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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3816

02/26/2020 Authored by Long and Poston
The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division
03/04/2020 Adoption of Report: Re-referred to the Judiciary Finance and Civil Law Division

1.1 A bill for an act
1.2 relating to public safety; providing for an automatic expungement process for
1.3 certain offenders; providing for prosecutor-initiated expungement; amending
1.4 Minnesota Statutes 2018, sections 609A.01; 609A.02, subdivision 3, by adding a
1.5 subdivision; 609A.025; 609A.03, subdivisions 1, 5, 7a, 9; proposing coding for
1.6 new law in Minnesota Statutes, chapter 609A.

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

1.8 Section 1. Minnesota Statutes 2018, section 609A.01, is amended to read:

1.9 609A.01 EXPUNGEMENT OF CRIMINAL RECORDS.

1.10 This chapter provides the grounds and procedures for expungement of criminal records
1.11 under section 13.82; 152.18, subdivision 1; 299C.11, where expungement is automatic under
1.12 section 609A.015, subdivision 1, or a petition is authorized under section 609A.02,
1.13 subdivision 3; or other applicable law. The remedy available is limited to a court order
1.14 sealing the records and prohibiting the disclosure of their existence or their opening except
1.15 under court order or statutory authority. Nothing in this chapter authorizes the destruction
1.16 of records or their return to the subject of the records.

1.17 EFFECTIVE DATE. This section is effective August 1, 2020, and applies to individuals
1.18 sentenced on or after that date.

1.19 Sec. 2. [609A.015] AUTOMATIC EXPUNGEMENT OF RECORDS.

1.20 Subdivision 1. Eligibility; dismissal; exoneration. A person is eligible for an order of
1.21 expungement:

2.1 (1) upon the dismissal and discharge of proceedings against a person under section
2.2 152.18, subdivision 1, for violation of section 152.024, 152.025, or 152.027 for possession
2.3 of a controlled substance;

2.4 (2) the person was arrested and all charges were dismissed prior to a determination of
2.5 probable cause; or

2.6 (3) all pending actions or proceedings were resolved in favor of the person. For purposes
2.7 of this chapter, a verdict of not guilty by reason of mental illness is not a resolution in favor
2.8 of the petitioner. For the purposes of this chapter, an action or proceeding is resolved in
2.9 favor of the petitioner if the petitioner received an order under section 590.11 determining
2.10 that the petitioner is eligible for compensation based on exoneration.

2.11 Subd. 2. **Eligibility; diversion and stay of adjudication.** A person is eligible for an
2.12 order of expungement if the person has successfully completed the terms of a diversion
2.13 program or stay of adjudication and has not been charged with a new crime for one year
2.14 immediately following completion of the diversion program or stay of adjudication.

2.15 Subd. 3. **Eligibility; waiting period.** (a) A person is eligible for an order of expungement
2.16 if the person:

2.17 (1) was convicted of or received a stayed sentence for a qualifying offense other than
2.18 one that may be used to enhance a criminal penalty;

2.19 (2) has not been convicted of a new crime during the applicable waiting period
2.20 immediately following discharge of the sentence for the crime; and

2.21 (3) is not incarcerated or charged with an offense at the time the person reaches the end
2.22 of the applicable waiting period.

2.23 (b) As used in this subdivision, "qualifying offense" means any petty misdemeanor,
2.24 misdemeanor, or gross misdemeanor, and a felony violation of an offense listed in section
2.25 609A.02, subdivision 3, paragraph (b).

2.26 (c) As used in this subdivision, "applicable waiting period" means:

2.27 (1) two years if the offense was a petty misdemeanor or a misdemeanor;

2.28 (2) four years if the offense was a gross misdemeanor; and

2.29 (3) five years if the offense was a felony violation of an offense listed in section 609A.02,
2.30 subdivision 3, paragraph (b).

2.31 Subd. 4. **Eligibility; enhanceable offenses.** A person is eligible for an order of
2.32 expungement if the person:

3.1 (1) was convicted of or received a stayed sentence for an offense that may be used to
3.2 enhance a criminal penalty;

3.3 (2) has not been convicted of a new crime for ten years immediately following discharge
3.4 of the sentence for the crime; and

3.5 (3) is not incarcerated or charged with a new crime at the time the person reaches the
3.6 end of the ten-year waiting period.

