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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2576

03/03/2014 Authored by Melin, Hilstrom, Hertaus, Lesch, Dehn, R., and others
The bill was read for the first time and referred to the Committee on Judiciary Finance and Policy

03/10/2014 Adoption of Report: Amended and re-referred to the Committee on Civil Law

03/17/2014 Adoption of Report: Amended and re-referred to the Committee on Public Safety Finance and Policy

03/24/2014 Adoption of Report: Amended and re-referred to the Committee on Early Childhood and Youth Development Policy

03/27/2014 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

04/02/2014 Adoption of Report: Amended and Placed on the General Register
Read Second Time

04/08/2014 Calendar for the Day, Amended
Read Third Time as Amended
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

04/29/2014 Returned to the House as Amended by the Senate
Refused to concur and Conference Committee appointed

05/09/2014 Read Third Time as Amended by Conference
Repassed by the House

1.1 A bill for an act

1.2 relating to criminal justice; modifying provisions governing expungement of

1.3 criminal records; requiring business screening services to delete expunged

1.4 records; allowing expungement of eviction records in certain cases; amending

1.5 Minnesota Statutes 2012, sections 245C.22, subdivision 7; 245C.23, subdivision

1.6 1; 260B.198, subdivision 6; 332.70, by adding a subdivision; 504B.345,

1.7 subdivision 1; 609A.02, subdivision 3; 609A.03, subdivisions 1, 3, 5, 7, 8,

1.8 by adding subdivisions; proposing coding for new law in Minnesota Statutes,

1.9 chapter 609A.

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

1.11 Section 1. Minnesota Statutes 2012, section 245C.22, subdivision 7, is amended to read:

1.12 Subd. 7. **Classification of certain data.** (a) Notwithstanding section 13.46, except

1.13 as provided in paragraph (f), upon setting aside a disqualification under this section, the

1.14 identity of the disqualified individual who received the set-aside and the individual's

1.15 disqualifying characteristics are public data if the set-aside was:

1.16 (1) for any disqualifying characteristic under section 245C.15, when the set-aside

1.17 relates to a child care center or a family child care provider licensed under chapter 245A; or

1.18 (2) for a disqualifying characteristic under section 245C.15, subdivision 2.

1.19 (b) Notwithstanding section 13.46, upon granting a variance to a license holder

1.20 under section 245C.30, the identity of the disqualified individual who is the subject of

1.21 the variance, the individual's disqualifying characteristics under section 245C.15, and the

1.22 terms of the variance are public data, when the variance:

1.23 (1) is issued to a child care center or a family child care provider licensed under

1.24 chapter 245A; or

1.25 (2) relates to an individual with a disqualifying characteristic under section 245C.15,

1.26 subdivision 2.

2.1 (c) The identity of a disqualified individual and the reason for disqualification
2.2 remain private data when:

2.3 (1) a disqualification is not set aside and no variance is granted, except as provided
2.4 under section 13.46, subdivision 4;

2.5 (2) the data are not public under paragraph (a) or (b);

2.6 (3) the disqualification is rescinded because the information relied upon to disqualify
2.7 the individual is incorrect;

2.8 (4) the disqualification relates to a license to provide relative child foster care.

2.9 As used in this clause, "relative" has the meaning given it under section 260C.007,
2.10 subdivision 27; or

2.11 (5) the disqualified individual is a household member of a licensed foster care
2.12 provider and:

2.13 (i) the disqualified individual previously received foster care services from this
2.14 licensed foster care provider;

2.15 (ii) the disqualified individual was subsequently adopted by this licensed foster
2.16 care provider; and

2.17 (iii) the disqualifying act occurred before the adoption.

2.18 (d) Licensed family child care providers and child care centers must provide notices
2.19 as required under section 245C.301.

2.20 (e) Notwithstanding paragraphs (a) and (b), the identity of household members who
2.21 are the subject of a disqualification related set-aside or variance is not public data if:

2.22 (1) the household member resides in the residence where the family child care is
2.23 provided;

2.24 (2) the subject of the set-aside or variance is under the age of 18 years; and

2.25 (3) the set-aside or variance only relates to a disqualification under section 245C.15,
2.26 subdivision 4, for a misdemeanor-level theft crime as defined in section 609.52.

