CHAPTER 259–S.F.No.   2363

An act relating to public safety; authorizing fire departments to access criminal history data on current employees; amending Minnesota Statutes 2008, section 299F.035.

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

Section 1. Minnesota Statutes 2008, section 299F.035, is amended to read:

299F.035 FIRE DEPARTMENT USE OF CRIMINAL HISTORY DATA.

Subdivision 1.   **Definitions.**   (a) The definitions in this subdivision apply to this section.

(b) "Criminal history data" has the meaning given in section 13.87.

(c) "Criminal justice agency" has the meaning given in section 299C.46, subdivision 2.

(d) "Fire department" has the meaning given in section ~~299F.092, subdivision 6~~ 299N.01, subdivision 2.

(e) "Private data" has the meaning given in section 13.02, subdivision 12.

Subd.   2.   **Plan for access to data.**   (a) The superintendent of the Bureau of Criminal Apprehension, in consultation with the state fire marshal, shall develop and implement a plan for fire departments to have access to criminal history data.

(b) The plan must include:

(1) security procedures to prevent unauthorized use or disclosure of private data; and

(2) a procedure for the hiring or employing authority in each fire ~~protection agency~~ department to fingerprint job applicants or employees, submit requests to the Bureau of Criminal Apprehension, and obtain state and federal criminal history data reports for a nominal fee.

Subd.   3.   **Relation of conviction to fire protection.**   Criminal history data may be used in assessing fire ~~protection agency~~ department job applicants or employees only if the criminal history data are directly related to the position of employment sought or currently held.

Subd.   4.   **Determination of relationship.**   In determining if criminal history data are directly related to the position of employment ~~sought~~, the hiring or employing authority may consider:

(1) the nature and seriousness of the criminal history data on the job applicant or employee;

(2) the relationship of the criminal history data to the purposes of regulating the position of employment ~~sought~~; and

(3) the relationship of the criminal history data to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment ~~sought~~.

Subd. 5. **Uniformity of application; frequency.** A fire department hiring or employing authority that obtains access to criminal history data under this section must use uniform access procedures that apply to all applicants or employees. With respect to current employees, a hiring or employing authority may request private data only if at least one year has elapsed since access to the data was previously requested.

Presented to the governor April 19, 2010

Signed by the governor April 22, 2010, 11:57 a.m.