3.7 Subd. 5. Bureau of Criminal Apprehension to identify eligible individuals. (a) The
3.8 Bureau of Criminal Apprehension shall identify convictions that qualify for an order of
3.9 expungement pursuant to subdivision 1, 2, 3, or 4.

3.10 (b) The Bureau of Criminal Apprehension shall notify the judicial branch of:

3.11 (1) the name and date of birth of an individual whose conviction is eligible for an order
3.12 of expungement;

3.13 (2) the case number of the eligible conviction; and

3.14 (3) the date on which the conviction became eligible for an order of expungement.

3.15 (c) The Bureau of Criminal Apprehension shall make a reasonable and good faith effort
3.16 to notify any individual whose conviction qualifies for an order of expungement that the
3.17 offense qualifies and notice is being sent to the judicial branch.

3.18 (d) The Bureau of Criminal Apprehension shall make a reasonable and good faith effort
3.19 to notify any identifiable victims of the offense that the offense qualifies for an order of
3.20 expungement.

3.21 Subd. 6. Order of expungement. (a) Upon receiving notice that an offense qualifies
3.22 for expungement, or upon entering an order dismissing charges prior to a determination of
3.23 probable cause, the court shall issue an order sealing all records relating to an arrest,
3.24 indictment or information, trial, verdict, or dismissal and discharge.

3.25 (b) The requirements, effects, and limitations under section 609A.03, subdivisions 5a,
3.26 6, and 7a, apply to an order issued under this section. An order issued under this section
3.27 shall not be directed to the commissioner of human services, the Professional Educator
3.28 Licensing and Standards Board, or the licensing division of the Department of Education.

3.29 (c) The court administrator shall send a copy of an expungement order issued under this
3.30 section to each agency and jurisdiction whose records are affected by the terms of the order
3.31 and send a letter to the last known address of the person whose offense has been expunged
3.32 identifying each agency to which the order was sent.

4.1 (d) The prosecutorial office that had jurisdiction over the offense for which expungement
 4.2 is granted shall serve by mail the expungement order on any victims of the offense who
 4.3 have requested notice of expungement pursuant to section 611A.06. Service under this
 4.4 paragraph does not constitute a violation of an existing order for protection, restraining
 4.5 order, or other no contact order.

4.6 (e) Data on the person whose offense has been expunged in a letter sent under this
 4.7 subdivision are private data on individuals as defined in section 13.02.

4.8 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to individuals
 4.9 sentenced on or after that date.

4.10 Sec. 3. Minnesota Statutes 2018, section 609A.02, is amended by adding a subdivision to
 4.11 read:

4.12 Subd. 2a. **Expungement of arrest.** A petition may be filed under section 609A.03 to
 4.13 seal all records relating to an arrest if:

4.14 (1) the prosecuting authority declined to file any charges and a grand jury did not return
 4.15 an indictment; or

4.16 (2) the applicable limitations period under section 628.26 has expired, and no indictment
 4.17 or complaint was found or made and filed against the person.

4.18 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to individuals
 4.19 sentenced on or after that date.

4.20 Sec. 4. Minnesota Statutes 2018, section 609A.02, subdivision 3, is amended to read:

4.21 **Subd. 3. Certain criminal proceedings.** (a) A petition may be filed under section
 4.22 609A.03 to seal all records relating to an arrest, indictment or information, trial, or verdict
 4.23 if the records are not subject to section 299C.11, subdivision 1, paragraph (b), and if:

4.24 ~~(1) all pending actions or proceedings were resolved in favor of the petitioner. For~~
 4.25 ~~purposes of this chapter, a verdict of not guilty by reason of mental illness is not a resolution~~
 4.26 ~~in favor of the petitioner. For the purposes of this chapter, an action or proceeding is resolved~~
 4.27 ~~in favor of the petitioner, if the petitioner received an order under section 590.11 determining~~
 4.28 ~~that the petitioner is eligible for compensation based on exoneration;~~

4.29 ~~(2)~~ (1) the petitioner has successfully completed the terms of a diversion program or
 4.30 stay of adjudication and has not been charged with a new crime for at least one year since
 4.31 completion of the diversion program or stay of adjudication;

5.1 ~~(3)~~(2) the petitioner was convicted of or received a stayed sentence for a petty
5.2 misdemeanor or misdemeanor and has not been convicted of a new crime for at least two
5.3 years since discharge of the sentence for the crime;

5.4 ~~(4)~~(3) the petitioner was convicted of or received a stayed sentence for a gross
5.5 misdemeanor and has not been convicted of a new crime for at least four years since discharge
5.6 of the sentence for the crime; or

5.7 ~~(5)~~(4) the petitioner was convicted of or received a stayed sentence for a felony violation
5.8 of an offense listed in paragraph (b), and has not been convicted of a new crime for at least
5.9 five years since discharge of the sentence for the crime.

