainant is at least 16 but less than 18 years of age and the actor is
14.16 more than 48 months older than the complainant and in a position of authority over the
14.17 complainant. Neither mistake as to the complainant's age nor consent to the act by the
14.18 complainant is a defense;

14.19 (f) the actor has a significant relationship to the complainant and the complainant
14.20 was at least 16 but under 18 years of age at the time of the sexual penetration. Neither
14.21 mistake as to the complainant's age nor consent to the act by the complainant is a defense;

14.22 (g) the actor has a significant relationship to the complainant, the complainant was at
14.23 least 16 but under 18 years of age at the time of the sexual penetration, and:

14.24 (i) the actor or an accomplice used force or coercion to accomplish the penetration;

14.25 (ii) the complainant suffered personal injury; or

14.26 (iii) the sexual abuse involved multiple acts committed over an extended period of
14.27 time.

14.28 Neither mistake as to the complainant's age nor consent to the act by the complainant
14.29 is a defense;

14.30 (h) the actor is a psychotherapist and the complainant is a patient of the
14.31 psychotherapist and the sexual penetration occurred:

14.32 (i) during the psychotherapy session; or

14.33 (ii) outside the psychotherapy session if an ongoing psychotherapist-patient
14.34 relationship exists.

14.35 Consent by the complainant is not a defense;

15.1 (i) the actor is a psychotherapist and the complainant is a former patient of the
15.2 psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

15.3 (j) the actor is a psychotherapist and the complainant is a patient or former patient
15.4 and the sexual penetration occurred by means of therapeutic deception. Consent by the
15.5 complainant is not a defense;

15.6 (k) the actor accomplishes the sexual penetration by means of deception or false
15.7 representation that the penetration is for a bona fide medical purpose. Consent by the
15.8 complainant is not a defense;

15.9 (l) the actor is or purports to be a member of the clergy, the complainant is not
15.10 married to the actor, and:

15.11 (i) the sexual penetration occurred during the course of a meeting in which the
15.12 complainant sought or received religious or spiritual advice, aid, or comfort from the
15.13 actor in private; or

15.14 (ii) the sexual penetration occurred during a period of time in which the complainant
15.15 was meeting on an ongoing basis with the actor to seek or receive religious or spiritual
15.16 advice, aid, or comfort in private. Consent by the complainant is not a defense;

15.17 (m) the actor is an employee, independent contractor, or volunteer of a state, county,
15.18 city, or privately operated adult or juvenile correctional system, including, but not limited
15.19 to, jails, prisons, detention centers, or work release facilities, and the complainant is
15.20 a resident of a facility or under supervision of the correctional system. Consent by the
15.21 complainant is not a defense;

15.22 (n) the actor provides or is an agent of an entity that provides special transportation
15.23 service, the complainant used the special transportation service, and the sexual penetration
15.24 occurred during or immediately before or after the actor transported the complainant.
15.25 Consent by the complainant is not a defense; or

15.26 (o) the actor performs massage or other bodywork for hire, the complainant was a
15.27 user of one of those services, and nonconsensual sexual penetration occurred during or
15.28 immediately before or after the actor performed or was hired to perform one of those
15.29 services for the complainant.

15.30 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes
15.31 committed on or after that date.

15.32 Sec. 15. Minnesota Statutes 2008, section 609.66, subdivision 1d, is amended to read:

15.33 Subd. 1d. **Possession on school property; penalty.** (a) Except as provided under
15.34 paragraphs ~~(e)~~ (d) and ~~(e)~~ (f), whoever possesses, stores, or keeps a dangerous weapon
15.35 ~~or uses or brandishes a replica firearm or a BB gun~~ while knowingly on school property is

16.1 guilty of a felony and may be sentenced to imprisonment for not more than ~~two~~ five years
16.2 or to payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

16.3 (b) Whoever uses or brandishes a replica firearm or a BB gun while knowingly on
16.4 school property is guilty of a gross misdemeanor.