2.27 (f) When the commissioner has reason to know that a disqualified individual has
2.28 received an order for expungement for the disqualifying record that does not limit the
2.29 commissioner's access to the record, and the record was opened or exchanged with the
2.30 commissioner for purposes of a background study under this chapter, the data that would
2.31 otherwise become public under paragraph (a) or (b) remain private data.

2.32 Sec. 2. Minnesota Statutes 2012, section 245C.23, subdivision 1, is amended to read:

2.33 Subdivision 1. **Disqualification that is rescinded or set aside.** (a) If the
2.34 commissioner rescinds or sets aside a disqualification, the commissioner shall notify the

3.1 applicant, license holder, or other entity in writing or by electronic transmission of the
3.2 decision.

3.3 (b) In the notice from the commissioner that a disqualification has been rescinded,
3.4 the commissioner must inform the applicant, license holder, or other entity that the
3.5 information relied upon to disqualify the individual was incorrect.

3.6 (c) Except as provided in paragraph (d), in the notice from the commissioner
3.7 that a disqualification has been set aside, the commissioner must inform the applicant,
3.8 license holder, or other entity of the reason for the individual's disqualification and that
3.9 information about which factors under section 245C.22, subdivision 4, were the basis
3.10 of the decision to set aside the disqualification are available to the license holder upon
3.11 request without the consent of the background study subject.

3.12 (d) When the commissioner has reason to know that a disqualified individual has
3.13 received an order for expungement for the disqualifying record that does not limit the
3.14 commissioner's access to the record, and the record was opened or exchanged with the
3.15 commissioner for purposes of a background study under this chapter, the information
3.16 provided under paragraph (c) must only inform the applicant, license holder, or other
3.17 entity that the disqualifying criminal record is sealed under a court order.

3.18 Sec. 3. Minnesota Statutes 2012, section 260B.198, subdivision 6, is amended to read:

3.19 Subd. 6. **Expungement.** ~~Except when legal custody is transferred under the~~
3.20 ~~provisions of subdivision 1, clause (4),~~ (a) The court may expunge the adjudication
3.21 of all records relating to delinquency at any time that it deems advisable if the court
3.22 determines that expungement of the record would yield a benefit to the subject of the
3.23 record that outweighs the detriment to the public and public safety in sealing the record
3.24 and the burden on the court and public agencies or jurisdictions in issuing, enforcing,
3.25 and monitoring the order.

3.26 (b) In making a determination under this subdivision, the court shall consider:

3.27 (1) the age, education, experience, and background, including mental and emotional
3.28 development, of the subject of the record at the time of commission of the offense;

3.29 (2) the circumstances and nature and severity of the offense, including any
3.30 aggravating or mitigating factors in the commission of the offense;

3.31 (3) victim and community impact, including age and vulnerability of the victim;

3.32 (4) the level of participation of the subject of the record in the planning and carrying
3.33 out of the offense, including familial or peer influence in the commission of the offense;

3.34 (5) the juvenile delinquency and criminal history of the subject of the record;

4.1 (6) the programming history of the subject of the record, including child welfare,
4.2 school and community-based, and probation interventions, and the subject's willingness to
4.3 participate meaningfully in programming, probation, or both;

4.4 (7) any other aggravating or mitigating circumstance bearing on the culpability or
4.5 potential for rehabilitation of the subject of the record; and

4.6 (8) the benefit that expungement would yield to the subject of the record in pursuing
4.7 education, employment, housing, or other necessities.

4.8 (c) A record expunged under this subdivision prior to the effective date of this act
4.9 may not be opened or exchanged. A record expunged under this subdivision on or after
4.10 the effective date of this act is sealed and access only allowed pursuant to paragraph (d).

4.11 (d) Notwithstanding paragraph (a), a record that is expunged under this subdivision
4.12 on or after the effective date of this act may be opened, used, or exchanged between
4.13 criminal justice agencies in the same manner as a criminal record under section 609A.03,
4.14 subdivision 7a, paragraph (b).

4.15 (e) Section 609A.03, subdivision 3, paragraph (d), applies to the disclosure of private
4.16 or confidential data in a proceeding under this subdivision. Section 609A.03, subdivision
4.17 9, applies to an appeal of an order under this subdivision.

4.18 **EFFECTIVE DATE.** This section is effective January 1, 2015.

4.19 Sec. 4. Minnesota Statutes 2012, section 332.70, is amended by adding a subdivision
4.20 to read:

4.21 Subd. 3a. **Deletion of expunged records.** If a business screening service knows that
4.22 a criminal record has been sealed, expunged, or is the subject of a pardon, the screening
4.23 service shall promptly delete the record.