5.10 (b) Paragraph (a), clause ~~(5)~~(4), applies to the following offenses:

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

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

5.13 (3) section 86B.865, subdivision 1 (certification for title on watercraft);

5.14 (4) section 152.025 (controlled substance in the fifth degree); or 152.097 (sale of
5.15 simulated controlled substance);

5.16 (5) section 168A.30, subdivision 1 (certificate of title false information); or 169.09,
5.17 subdivision 14, paragraph (a), clause (2) (accident resulting in great bodily harm);

5.18 (6) chapter 201; 203B; or 204C (voting violations);

5.19 (7) section 228.45; 228.47; 228.49; 228.50; or 228.51 (false bill of lading);

5.20 (8) section 256.984 (false declaration in assistance application);

5.21 (9) section 296A.23, subdivision 2 (willful evasion of fuel tax);

5.22 (10) section 297D.09, subdivision 1 (failure to affix stamp on scheduled substances);

5.23 (11) section 297G.19 (liquor taxation); or 340A.701 (unlawful acts involving liquor);

5.24 (12) section 325F.743 (precious metal dealers); or 325F.755, subdivision 7 (prize notices
5.25 and solicitations);

5.26 (13) section 346.155, subdivision 10 (failure to control regulated animal);

5.27 (14) section 349.2127; or 349.22 (gambling regulations);

5.28 (15) section 588.20 (contempt);

5.29 (16) section 609.27, subdivision 1, clauses (2) to (5) (coercion);

- 6.1 (17) section 609.31 (leaving state to evade establishment of paternity);
- 6.2 (18) section 609.485, subdivision 4, paragraph (a), clause (2) or (4) (escape from civil
6.3 commitment for mental illness);
- 6.4 (19) section 609.49 (failure to appear in court);
- 6.5 (20) section 609.52, subdivision 3, clause (3)(a) (theft of \$5,000 or less), or other theft
6.6 offense that is sentenced under this provision; or 609.52, subdivision 3a, clause (1) (theft
6.7 of \$1,000 or less with risk of bodily harm);
- 6.8 (21) section 609.525 (bringing stolen goods into state);
- 6.9 (22) section 609.526, subdivision 2, clause (2) (metal dealer receiving stolen goods);
- 6.10 (23) section 609.527, subdivision 5b (possession or use of scanning device or reencoder);
6.11 609.528, subdivision 3, clause (3) (possession or sale of stolen or counterfeit check); or
6.12 609.529 (mail theft);
- 6.13 (24) section 609.53 (receiving stolen goods);
- 6.14 (25) section 609.535, subdivision 2a, paragraph (a), clause (1) (dishonored check over
6.15 \$500);
- 6.16 (26) section 609.54, clause (1) (embezzlement of public funds \$2,500 or less);
- 6.17 (27) section 609.551 (rustling and livestock theft);
- 6.18 (28) section 609.5641, subdivision 1a, paragraph (a) (wildfire arson);
- 6.19 (29) section 609.576, subdivision 1, clause (3), item (iii) (negligent fires);
- 6.20 (30) section 609.595, subdivision 1, clauses (3) to (5), and subdivision 1a, paragraph
6.21 (a) (criminal damage to property);
- 6.22 (31) section 609.597, subdivision 3, clause (3) (assaulting or harming police horse);
- 6.23 (32) section 609.625 (aggravated forgery); 609.63 (forgery); 609.631, subdivision 4,
6.24 clause (3)(a) (check forgery \$2,500 or less); 609.635 (obtaining signature by false pretense);
6.25 609.64 (recording, filing forged instrument); or 609.645 (fraudulent statements);
- 6.26 (33) section 609.65, clause (1) (false certification by notary); or 609.651, subdivision
6.27 4, paragraph (a) (lottery fraud);
- 6.28 (34) section 609.652 (fraudulent driver's license and identification card);
- 6.29 (35) section 609.66, subdivision 1a, paragraph (a) (discharge of firearm; silencer); or
6.30 609.66, subdivision 1b (furnishing firearm to minor);