16.5 ~~(b)~~ (c) Whoever possesses, stores, or keeps a replica firearm or a BB gun while
16.6 knowingly on school property is guilty of a ~~gross~~ misdemeanor.

16.7 ~~(c)~~ (d) Notwithstanding paragraph (a) ~~or~~ (b), or (c), it is a misdemeanor for a person
16.8 authorized to carry a firearm under the provisions of a permit or otherwise to carry a
16.9 firearm on or about the person's clothes or person in a location the person knows is school
16.10 property. Notwithstanding section 609.531, a firearm carried in violation of this paragraph
16.11 is not subject to forfeiture.

16.12 ~~(d)~~ (e) As used in this subdivision:

16.13 (1) "BB gun" means a device that fires or ejects a shot measuring .18 of an inch
16.14 or less in diameter;

16.15 (2) "dangerous weapon" has the meaning given it in section 609.02, subdivision 6;

16.16 (3) "replica firearm" has the meaning given it in section 609.713; and

16.17 (4) "school property" means:

16.18 (i) a public or private elementary, middle, or secondary school building and its
16.19 improved grounds, whether leased or owned by the school;

16.20 (ii) a child care center licensed under chapter 245A during the period children are
16.21 present and participating in a child care program;

16.22 (iii) the area within a school bus when that bus is being used by a school to
16.23 transport one or more elementary, middle, or secondary school students to and from
16.24 school-related activities, including curricular, cocurricular, noncurricular, extracurricular,
16.25 and supplementary activities; and

16.26 (iv) that portion of a building or facility under the temporary, exclusive control
16.27 of a public or private school, a school district, or an association of such entities where
16.28 conspicuous signs are prominently posted at each entrance that give actual notice to
16.29 persons of the school-related use.

16.30 ~~(e)~~ (f) This subdivision does not apply to:

16.31 (1) active licensed peace officers;

16.32 (2) military personnel or students participating in military training, who are on-duty,
16.33 performing official duties;

16.34 (3) persons authorized to carry a pistol under section 624.714 while in a motor
16.35 vehicle or outside of a motor vehicle to directly place a firearm in, or retrieve it from, the
16.36 trunk or rear area of the vehicle;

17.1 (4) persons who keep or store in a motor vehicle pistols in accordance with section
17.2 624.714 or 624.715 or other firearms in accordance with section 97B.045;

17.3 (5) firearm safety or marksmanship courses or activities conducted on school
17.4 property;

17.5 (6) possession of dangerous weapons, BB guns, or replica firearms by a ceremonial
17.6 color guard;

17.7 (7) a gun or knife show held on school property;

17.8 (8) possession of dangerous weapons, BB guns, or replica firearms with written
17.9 permission of the principal or other person having general control and supervision of the
17.10 school or the director of a child care center; or

17.11 (9) persons who are on unimproved property owned or leased by a child care center,
17.12 school, or school district unless the person knows that a student is currently present on the
17.13 land for a school-related activity.

17.14 ~~(f)~~ (g) Notwithstanding section 471.634, a school district or other entity composed
17.15 exclusively of school districts may not regulate firearms, ammunition, or their respective
17.16 components, when possessed or carried by nonstudents or nonemployees, in a manner
17.17 that is inconsistent with this subdivision.

17.18 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes
17.19 committed on or after that date.

17.20 Sec. 16. Minnesota Statutes 2008, section 609A.02, subdivision 2, is amended to read:

17.21 Subd. 2. **Offenses committed by juveniles prosecuted as adults.** A petition for
17.22 the sealing of ~~a conviction record~~ any type of delinquency or criminal record relating to a
17.23 juvenile matter may be filed under section 609A.03 by a person who has ~~been committed~~
17.24 ~~to the custody of the commissioner of corrections upon conviction of a crime following~~
17.25 ~~certification to district court under section 260B.125, if the person~~ successfully completed
17.26 the terms of the person's disposition or sentence and who is no longer under correctional
17.27 supervision for the offense, if:

17.28 (1) ~~is finally discharged by the commissioner, or~~ the person received a disposition
17.29 under section 260B.198, regardless of whether the person was adjudicated delinquent;

17.30 (2) ~~has been placed on probation by the court under section 609.135 and has been~~
17.31 ~~discharged from probation after satisfactory fulfillment of it~~ the matter was designated
17.32 an extended jurisdiction juvenile prosecution under section 260B.130 and the person's
17.33 adult sentence was never executed;

17.34 (3) the matter was designated an extended jurisdiction juvenile prosecution under
17.35 section 260B.130 and the person's adult sentence was subsequently executed; or

18.1 (4) the matter was certified for adult prosecution under section 260B.125.