4.24 Sec. 5. Minnesota Statutes 2012, section 504B.345, subdivision 1, is amended to read:

4.25 Subdivision 1. **General.** (a) If the court or jury finds for the plaintiff, the court shall
4.26 immediately enter judgment that the plaintiff shall have recovery of the premises, and shall
4.27 tax the costs against the defendant. The court shall issue execution in favor of the plaintiff
4.28 for the costs and also immediately issue a writ of recovery of premises and order to vacate.

4.29 (b) The court shall give priority in issuing a writ of recovery of premises and order
4.30 to vacate for an eviction action brought under section 504B.171 or on the basis that the
4.31 tenant is causing a nuisance or seriously endangers the safety of other residents, their
4.32 property, or the landlord's property.

4.33 (c) If the court or jury finds for the defendant;

5.1 (1) the court shall enter judgment for the defendant, tax the costs against the plaintiff,
5.2 and issue execution in favor of the defendant; and

5.3 (2) the court may expunge the records relating to the action under the provisions of
5.4 section 484.014 or under the court's inherent authority at the time judgment is entered or
5.5 after that time upon motion of the defendant.

5.6 (d) Except in actions brought: (1) under section 504B.291 as required by section
5.7 609.5317, subdivision 1; (2) under section 504B.171; or (3) on the basis that the tenant is
5.8 causing a nuisance or seriously endangers the safety of other residents, their property, or
5.9 the landlord's property, upon a showing by the defendant that immediate restitution of the
5.10 premises would work a substantial hardship upon the defendant or the defendant's family,
5.11 the court shall stay the writ of recovery of premises and order to vacate for a reasonable
5.12 period, not to exceed seven days.

5.13 Sec. 6. Minnesota Statutes 2012, section 609A.02, subdivision 3, is amended to read:

5.14 Subd. 3. **Certain criminal proceedings not resulting in conviction.** (a) A petition
5.15 may be filed under section 609A.03 to seal all records relating to an arrest, indictment or
5.16 information, trial, or verdict if the records are not subject to section 299C.11, subdivision
5.17 1, paragraph (b), and if:

5.18 (1) all pending actions or proceedings were resolved in favor of the petitioner.

5.19 For purposes of this chapter, a verdict of not guilty by reason of mental illness is not a
5.20 resolution in favor of the petitioner;

5.21 (2) the petitioner has successfully completed the terms of a diversion program or
5.22 stay of adjudication and has not been charged with a new crime for at least one year since
5.23 completion of the diversion program or stay of adjudication;

5.24 (3) the petitioner was convicted of or received a stayed sentence for a petty
5.25 misdemeanor or misdemeanor and has not been convicted of a new crime for at least two
5.26 years since discharge of the sentence for the crime;

5.27 (4) the petitioner was convicted of or received a stayed sentence for a gross
5.28 misdemeanor and has not been convicted of a new crime for at least four years since
5.29 discharge of the sentence for the crime; or

5.30 (5) the petitioner was convicted of or received a stayed sentence for a felony
5.31 violation of an offense listed in paragraph (b), and has not been convicted of a new crime
5.32 for at least five years since discharge of the sentence for the crime.

5.33 (b) Paragraph (a), clause (5), applies to the following offenses:

5.34 (1) section 35.824 (altering livestock certificate);

5.35 (2) section 62A.41 (insurance regulations);