- 7.1 (36) section 609.662, subdivision 2, paragraph (b) (duty to render aid);
- 7.2 (37) section 609.686, subdivision 2 (tampering with fire alarm);
- 7.3 (38) section 609.746, subdivision 1, paragraph (e) (interference with privacy; subsequent
- 7.4 violation or minor victim);
- 7.5 (39) section 609.80, subdivision 2 (interference with cable communications system);
- 7.6 (40) section 609.821, subdivision 2 (financial transaction card fraud);
- 7.7 (41) section 609.822 (residential mortgage fraud);
- 7.8 (42) section 609.825, subdivision 2 (bribery of participant or official in contest);
- 7.9 (43) section 609.855, subdivision 2, paragraph (c), clause (1) (interference with transit
- 7.10 operator);
- 7.11 (44) section 609.88 (computer damage); or 609.89 (computer theft);
- 7.12 (45) section 609.893, subdivision 2 (telecommunications and information services fraud);
- 7.13 (46) section 609.894, subdivision 3 or 4 (cellular counterfeiting);
- 7.14 (47) section 609.895, subdivision 3, paragraph (a) or (b) (counterfeited intellectual
- 7.15 property);
- 7.16 (48) section 609.896 (movie pirating);
- 7.17 (49) section 624.7132, subdivision 15, paragraph (b) (transfer pistol to minor); 624.714,
- 7.18 subdivision 1a (pistol without permit; subsequent violation); or 624.7141, subdivision 2
- 7.19 (transfer of pistol to ineligible person); or
- 7.20 (50) section 624.7181 (rifle or shotgun in public by minor).

7.21 Sec. 5. Minnesota Statutes 2018, section 609A.025, is amended to read:

7.22 **609A.025 NO PETITION REQUIRED IN CERTAIN CASES WITH**

7.23 **PROSECUTOR AGREEMENT AND NOTIFICATION.**

7.24 (a) If the prosecutor agrees to the sealing of a criminal record, the court shall seal the

7.25 criminal record for a person described in section 609A.02, subdivision 2a or 3, without the

7.26 filing of a petition unless it determines that the interests of the public and public safety in

7.27 keeping the record public outweigh the disadvantages to the subject of the record in not

7.28 sealing it. The prosecutor shall inform the court whether the context and circumstances of

7.29 the underlying crime indicate a nexus between the criminal record to be expunged and the

8.1 person's status as a crime victim and, if so, request that the court make the appropriate
8.2 findings to support the relief described in section 609A.03, subdivision 6a.

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

8.6 (c) Subject to paragraph (b), the agreement of the prosecutor to the sealing of records
8.7 for a person described in section 609A.02, subdivision 3, paragraph (a), clause ~~(2)~~ (1), may
8.8 occur before or after the criminal charges are dismissed.

8.9 (d) A prosecutor shall agree to the sealing of a criminal record for a person described
8.10 in section 609A.02, subdivision 2a, unless substantial and compelling reasons exist to object
8.11 to the sealing.

8.12 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to individuals
8.13 sentenced on or after that date.

8.14 **Sec. 6. [609A.026] PROSECUTOR-INITIATED EXPUNGEMENT.**

8.15 Subdivision 1. **Determination of eligibility.** A prosecutor may initiate a petition to
8.16 expunge the criminal record of an individual if:

8.17 (1) the individual meets the requirements of section 609A.02, subdivision 3; or

8.18 (2) the individual was convicted of or received a stayed sentence for a felony violation
8.19 of an offense other than an offense for which registration is required under section 243.166,
8.20 and has not been convicted of a new crime for at least five years since discharge of the
8.21 sentence for the crime.

8.22 Subd. 2. **Petition; contents; fee.** (a) A petition for expungement initiated by a prosecutor
8.23 shall include the following:

8.24 (1) the full name of the individual on whose behalf the petition is being brought and, to
8.25 the extent possible, all other legal names or aliases by which the individual has been known
8.26 at any time;

8.27 (2) the individual's date of birth;

8.28 (3) the individual's address and, to the extent possible, all addresses from the date of the
8.29 offense or alleged offense in connection with which an expungement order is sought, to the
8.30 date of the petition;

8.31 (4) why the prosecutor is seeking expungement for the individual;