18.2 Sec. 17. Minnesota Statutes 2008, section 609A.02, subdivision 3, is amended to read:

18.3 Subd. 3. **Certain criminal proceedings not resulting in conviction.** A petition
18.4 may be filed under section 609A.03 to seal all records relating to an arrest, indictment or
18.5 information, trial, or verdict if the records are not subject to section 299C.11, subdivision
18.6 1, paragraph (b), and if:

18.7 (1) all pending actions or proceedings were resolved in favor of the petitioner.
18.8 For purposes of this chapter, a verdict of not guilty by reason of mental illness is not
18.9 a resolution in favor of the petitioner; or

18.10 (2) the petitioner has successfully completed the terms of a diversion program or
18.11 stay of adjudication that was agreed to by the prosecutor and has not been charged with
18.12 a new crime for at least one year since completion of the diversion program or stay of
18.13 adjudication.

18.14 Sec. 18. **[609A.025] EXPUNGEMENT FOR CASES INVOLVING DIVERSION**
18.15 **AND STAYS OF ADJUDICATION; NO PETITION REQUIRED WITH**
18.16 **PROSECUTOR AGREEMENT AND VICTIM NOTIFICATION.**

18.17 (a) Upon agreement of the prosecutor, the court shall seal the criminal record for
18.18 a person described in section 609A.02, subdivision 3, clause (2), without the filing of a
18.19 petition unless it determines that the interests of the public and public safety in keeping
18.20 the record public outweigh the disadvantages to the subject of the record in not sealing it.

18.21 (b) Before agreeing to the sealing of a record under this section, the prosecutor shall
18.22 make a good-faith effort to inform any identifiable victims of the offense of the intended
18.23 prosecutorial agreement and the opportunity to object to the agreement.

18.24 (c) Subject to paragraph (b), the prosecutor may agree to the sealing of records under
18.25 this section before or after the criminal charges are dismissed.

18.26 Sec. 19. Minnesota Statutes 2008, section 609A.03, subdivision 1, is amended to read:

18.27 Subdivision 1. **Petition; filing fee.** An individual who is the subject of a criminal
18.28 record who is seeking the expungement of the record shall file a petition under this section
18.29 and pay a filing fee in the amount required under section 357.021, subdivision 2, clause
18.30 (1). The filing fee may be waived in cases of indigency and shall be waived in the cases
18.31 described in section 609A.02, subdivision 2, clause (1) or (2), and subdivision 3.

18.32 Sec. 20. Minnesota Statutes 2008, section 609A.03, subdivision 2, is amended to read:

19.1 Subd. 2. **Contents of petition.** (a) A petition for expungement shall be signed under
19.2 oath by the petitioner and shall state the following:

19.3 (1) the petitioner's full name and all other legal names or aliases by which the
19.4 petitioner has been known at any time;

19.5 (2) the petitioner's date of birth;

19.6 (3) all of the petitioner's addresses from the date of the offense or alleged offense in
19.7 connection with which an expungement order is sought, to the date of the petition;

19.8 (4) why expungement is sought, if it is for employment or licensure purposes, the
19.9 statutory or other legal authority under which it is sought, and why it should be granted;

19.10 (5) the details of the offense or arrest for which expungement is sought, including
19.11 the date and jurisdiction of the occurrence, either the names of any victims or that there
19.12 were no identifiable victims, whether there is a current order for protection, restraining
19.13 order, or other no contact order prohibiting the petitioner from contacting the victims or
19.14 whether there has ever been a prior order for protection or restraining order prohibiting the
19.15 petitioner from contacting the victims, the court file number, and the date of conviction
19.16 or of dismissal;

