

S.F. No. 598, as introduced - 87th Legislative Session (2011-2012) [11-2228]

2.1 (1) persons arrested for, appearing in court on a charge of, or convicted of a felony,
2.2 gross misdemeanor, or targeted misdemeanor;

2.3 (2) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent
2.4 for, or alleged to have committed felonies or gross misdemeanors as distinguished from
2.5 those committed by adult offenders;

2.6 (3) adults and juveniles admitted to jails or detention facilities;

2.7 (4) persons reasonably believed by the arresting officer to be fugitives from justice;

2.8 (5) persons in whose possession, when arrested, are found concealed firearms or
2.9 other dangerous weapons, burglar tools or outfits, high-power explosives, or articles,
2.10 machines, or appliances usable for an unlawful purpose and reasonably believed by the
2.11 arresting officer to be intended for such purposes;

2.12 (6) juveniles referred by a law enforcement agency to a diversion program for a
2.13 felony or gross misdemeanor offense; and

2.14 (7) persons currently involved in the criminal justice process, on probation, on
2.15 parole, or in custody for the offenses in suspense whom the superintendent of the bureau
2.16 identifies as being the subject of a court disposition record which cannot be linked to an
2.17 arrest record, and whose fingerprints are necessary in order to maintain and ensure the
2.18 accuracy of the bureau's criminal history files, to reduce the number of suspense files, or to
2.19 comply with the mandates of section 299C.111, relating to the reduction of the number
2.20 of suspense files. This duty to obtain fingerprints for the offenses in suspense at the
2.21 request of the bureau shall include the requirement that fingerprints be taken in post-arrest
2.22 interviews, while making court appearances, while in custody, or while on any form of
2.23 probation, diversion, or supervised release.

2.24 (b) Unless the superintendent of the bureau requires a shorter period, within 24 hours
2.25 the fingerprint records and other identification data specified under paragraph (a) must
2.26 be forwarded to the bureau on such forms and in such manner as may be prescribed by
2.27 the superintendent.

2.28 (c) Prosecutors, courts, and probation officers and their agents, employees, and
2.29 subordinates shall attempt to ensure that the required identification data is taken on a
2.30 person described in paragraph (a). Law enforcement may take fingerprints and biological
2.31 specimens of an individual who is presently on probation.

2.32 (d) Finger and thumb prints and biological specimens must be obtained no later than:

2.33 (1) release from booking; or

2.34 (2) if not booked prior to acceptance of a plea of guilty or not guilty.

2.35 Prior to acceptance of a plea of guilty or not guilty, an individual's finger and thumb
2.36 prints and biological specimen must be submitted to the Bureau of Criminal Apprehension

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3.1 for the offense. If finger and thumb prints and a biological specimen have not been
3.2 successfully received by the bureau, an individual may, upon order of the court, be taken
3.3 into custody for no more than eight hours so that the taking of prints and a specimen can
3.4 be completed. Upon notice and motion of the prosecuting attorney, this time period may
3.5 be extended upon a showing that additional time in custody is essential for the successful
3.6 taking of prints and a specimen.

3.7 (e) For purposes of this section, a targeted misdemeanor is a misdemeanor violation
3.8 of section 169A.20 (driving while impaired), 518B.01 (order for protection violation),
3.9 609.224 (fifth-degree assault), 609.2242 (domestic assault), 609.746 (interference with
3.10 privacy), 609.748 (harassment or restraining order violation), or 617.23 (indecent
3.11 exposure).

3.12 (f) The collection of biological specimens under this subdivision must be conducted
3.13 using the least intrusive means possible. If feasible, the person from whom the specimen
3.14 is to be collected shall be given the option of collecting the sample on the person's own
3.15 behalf.

3.16 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
3.17 committed on or after that date.

3.18 Sec. 3. Minnesota Statutes 2010, section 299C.10, subdivision 2, is amended to read:

3.19 Subd. 2. **Law enforcement education.** (a) The sheriffs and police officers who
3.20 take finger and thumb prints must obtain training in the proper methods of taking and
3.21 transmitting fingerprints under this section consistent with bureau requirements.

3.22 (b) The persons who collect the biological specimens required under subdivision 1
3.23 must be trained to bureau-established standards in the proper method of collecting and
3.24 transmitting biological specimens.

3.25 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
3.26 committed on or after that date.