9.1 (5) the details of the offense or arrest for which expungement is sought, including the
9.2 date and jurisdiction of the occurrence; either the names of any victims or that there were
9.3 no identifiable victims; whether there is a current order for protection, restraining order, or
9.4 other no contact order prohibiting the individual from contacting the victims or whether
9.5 there has ever been a prior order for protection or restraining order prohibiting the individual
9.6 from contacting the victims; the court file number; and the date of conviction or of dismissal;

9.7 (6) what steps the individual has taken since the time of the offense toward personal
9.8 rehabilitation, including treatment, work, or other personal history that demonstrates
9.9 rehabilitation;

9.10 (7) the individual's criminal conviction record indicating all convictions for
9.11 misdemeanors, gross misdemeanors, or felonies in this state, and for all comparable
9.12 convictions in any other state, federal court, or foreign country, whether the convictions
9.13 occurred before or after the arrest or conviction for which expungement is sought;

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

9.18 (9) to the extent known, all prior requests by the individual, whether for the present
9.19 offense or for any other offenses in this state or any other state or federal court, for pardon,
9.20 return of arrest records, or expungement or sealing of a criminal record, whether granted
9.21 or not, and all stays of adjudication or imposition of sentence involving the petitioner.

9.22 (b) The filing fee for a petition brought under this section shall be waived.

9.23 **Subd. 3. Service of petition and proposed order.** (a) The prosecutor shall serve by
9.24 mail the petition for expungement and a proposed expungement order on the individual on
9.25 whose behalf the petition is being brought and all state and local government agencies and
9.26 jurisdictions whose records would be affected by the proposed order.

9.27 (b) The prosecutor shall serve by mail the petition for expungement and a proposed
9.28 expungement order on any victims of the offense for which expungement is sought who
9.29 have requested notice of expungement pursuant to section 611A.06. Service under this
9.30 paragraph does not constitute a violation of an existing order for protection, restraining
9.31 order, or other no contact order.

10.1 (c) Notice to victims of the offense under this subdivision must specifically inform the
10.2 victims of the victims' right to be present and to submit an oral or written statement at the
10.3 expungement hearing described in section 609A.03, subdivision 4.

10.4 (d) An agency or jurisdiction that is served with a petition under this subdivision may
10.5 submit to the court private or confidential data on the individual on whose behalf the petition
10.6 is being brought that the agency or jurisdiction determines is necessary to respond to the
10.7 petition. As part of the submission, the agency or jurisdiction shall inform the court, the
10.8 prosecutor, and the individual on whose behalf the petition is being brought that the
10.9 submission contains private or confidential data that may become accessible to the public
10.10 as part of the expungement proceeding. The prosecutor or the individual on whose behalf
10.11 the petition is being brought may, at the time of filing the petition or after that time, file a
10.12 request with the court to seal the private or confidential data that are submitted by the agency
10.13 or jurisdiction.

10.14 Subd. 4. **Hearing.** (a) The court shall hold a hearing as described in section 609A.03,
10.15 subdivision 4, if:

10.16 (1) the petition filed under subdivision 2 indicates that there were identifiable victims
10.17 of the offense;

10.18 (2) any agency or jurisdiction that is served with a petition under subdivision 3 requests
10.19 a hearing;

10.20 (3) the individual on whose behalf the petition is being brought requests a hearing; or

10.21 (4) the prosecutor requests a hearing.

10.22 (b) If none of the provisions of paragraph (a) apply, the court may enter an order granting
10.23 or denying the petition without holding a hearing.

10.24 Subd. 5. **Nature of remedy; standard.** (a) The court shall seal the criminal record for
10.25 an individual on whose behalf a petition is brought under this section unless it determines
10.26 that the interests of the public and public safety in keeping the record public outweigh the
10.27 disadvantages to the subject of the record in not sealing it.

10.28 (b) The provisions of section 609A.03, subdivisions 5, paragraphs (d) and (e); 5a; 6; 6a;
10.29 7a; 8; and 9, apply to an order issued under this section.

10.30 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to individuals
10.31 sentenced on or after that date.

11.1 Sec. 7. Minnesota Statutes 2018, section 609A.03, subdivision 1, is amended to read:

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

11.7 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to individuals
 11.8 sentenced on or after that date.