19.17 (6) in the case of a conviction or delinquency record, what steps the petitioner has
19.18 taken since the time of the offense toward personal rehabilitation, including treatment,
19.19 work, or other personal history that demonstrates rehabilitation;

19.20 (7) petitioner's criminal conviction and delinquency record indicating all convictions
19.21 and findings of delinquency for misdemeanors, gross misdemeanors, or felonies in this
19.22 state, and for all comparable convictions and findings of delinquency in any other state,
19.23 federal court, or foreign country, whether the convictions or findings of delinquency
19.24 occurred before or after the arrest ~~or~~ conviction, or finding of delinquency for which
19.25 expungement is sought;

19.26 (8) petitioner's criminal charges record indicating all prior and pending criminal
19.27 charges against the petitioner in this state or another jurisdiction, including all criminal
19.28 charges that have been continued for dismissal or stayed for adjudication, or have been the
19.29 subject of pretrial diversion; and

19.30 (9) all prior requests by the petitioner, whether for the present offense or for any
19.31 other offenses, in this state or any other state or federal court, for pardon, return of arrest
19.32 records, or expungement or sealing of a criminal record, whether granted or not, and all
19.33 stays of adjudication or imposition of sentence involving the petitioner.

19.34 (b) If there is a current order for protection, restraining order, or other no contact
19.35 order prohibiting the petitioner from contacting the victims or there has ever been a prior

20.1 order for protection or restraining order prohibiting the petitioner from contacting the
20.2 victims, the petitioner shall attach a copy of the order to the petition.

20.3 (c) Where practicable, the petitioner shall attach to the petition a copy of the
20.4 complaint or the police report for the offense or offenses for which expungement is sought.

20.5 Sec. 21. Minnesota Statutes 2008, section 609A.03, subdivision 4, is amended to read:

20.6 Subd. 4. **Hearing.** (a) A hearing on the petition shall be held no sooner than 60
20.7 days after service of the petition. A victim of the offense for which expungement is
20.8 sought has a right to submit an oral or written statement to the court at the time of the
20.9 hearing describing the harm suffered by the victim as a result of the crime and the victim's
20.10 recommendation on whether expungement should be granted or denied. The judge shall
20.11 consider the victim's statement when making a decision.

20.12 (b) The court shall exclude the general public from a hearing on a petition to
20.13 expunge a record relating to a juvenile matter under section 609A.02, subdivision 2, and
20.14 may admit only persons who the court determines have a direct interest in the case, unless
20.15 the hearing on the underlying offense for which expungement is sought was open to the
20.16 public under section 260B.163, subdivision 1, paragraph (c), or other law.

20.17 Sec. 22. Minnesota Statutes 2008, section 609A.03, subdivision 5, is amended to read:

20.18 Subd. 5. **Nature of remedy; standard; ~~firearms restriction.~~** (a) Except as
20.19 otherwise provided by paragraph (b) or (c), expungement of a criminal or delinquency
20.20 record is an extraordinary remedy to be granted only upon clear and convincing evidence
20.21 that it would yield a benefit to the petitioner commensurate with the disadvantages to
20.22 the public and public safety of:

20.23 (1) sealing the record; and

20.24 (2) burdening the court and public authorities to issue, enforce, and monitor an
20.25 expungement order.

20.26 (b) Except as otherwise provided by this paragraph, If the petitioner is petitioning
20.27 for the sealing of a criminal or delinquency record under section 609A.02, subdivision
20.28 3, the court shall grant the petition to seal the record unless the agency or jurisdiction
20.29 whose records would be affected establishes by clear and convincing evidence that the
20.30 interests of the public and public safety outweigh the disadvantages to the petitioner
20.31 of not sealing the record.