3.27 Sec. 4. Minnesota Statutes 2010, section 299C.11, subdivision 1, is amended to read:

3.28 Subdivision 1. **Identification data ~~other than DNA~~.** (a) Each sheriff and chief of
3.29 police shall furnish the bureau, upon such form as the superintendent shall prescribe, with
3.30 such finger and thumb prints, biological specimens, photographs, distinctive physical
3.31 mark identification data, information on known aliases and street names, and other
3.32 identification data as may be requested or required by the superintendent of the bureau,
3.33 which must be taken under the provisions of section 299C.10. In addition, sheriffs and

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4.1 chiefs of police shall furnish this identification data to the bureau for individuals found to
4.2 have been convicted of a felony, gross misdemeanor, or targeted misdemeanor, within the
4.3 ten years immediately preceding their arrest. When the bureau learns that an individual
4.4 who is the subject of a background check has used, or is using, identifying information,
4.5 including, but not limited to, name and date of birth, other than those listed on the criminal
4.6 history, the bureau may add the new identifying information to the criminal history when
4.7 supported by fingerprints.

4.8 (b) No petition under chapter 609A is required if the person has not been convicted
4.9 of any felony or gross misdemeanor, either within or without the state, within the period
4.10 of ten years immediately preceding the determination of all pending criminal actions or
4.11 proceedings in favor of the arrested person, and either of the following occurred:

4.12 (1) all charges were dismissed prior to a determination of probable cause; or

4.13 (2) the prosecuting authority declined to file any charges and a grand jury did not
4.14 return an indictment.

4.15 Where these conditions are met, the bureau or agency shall, upon demand, return to the
4.16 arrested person finger and thumb prints, biological specimens, photographs, distinctive
4.17 physical mark identification data, information on known aliases and street names, and
4.18 other identification data, and all copies and duplicates of them. If the bureau returns
4.19 a biological specimen under this paragraph, the bureau shall also remove the person's
4.20 information from the bureau's combined DNA index system and return all related records
4.21 and all copies or duplicates of them.

4.22 (c) Except as otherwise provided in paragraph (b), upon the determination of all
4.23 pending criminal actions or proceedings in favor of the arrested person, and the granting
4.24 of the petition of the arrested person under chapter 609A, the bureau shall seal finger and
4.25 thumb prints, biological specimens, photographs, distinctive physical mark identification
4.26 data, information on known aliases and street names, and other identification data, and
4.27 all copies and duplicates of them if the arrested person has not been convicted of any
4.28 felony or gross misdemeanor, either within or without the state, within the period of
4.29 ten years immediately preceding such determination. If the bureau seals a biological
4.30 specimen under this paragraph, the bureau shall also seal the person's information from
4.31 the bureau's combined DNA index system and seal all related records and all copies or
4.32 duplicates of them.

4.33 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
4.34 committed on or after that date.

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5.1 Sec. 5. Minnesota Statutes 2010, section 299C.11, subdivision 2, is amended to read:

5.2 Subd. 2. ~~DNA samples; law enforcement duties.~~ (a) ~~Each sheriff and chief of~~
5.3 ~~police shall furnish the bureau, in such form as the superintendent shall prescribe, with the~~
5.4 ~~biological specimens required to be taken under section 299C.105.~~

5.5 (b) DNA samples and DNA records of the arrested person obtained through
5.6 authority other than section ~~299C.105~~ 299C.10, subdivision 1, shall not be returned,
5.7 sealed, or destroyed as to a charge supported by probable cause.

5.8 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
5.9 committed on or after that date.

5.10 Sec. 6. Minnesota Statutes 2010, section 609A.03, subdivision 7, is amended to read:

5.11 Subd. 7. **Limitations of order.** (a) Upon issuance of an expungement order related
5.12 to a charge supported by probable cause, the DNA samples and DNA records held by
5.13 the Bureau of Criminal Apprehension and collected under authority other than section
5.14 ~~299C.105~~ 299C.10, subdivision 1, shall not be sealed, returned to the subject of the record,
5.15 or destroyed.

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

5.17 (1) an expunged record may be opened for purposes of a criminal investigation,
5.18 prosecution, or sentencing, upon an ex parte court order;

5.19 (2) an expunged record of a conviction may be opened for purposes of evaluating a
5.20 prospective employee in a criminal justice agency without a court order; and

5.21 (3) an expunged record of a conviction may be opened for purposes of a background
5.22 study under section 245C.08 unless the court order for expungement is directed
5.23 specifically to the commissioner of human services.

5.24 Upon request by law enforcement, prosecution, or corrections authorities, an agency
5.25 or jurisdiction subject to an expungement order shall inform the requester of the existence
5.26 of a sealed record and of the right to obtain access to it as provided by this paragraph. For
5.27 purposes of this section, a "criminal justice agency" means courts or a government agency
5.28 that performs the administration of criminal justice under statutory authority.

5.29 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
5.30 committed on or after that date.

5.31 Sec. 7. **REVISOR'S INSTRUCTION.**

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6.1 The revisor of statutes shall strike references to Minnesota Statutes, section
6.2 299C.105, wherever they appear in Minnesota Statutes. The revisor shall also make
6.3 grammatical changes made necessary by the stricken references.

6.4 Sec. 8. **REPEALER.**

6.5 Minnesota Statutes 2010, section 299C.105, is repealed.

6.6 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
6.7 committed on or after that date.