11.9 Sec. 8. Minnesota Statutes 2018, section 609A.03, subdivision 5, is amended to read:

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

11.14 (1) sealing the record; and

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

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

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

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

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

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

11.27 (4) the steps taken by the petitioner toward rehabilitation following the crime;

11.28 (5) aggravating or mitigating factors relating to the underlying crime, including the
 11.29 petitioner's level of participation and context and circumstances of the underlying crime;

11.30 (6) the reasons for the expungement, including the petitioner's attempts to obtain
 11.31 employment, housing, or other necessities;

- 12.1 (7) the petitioner's criminal record;
- 12.2 (8) the petitioner's record of employment and community involvement;
- 12.3 (9) the recommendations of interested law enforcement, prosecutorial, and corrections
12.4 officials;
- 12.5 (10) the recommendations of victims or whether victims of the underlying crime were
12.6 minors;
- 12.7 (11) the amount, if any, of restitution outstanding, past efforts made by the petitioner
12.8 toward payment, and the measures in place to help ensure completion of restitution payment
12.9 after expungement of the record if granted; and
- 12.10 (12) other factors deemed relevant by the court.

12.11 (d) Notwithstanding section 13.82, 13.87, or any other law to the contrary, if the court
12.12 issues an expungement order it may require that the criminal record be sealed, the existence
12.13 of the record not be revealed, and the record not be opened except as required under
12.14 subdivision 7. Records must not be destroyed or returned to the subject of the record.

12.15 (e) Information relating to a criminal history record of an employee, former employee,
12.16 or tenant that has been expunged before the occurrence of the act giving rise to the civil
12.17 action may not be introduced as evidence in a civil action against a private employer or
12.18 landlord or its employees or agents that is based on the conduct of the employee, former
12.19 employee, or tenant.

12.20 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to individuals
12.21 sentenced on or after that date.

12.22 Sec. 9. Minnesota Statutes 2018, section 609A.03, subdivision 7a, is amended to read:

12.23 Subd. 7a. **Limitations of order effective January 1, 2015, and later.** (a) Upon issuance
12.24 of an expungement order related to a charge supported by probable cause, the DNA samples
12.25 and DNA records held by the Bureau of Criminal Apprehension and collected under authority
12.26 other than section 299C.105 shall not be sealed, returned to the subject of the record, or
12.27 destroyed.

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

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

13.1 (2) when a criminal justice agency seeks access to a record that was sealed under section
13.2 ~~609A.02, subdivision 3, paragraph (a)~~ 609A.015, subdivision 1, clause ~~(1)~~ (3), after an
13.3 acquittal or a court order dismissing for lack of probable cause, for purposes of a criminal
13.4 investigation, prosecution, or sentencing, the requesting agency must obtain an ex parte
13.5 court order after stating a good-faith basis to believe that opening the record may lead to
13.6 relevant information;

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

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

13.13 (5) an expunged record of a conviction may be opened for purposes of a background
13.14 check required under section 122A.18, subdivision 8, unless the court order for expungement
13.15 is directed specifically to the Professional Educator Licensing and Standards Board or the
13.16 licensing division of the Department of Education; and

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

13.20 (c) An agency or jurisdiction subject to an expungement order shall maintain the record
13.21 in a manner that provides access to the record by a criminal justice agency under paragraph
13.22 (b), clause (1) or (2), but notifies the recipient that the record has been sealed. The Bureau
13.23 of Criminal Apprehension shall notify the commissioner of human services, the Professional
13.24 Educator Licensing and Standards Board, or the licensing division of the Department of
13.25 Education of the existence of a sealed record and of the right to obtain access under paragraph
13.26 (b), clause (4) or (5). Upon request, the agency or jurisdiction subject to the expungement
13.27 order shall provide access to the record to the commissioner of human services, the
13.28 Professional Educator Licensing and Standards Board, or the licensing division of the
13.29 Department of Education under paragraph (b), clause (4) or (5).

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

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

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

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

14.5 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to individuals
14.6 sentenced on or after that date.

14.7 Sec. 10. Minnesota Statutes 2018, section 609A.03, subdivision 9, is amended to read:

14.8 Subd. 9. **Stay of order; appeal.** An expungement order issued under this section shall
14.9 be stayed automatically for 60 days after the order is filed and, if the order is appealed,
14.10 during the appeal period. A person or an agency or jurisdiction whose records would be
14.11 affected by the order may appeal the order within 60 days of service of notice of filing of
14.12 the order. An agency or jurisdiction or its officials or employees need not file a cost bond
14.13 or supersedeas bond in order to further stay the proceedings or file an appeal.

14.14 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to individuals
14.15 sentenced on or after that date.