- 6.1 (3) section 86B.865, subdivision 1 (certification for title on watercraft);
6.2 (4) section 152.025 (controlled substance in the fifth degree); or 152.097 (sale of
6.3 simulated controlled substance);
6.4 (5) section 168A.30, subdivision 1 (certificate of title false information); or 169.09,
6.5 subdivision 14, paragraph (a), clause (2) (accident resulting in great bodily harm);
6.6 (6) chapter 201; 203B; or 204C (voting violations);
6.7 (7) section 228.45; 228.47; 228.49; 228.50; or 228.51 (false bill of lading);
6.8 (8) section 256.984 (false declaration in assistance application);
6.9 (9) section 296A.23, subdivision 2 (willful evasion of fuel tax);
6.10 (10) section 297D.09, subdivision 1 (failure to affix stamp on scheduled substances);
6.11 (11) section 297G.19 (liquor taxation); or 340A.701 (unlawful acts involving liquor);
6.12 (12) section 325F.743 (precious metal dealers); or 325F.755, subdivision 7 (prize
6.13 notices and solicitations);
6.14 (13) section 346.155, subdivision 10 (failure to control regulated animal);
6.15 (14) section 349.2127; or 349.22 (gambling regulations);
6.16 (15) section 588.20 (contempt);
6.17 (16) section 609.27, subdivision 1, clauses (2) to (5) (coercion);
6.18 (17) section 609.31 (leaving state to evade establishment of paternity);
6.19 (18) section 609.485, subdivision 4, paragraph (a), clause (2) or (4) (escape from
6.20 civil commitment for mental illness);
6.21 (19) section 609.49 (failure to appear in court);
6.22 (20) section 609.52, subdivision 3, clause (3)(a) (theft of \$5,000 or less), or other
6.23 theft offense that is sentenced under this provision; or 609.52, subdivision 3a, clause (1)
6.24 (theft of \$1,000 or less with risk of bodily harm);
6.25 (21) section 609.525 (bringing stolen goods into state);
6.26 (22) section 609.526, subdivision 2, clause (2) (metal dealer receiving stolen goods);
6.27 (23) section 609.527, subdivision 5b (possession or use of scanning device or
6.28 reencoder); 609.528, subdivision 3, clause (3) (possession or sale of stolen or counterfeit
6.29 check); or 609.529 (mail theft);
6.30 (24) section 609.53 (receiving stolen goods);
6.31 (25) section 609.535, subdivision 2a, paragraph (a), clause (1) (dishonored check
6.32 over \$500);
6.33 (26) section 609.54, clause (1) (embezzlement of public funds \$2,500 or less);
6.34 (27) section 609.551 (rustling and livestock theft);
6.35 (28) section 609.5641, subdivision 1a, paragraph (a) (wildfire arson);
6.36 (29) section 609.576, subdivision 1, clause (3), item (iii) (negligent fires);

- 7.1 (30) section 609.595, subdivision 1, clauses (2) to (4), and subdivision 1a, paragraph
7.2 (a) (criminal damage to property);
- 7.3 (31) section 609.597, subdivision 3, clause (3) (assaulting or harming police horse);
7.4 (32) section 609.625 (aggravated forgery); 609.63 (forgery); 609.631, subdivision
7.5 4, clause (3)(a) (check forgery \$2,500 or less); 609.635 (obtaining signature by false
7.6 pretense); 609.64 (recording, filing forged instrument); or 609.645 (fraudulent statements);
- 7.7 (33) section 609.65, clause (1) (false certification by notary); or 609.651, subdivision
7.8 4, paragraph (a) (lottery fraud);
- 7.9 (34) section 609.652 (fraudulent driver's license and identification card);
- 7.10 (35) section 609.66, subdivision 1a, paragraph (a) (discharge of firearm; silencer);
7.11 or 609.66, subdivision 1b (furnishing firearm to minor);
- 7.12 (36) section 609.662, subdivision 2, paragraph (b) (duty to render aid);
- 7.13 (37) section 609.686, subdivision 2 (tampering with fire alarm);
- 7.14 (38) section 609.746, subdivision 1, paragraph (e) (interference with privacy;
7.15 subsequent violation or minor victim);
- 7.16 (39) section 609.80, subdivision 2 (interference with cable communications system);
- 7.17 (40) section 609.821, subdivision 2 (financial transaction card fraud);
- 7.18 (41) section 609.822 (residential mortgage fraud);
- 7.19 (42) section 609.825, subdivision 2 (bribery of participant or official in contest);
- 7.20 (43) section 609.855, subdivision 2, paragraph (c), clause (1) (interference with
7.21 transit operator);
- 7.22 (44) section 609.88 (computer damage); or 609.89 (computer theft);
- 7.23 (45) section 609.893, subdivision 2 (telecommunications and information services
7.24 fraud);
- 7.25 (46) section 609.894, subdivision 3 or 4 (cellular counterfeiting);
- 7.26 (47) section 609.895, subdivision 3, paragraph (a) or (b) (counterfeited intellectual
7.27 property);
- 7.28 (48) section 609.896 (movie pirating);
- 7.29 (49) section 624.7132, subdivision 15, paragraph (b) (transfer pistol to minor);
7.30 624.714, subdivision 1a (pistol without permit; subsequent violation); or 624.7141,
7.31 subdivision 2 (transfer of pistol to ineligible person); or
- 7.32 (50) section 624.7181 (rifle or shotgun in public by minor).
- 7.33 (c) Paragraph (a), clause (3) or (4), does not apply if the crime involved domestic
7.34 abuse or sexual assault, as defined in section 518B.01, subdivision 2, or to violation of
7.35 an order for protection under section 518B.01, subdivision 14, a harassment restraining