20.32 (c) If the petitioner is petitioning for the sealing of a criminal or delinquency record
20.33 under section 609A.02, subdivision 2, clause (1) or (2), the court shall grant the petition
20.34 to seal the record unless the agency or jurisdiction whose records would be affected

21.1 establishes by clear and convincing evidence that the interests of the public and public
21.2 safety outweigh the disadvantages to the petitioner of not sealing the record.

21.3 (d) If the court issues an expungement order it may require that the criminal or
21.4 delinquency record be sealed, the existence of the record not be revealed, and the record
21.5 not be opened except as required under subdivision 7. Records must not be destroyed or
21.6 returned to the subject of the record.

21.7 Sec. 23. Minnesota Statutes 2008, section 609A.03, subdivision 5a, is amended to read:

21.8 Subd. 5a. **Order concerning crimes of violence.** An order expunging the record of
21.9 a conviction or delinquency record for a crime of violence as defined in section 624.712,
21.10 subdivision 5, must provide that the person is not entitled to ship, transport, possess, or
21.11 receive a firearm for the remainder of the person's lifetime. Any person whose record
21.12 of conviction or delinquency record is expunged under this section and who thereafter
21.13 receives a relief of disability under United States Code, title 18, section 925, or whose
21.14 ability to possess firearms has been restored under section 609.165, subdivision 1d, is not
21.15 subject to the restriction in this subdivision.

21.16 Sec. 24. Minnesota Statutes 2008, section 609A.03, subdivision 7, is amended to read:

21.17 Subd. 7. **Limitations of order.** (a) Upon issuance of an expungement order related
21.18 to a charge supported by probable cause, the DNA samples and DNA records held by
21.19 the Bureau of Criminal Apprehension and collected under authority other than section
21.20 299C.105, shall not be sealed, returned to the subject of the record, or destroyed.

21.21 (b) Notwithstanding the issuance of an expungement order:

21.22 (1) an expunged record may be opened upon request by law enforcement,
21.23 prosecution, or corrections authorities for purposes of a criminal investigation,
21.24 prosecution, or sentencing, ~~upon an ex parte~~ without a court order;

21.25 (2) an expunged record of a conviction or delinquency proceeding may be opened
21.26 for purposes of evaluating a prospective employee in a criminal justice agency without
21.27 a court order; and

21.28 (3) an expunged record of a conviction or delinquency proceeding may be opened
21.29 for purposes of a background study under section 245C.08 unless the court order for
21.30 expungement is directed specifically to the commissioner of human services.

21.31 Upon request by law enforcement, prosecution, or corrections authorities, an agency
21.32 or jurisdiction subject to an expungement order shall inform the requester of the existence
21.33 of a sealed record and of the right to obtain access to it as provided by this paragraph. For

22.1 purposes of this section, a "criminal justice agency" means courts or a government agency
22.2 that performs the administration of criminal justice under statutory authority.

22.3 Sec. 25. Minnesota Statutes 2009 Supplement, section 624.713, subdivision 1, is
22.4 amended to read:

22.5 Subdivision 1. **Ineligible persons.** The following persons shall not be entitled to
22.6 possess a pistol or semiautomatic military-style assault weapon or, except for clause (1),
22.7 any other firearm:

22.8 (1) a person under the age of 18 years except that a person under 18 may carry or
22.9 possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence
22.10 or under the direct supervision of the person's parent or guardian, (ii) for the purpose
22.11 of military drill under the auspices of a legally recognized military organization and
22.12 under competent supervision, (iii) for the purpose of instruction, competition, or target
22.13 practice on a firing range approved by the chief of police or county sheriff in whose
22.14 jurisdiction the range is located and under direct supervision; or (iv) if the person has
22.15 successfully completed a course designed to teach marksmanship and safety with a pistol
22.16 or semiautomatic military-style assault weapon and approved by the commissioner of
22.17 natural resources;

22.18 (2) except as otherwise provided in clause (9), a person who has been convicted of,
22.19 or adjudicated delinquent or received a stay of adjudication of delinquency or convicted
22.20 as an extended jurisdiction juvenile for committing, in this state or elsewhere, a crime
22.21 of violence. For purposes of this section, crime of violence includes crimes in other
22.22 states or jurisdictions which would have been crimes of violence as herein defined if they
22.23 had been committed in this state;