8.1 order under section 609.748, subdivision 6, a violation of section 609.749, or a violation
8.2 of section 629.75. This paragraph expires on July 15, 2015.

8.3 **EFFECTIVE DATE.** This section is effective January 1, 2015.

8.4 Sec. 7. **[609A.025] NO PETITION REQUIRED IN CERTAIN CASES WITH**
8.5 **PROSECUTOR AGREEMENT AND NOTIFICATION.**

8.6 (a) If the prosecutor agrees to the sealing of a criminal record, the court shall seal the
8.7 criminal record for a person described in section 609A.02, subdivision 3, without the filing
8.8 of a petition unless it determines that the interests of the public and public safety in keeping
8.9 the record public outweigh the disadvantages to the subject of the record in not sealing it.

8.10 (b) Before agreeing to the sealing of a record under this section, the prosecutor shall
8.11 make a good faith effort to notify any identifiable victims of the offense of the intended
8.12 agreement and the opportunity to object to the agreement.

8.13 (c) Subject to paragraph (b), the agreement of the prosecutor to the sealing of records
8.14 for a person described in section 609A.02, subdivision 3, paragraph (a), clause (2), may
8.15 occur before or after the criminal charges are dismissed.

8.16 **EFFECTIVE DATE.** This section is effective January 1, 2015.

8.17 Sec. 8. Minnesota Statutes 2012, section 609A.03, subdivision 1, is amended to read:

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

8.23 **EFFECTIVE DATE.** This section is effective January 1, 2015.

8.24 Sec. 9. Minnesota Statutes 2012, section 609A.03, subdivision 3, is amended to read:

8.25 Subd. 3. **Service of petition and proposed order.** (a) The petitioner shall serve by
8.26 mail the petition for expungement and a proposed expungement order on the prosecutorial
8.27 office that had jurisdiction over the offense for which expungement is sought and all
8.28 other state and local government agencies and jurisdictions whose records would be
8.29 affected by the proposed order. The petitioner shall also serve by mail the attorney for
8.30 each agency and jurisdiction.

8.31 (b) The prosecutorial office that had jurisdiction over the offense for which
8.32 expungement is sought shall serve by mail the petition for expungement and a proposed

9.1 expungement order on any victims of the offense for which expungement is sought who
9.2 have requested notice of expungement pursuant to section 611A.06. Service under this
9.3 paragraph does not constitute a violation of an existing order for protection, restraining
9.4 order, or other no contact order.

9.5 (c) The prosecutorial office's notice to victims of the offense under this subdivision
9.6 must specifically inform the victims of the victims' right to be present and to submit an
9.7 oral or written statement at the expungement hearing described in subdivision 4.

9.8 (d) An agency or jurisdiction that is served with a petition under this subdivision
9.9 may submit to the court private or confidential data on the petitioner that the agency or
9.10 jurisdiction determines is necessary to respond to the petition. As part of the submission,
9.11 the agency or jurisdiction shall inform the court and the petitioner that the submission
9.12 contains private or confidential data that may become accessible to the public as part of
9.13 the expungement proceeding. The petitioner may, at the time of filing the petition or after
9.14 that time, file a request with the court to seal the private or confidential data that are
9.15 submitted by the agency or jurisdiction.

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

9.17 Sec. 10. Minnesota Statutes 2012, section 609A.03, subdivision 5, is amended to read:

9.18 Subd. 5. **Nature of remedy; standard.** (a) Except as otherwise provided by
9.19 paragraph (b), expungement of a criminal record is an extraordinary remedy to be granted
9.20 only upon clear and convincing evidence that it would yield a benefit to the petitioner
9.21 commensurate with the disadvantages to the public and public safety of:

9.22 (1) sealing the record; and

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

9.25 (b) Except as otherwise provided by this paragraph, if the petitioner is petitioning
9.26 for the sealing of a criminal record under section 609A.02, subdivision 3, paragraph (a),
9.27 clause (1) or (2), the court shall grant the petition to seal the record unless the agency
9.28 or jurisdiction whose records would be affected establishes by clear and convincing
9.29 evidence that the interests of the public and public safety outweigh the disadvantages
9.30 to the petitioner of not sealing the record.