22.24 (3) a person who is or has ever been committed in Minnesota or elsewhere by
22.25 a judicial determination that the person is mentally ill, developmentally disabled, or
22.26 mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment
22.27 facility, or who has ever been found incompetent to stand trial or not guilty by reason of
22.28 mental illness, unless the person's ability to possess a firearm has been restored under
22.29 subdivision 4;

22.30 (4) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or
22.31 gross misdemeanor violation of chapter 152, unless three years have elapsed since the
22.32 date of conviction and, during that time, the person has not been convicted of any other
22.33 such violation of chapter 152 or a similar law of another state; or a person who is or has
22.34 ever been committed by a judicial determination for treatment for the habitual use of a

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23.1 controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the
23.2 person's ability to possess a firearm has been restored under subdivision 4;

23.3 (5) a person who has been committed to a treatment facility in Minnesota or
23.4 elsewhere by a judicial determination that the person is chemically dependent as defined
23.5 in section 253B.02, unless the person has completed treatment or the person's ability to
23.6 possess a firearm has been restored under subdivision 4. Property rights may not be abated
23.7 but access may be restricted by the courts;

23.8 (6) a peace officer who is informally admitted to a treatment facility pursuant to
23.9 section 253B.04 for chemical dependency, unless the officer possesses a certificate from
23.10 the head of the treatment facility discharging or provisionally discharging the officer from
23.11 the treatment facility. Property rights may not be abated but access may be restricted
23.12 by the courts;

23.13 (7) a person, including a person under the jurisdiction of the juvenile court, who
23.14 has been charged with committing a crime of violence and has been placed in a pretrial
23.15 diversion program by the court before disposition, until the person has completed the
23.16 diversion program and the charge of committing the crime of violence has been dismissed;

23.17 (8) except as otherwise provided in clause (9), a person who has been convicted in
23.18 another state of committing an offense similar to the offense described in section 609.224,
23.19 subdivision 3, against a family or household member or section 609.2242, subdivision
23.20 3, unless three years have elapsed since the date of conviction and, during that time, the
23.21 person has not been convicted of any other violation of section 609.224, subdivision 3, or
23.22 609.2242, subdivision 3, or a similar law of another state;

23.23 (9) a person who has been convicted in this state or elsewhere of assaulting a family
23.24 or household member and who was found by the court to have used a firearm in any way
23.25 during commission of the assault is prohibited from possessing any type of firearm for the
23.26 period determined by the sentencing court;

23.27 (10) a person who:

23.28 (i) has been convicted in any court of a crime punishable by imprisonment for a
23.29 term exceeding one year;

23.30 (ii) is a fugitive from justice as a result of having fled from any state to avoid
23.31 prosecution for a crime or to avoid giving testimony in any criminal proceeding;

23.32 (iii) is an unlawful user of any controlled substance as defined in chapter 152;

23.33 (iv) has been judicially committed to a treatment facility in Minnesota or elsewhere
23.34 as a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to
23.35 the public, as defined in section 253B.02;

23.36 (v) is an alien who is illegally or unlawfully in the United States;

24.1 (vi) has been discharged from the armed forces of the United States under
24.2 dishonorable conditions; or

24.3 (vii) has renounced the person's citizenship having been a citizen of the United
24.4 States; or

24.5 (11) a person who has been convicted of the following offenses at the gross
24.6 misdemeanor level, unless three years have elapsed since the date of conviction and,
24.7 during that time, the person has not been convicted of any other violation of these sections:
24.8 section 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision
24.9 4 (assaults motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or
24.10 endangerment of a child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665
24.11 (setting a spring gun); 609.71 (riot); or 609.749 (harassment and stalking). For purposes
24.12 of this paragraph, the specified gross misdemeanor convictions include crimes committed
24.13 in other states or jurisdictions which would have been gross misdemeanors if conviction
24.14 occurred in this state.