9.31 (c) In making a determination under this subdivision, the court shall consider:

9.32 (1) the nature and severity of the underlying crime, the record of which would
9.33 be sealed;

9.34 (2) the risk, if any, the petitioner poses to individuals or society;

9.35 (3) the length of time since the crime occurred;

- 10.1 (4) the steps taken by the petitioner toward rehabilitation following the crime;
 10.2 (5) aggravating or mitigating factors relating to the underlying crime, including the
 10.3 petitioner's level of participation and context and circumstances of the underlying crime;
 10.4 (6) the reasons for the expungement, including the petitioner's attempts to obtain
 10.5 employment, housing, or other necessities;
 10.6 (7) the petitioner's criminal record;
 10.7 (8) the petitioner's record of employment and community involvement;
 10.8 (9) the recommendations of interested law enforcement, prosecutorial, and
 10.9 corrections officials;
 10.10 (10) the recommendations of victims or whether victims of the underlying crime
 10.11 were minors;
 10.12 (11) the amount, if any, of restitution outstanding, past efforts made by the petitioner
 10.13 toward payment, and the measures in place to help ensure completion of restitution
 10.14 payment after expungement of the record if granted; and
 10.15 (12) other factors deemed relevant by the court.
 10.16 ~~(e)~~ (d) Notwithstanding section 13.82, 13.87, or any other law to the contrary, if the
 10.17 court issues an expungement order it may require that the criminal record be sealed, the
 10.18 existence of the record not be revealed, and the record not be opened except as required
 10.19 under subdivision 7. Records must not be destroyed or returned to the subject of the record.
 10.20 (e) Information relating to a criminal history record of an employee, former
 10.21 employee, or tenant that has been expunged before the occurrence of the act giving rise
 10.22 to the civil action may not be introduced as evidence in a civil action against a private
 10.23 employer or landlord or its employees or agents that is based on the conduct of the
 10.24 employee, former employee, or tenant.

10.25 **EFFECTIVE DATE.** This section is effective January 1, 2015.

10.26 Sec. 11. Minnesota Statutes 2012, section 609A.03, is amended by adding a
 10.27 subdivision to read:

10.28 Subd. 6a. **Order when context and circumstances of the underlying crime**
 10.29 **indicate a nexus between the criminal record to be expunged and person's status as a**
 10.30 **crime victim.** If the court finds, under section 609A.03, subdivision 5, paragraph (c), clause
 10.31 (5), that the context and circumstances of the underlying crime indicate a nexus between
 10.32 the criminal record to be expunged and the person's status as a crime victim, then the effect
 10.33 of the court order to seal the record of the proceedings shall be to restore the person, in the
 10.34 contemplation of the law, to the status the person occupied before the arrest, indictment,
 10.35 or information. The person shall not be guilty of perjury or otherwise of giving a false

11.1 statement if the person fails to acknowledge the arrest, indictment, information, or trial in
11.2 response to any inquiry made for any purpose. The court may request a sworn statement
11.3 from a staff member of a state-funded victim services organization or a licensed health
11.4 care provider as evidence to support a determination under section 609A.03, subdivision 5.

11.5 **EFFECTIVE DATE.** This section is effective January 1, 2015.

11.6 Sec. 12. Minnesota Statutes 2012, section 609A.03, subdivision 7, is amended to read:

11.7 Subd. 7. **Limitations of order.** (a) Upon issuance of an expungement order related
11.8 to a charge supported by probable cause, the DNA samples and DNA records held by
11.9 the Bureau of Criminal Apprehension and collected under authority other than section
11.10 299C.105, shall not be sealed, returned to the subject of the record, or destroyed.

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

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

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

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

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

11.24 (c) This subdivision applies to expungement orders subject to its limitations and
11.25 effective before January 1, 2015.

11.26 **EFFECTIVE DATE.** This section is effective January 1, 2015.

11.27 Sec. 13. Minnesota Statutes 2012, section 609A.03, is amended by adding a
11.28 subdivision to read:

11.29 Subd. 7a. **Limitations of order.** (a) Upon issuance of an expungement order related
11.30 to a charge supported by probable cause, the DNA samples and DNA records held by
11.31 the Bureau of Criminal Apprehension and collected under authority other than section
11.32 299C.105 shall not be sealed, returned to the subject of the record, or destroyed.

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

12.1 (1) except as provided in clause (2), an expunged record may be opened, used,
12.2 or exchanged between criminal justice agencies without a court order for the purposes
12.3 of initiating, furthering, or completing a criminal investigation or prosecution or for
12.4 sentencing purposes or providing probation or other correctional services;

12.5 (2) when a criminal justice agency seeks access to a record that was sealed under
12.6 section 609A.02, subdivision 3, paragraph (a), clause (1), after an acquittal or a court order
12.7 dismissing for lack of probable cause, for purposes of a criminal investigation, prosecution,
12.8 or sentencing, the requesting agency must obtain an ex parte court order after stating a
12.9 good-faith basis to believe that opening the record may lead to relevant information;

12.10 (3) an expunged record of a conviction may be opened for purposes of evaluating a
12.11 prospective employee in a criminal justice agency without a court order;

12.12 (4) an expunged record of a conviction may be opened for purposes of a background
12.13 study under section 245C.08 unless the commissioner had been properly served with
12.14 notice of the petition for expungement and the court order for expungement is directed
12.15 specifically to the commissioner of human services;

12.16 (5) an expunged record of a conviction may be opened for purposes of a background
12.17 check required under section 122A.18, subdivision 8, unless the court order for
12.18 expungement is directed specifically to the Board of Teaching or the licensing division of
12.19 the Department of Education; and

12.20 (6) the court may order an expunged record opened upon request by the victim of
12.21 the underlying offense if the court determines that the record is substantially related to a
12.22 matter for which the victim is before the court.

12.23 (c) An agency or jurisdiction subject to an expungement order shall maintain the
12.24 record in a manner that provides access to the record by a criminal justice agency under
12.25 paragraph (b), clause (1) or (2), but notifies the recipient that the record has been sealed.
12.26 The Bureau of Criminal Apprehension shall notify the commissioner of human services,
12.27 the Board of Teaching, or the licensing division of the Department of Education of the
12.28 existence of a sealed record and of the right to obtain access under paragraph (b), clause
12.29 (4) or (5). Upon request, the agency or jurisdiction subject to the expungement order
12.30 shall provide access to the record to the commissioner of human services, the Board
12.31 of Teaching, or the licensing division of the Department of Education under paragraph
12.32 (b), clause (4) or (5).

12.33 (d) An expunged record that is opened or exchanged under this subdivision remains
12.34 subject to the expungement order in the hands of the person receiving the record.

13.1 (e) A criminal justice agency that receives an expunged record under paragraph (b),
13.2 clause (1) or (2), must maintain and store the record in a manner that restricts the use of
13.3 the record to the investigation, prosecution, or sentencing for which it was obtained.

13.4 (f) For purposes of this section, a "criminal justice agency" means a court or
13.5 government agency that performs the administration of criminal justice under statutory
13.6 authority.

13.7 (g) This subdivision applies to expungement orders subject to its limitations and
13.8 effective on or after January 1, 2015.

13.9 **EFFECTIVE DATE.** This section is effective January 1, 2015.

13.10 Sec. 14. Minnesota Statutes 2012, section 609A.03, subdivision 8, is amended to read:

13.11 Subd. 8. **Distribution and confirmation of expungement orders.** (a) The court
13.12 administrator shall send a copy of an expungement order to each agency and jurisdiction
13.13 whose records are affected by the terms of the order and send a letter to the petitioner
13.14 identifying each agency that received the order.

13.15 (b) If requested in the petition, each agency and jurisdiction receiving the order must
13.16 send a letter to the petitioner at an address provided in the petition confirming the receipt
13.17 of the expungement order and that the record has been expunged.

13.18 (c) Data on the petitioner in a letter sent under this subdivision are private data
13.19 on individuals as defined in section 13.02.

13.20 **EFFECTIVE DATE.** This section is effective January 1, 2015.

13.21 Sec. 15. **[609A.04] REMEDY.**

13.22 An individual whose record is expunged under this chapter or other law may bring
13.23 an action under section 13.08 against a government entity that knowingly opens or
13.24 exchanges the expunged record in a manner not authorized by law.