24.15 A person who issues a certificate pursuant to this section in good faith is not liable
24.16 for damages resulting or arising from the actions or misconduct with a firearm committed
24.17 by the individual who is the subject of the certificate.

24.18 The prohibition in this subdivision relating to the possession of firearms other than
24.19 pistols and semiautomatic military-style assault weapons does not apply retroactively
24.20 to persons who are prohibited from possessing a pistol or semiautomatic military-style
24.21 assault weapon under this subdivision before August 1, 1994.

24.22 The lifetime prohibition on possessing, receiving, shipping, or transporting firearms
24.23 for persons convicted or adjudicated delinquent or received a stay of adjudication of
24.24 delinquency of a crime of violence in clause (2), applies only to offenders who are
24.25 discharged from sentence or court supervision for a crime of violence on or after August
24.26 1, 1993.

24.27 For purposes of this section, "judicial determination" means a court proceeding
24.28 pursuant to sections 253B.07 to 253B.09 or a comparable law from another state.

24.29 Sec. 26. Minnesota Statutes 2008, section 624.713, subdivision 3, is amended to read:

24.30 Subd. 3. **Notice.** (a) When a person is convicted of, or adjudicated delinquent,
24.31 received a stay of adjudication of delinquency, or convicted as an extended jurisdiction
24.32 juvenile for committing, a crime of violence as defined in section 624.712, subdivision 5,
24.33 the court shall inform the defendant that the defendant is prohibited from possessing a
24.34 pistol or semiautomatic military-style assault weapon for the remainder of the person's
24.35 lifetime, and that it is a felony offense to violate this prohibition. The failure of the court

25.1 to provide this information to a defendant does not affect the applicability of the pistol
25.2 or semiautomatic military-style assault weapon possession prohibition or the felony
25.3 penalty to that defendant.

25.4 (b) When a person, including a person under the jurisdiction of the juvenile court, is
25.5 charged with committing a crime of violence and is placed in a pretrial diversion program
25.6 by the court before disposition, the court shall inform the defendant that: (1) the defendant
25.7 is prohibited from possessing a pistol or semiautomatic military-style assault weapon
25.8 until the person has completed the diversion program and the charge of committing a
25.9 crime of violence has been dismissed; (2) it is a gross misdemeanor offense to violate this
25.10 prohibition; and (3) if the defendant violates this condition of participation in the diversion
25.11 program, the charge of committing a crime of violence may be prosecuted. The failure of
25.12 the court to provide this information to a defendant does not affect the applicability of the
25.13 pistol or semiautomatic military-style assault weapon possession prohibition or the gross
25.14 misdemeanor penalty to that defendant.

25.15 Sec. 27. **COSTS ASSOCIATED WITH ACT.**

25.16 The Department of Public Safety shall absorb any costs incurred as a result of this
25.17 act within its existing budget.

25.18 Sec. 28. **REVISOR INSTRUCTION; TABLE OF JUVENILE COLLATERAL**
25.19 **SANCTIONS.**

25.20 (a) The revisor of statutes shall publish a table in Minnesota Statutes that contains
25.21 cross-references to state laws that are collateral sanctions imposed on a juvenile as a result
25.22 of an adjudication of delinquency. The revisor shall create a structure that categorizes
25.23 these laws in a useful way to users.

25.24 (b) The revisor shall include appropriate cautionary language with the table,
25.25 including, at a minimum, language that notifies users that:

25.26 (1) the list of collateral sanctions laws is intended to be comprehensive but is not
25.27 necessarily complete;

25.28 (2) the inclusion or exclusion of a collateral sanction is not intended to have any
25.29 substantive legal effect; and

25.30 (3) users must consult the language of each cross-referenced law to fully understand
25.31 the scope and effect of the collateral sanction it imposes.

25.32 (c) The revisor shall consult with legislative staff and the chairs of the senate and
25.33 house committees having jurisdiction over criminal justice to identify laws that impose
25.34 collateral sanctions on a juvenile who has been adjudicated delinquent.

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