

CHAPTER 299C

BUREAU OF CRIMINAL APPREHENSION

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299C.063 BOMB DISPOSAL EXPENSE REIMBURSEMENT.

Subdivision 1. **Definitions.** The terms used in this section have the meanings given them in this subdivision:

(a) "Bomb disposal unit" means a commissioner-approved unit consisting of persons who are trained and equipped to dispose of or neutralize bombs or other similar hazardous explosives and who are employed by a municipality.

(b) "Commissioner" means the commissioner of public safety.

(c) "Municipality" has the meaning given it in section 466.01.

(d) "Hazardous explosives" means explosives as defined in section 299F.72, subdivision 2, explosive devices and incendiary devices as defined in section 609.668, subdivision 1, and all materials subject to regulation under United States Code, title 18, chapter 40.

Subd. 2. **Expense reimbursement.** The commissioner may reimburse bomb disposal units for reasonable expenses incurred to dispose of or neutralize bombs or other similar hazardous explosives for their employer—municipality or for another municipality outside the jurisdiction of the employer—municipality but within the state. Reimbursement is limited to the extent of appropriated funds.

Subd. 3. **Agreements.** The commissioner may enter into contracts or agreements with bomb disposal units to implement and administer this section.

History: 1995 c 226 art 4 s 7

299C.065 UNDERCOVER BUY FUND; WITNESS AND VICTIM PROTECTION.

[For text of subd 1, see M.S.1994]

Subd. 1a. **Witness and victim protection fund.** A witness and victim protection fund is created under the administration of the commissioner of public safety. The commissioner may make grants to local officials to provide for the relocation or other protection of a victim, witness, or potential witness who is involved in a criminal prosecution and who the commissioner has reason to believe is or is likely to be the target of a violent crime or a violation of section 609.498 or 609.713, in connection with that prosecution. The awarding of grants under this subdivision is not limited to the crimes and investigations described in subdivision 1. The commissioner may award grants for any of the following actions in connection with the protection of a witness or victim under this subdivision:

(1) to provide suitable documents to enable the person to establish a new identity or otherwise protect the person;

(2) to provide housing for the person;

(3) to provide for the transportation of household furniture and other personal property to the person's new residence;

(4) to provide the person with a payment to meet basic living expenses for a time period the commissioner deems necessary;

(5) to assist the person in obtaining employment; and

(6) to provide other services necessary to assist the person in becoming self-sustaining.

[For text of subd 2, see M.S.1994]

Subd. 3. **Investigation report.** A report shall be made to the commissioner at the conclusion of an investigation for which a grant was made under subdivision 1 stating: (1) the number of persons arrested, (2) the nature of charges filed against them, (3) the nature and value of controlled substances or contraband purchased or seized, (4) the amount of money paid to informants during the investigation, and (5) a separate accounting of the amount of money spent for expenses, other than "buy money," of bureau and local law enforcement personnel during the investigation. The commissioner shall prepare and submit to the chairs of the committees in the senate and house of representatives with jurisdiction over criminal justice policy by January 1 of each even-numbered year a report of investigations receiving grants under subdivision 1.

Subd. 3a. **Accounting report.** The head of a law enforcement agency that receives a grant under subdivision 1a shall file a report with the commissioner at the conclusion of the case detailing the specific purposes for which the money was spent. The commissioner shall prepare and submit to the chairs of the committees in the senate and house of representatives with jurisdiction over criminal justice policy by January 1 of each even-numbered year a summary report of witness assistance services provided under this section.

[For text of subd 4, see M.S.1994]

History: 1995 c 226 art 4 s 8,9; art 7 s 2

299C.10 IDENTIFICATION DATA REQUIRED.

Subdivision 1. **Law enforcement duty.** (a) It is hereby made the duty of the sheriffs of the respective counties and of the police officers in cities of the first, second, and third classes, under the direction of the chiefs of police in such cities, to take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, and such other identification data as may be requested or required by the superintendent of the bureau; of all persons arrested for a felony, gross misdemeanor, of all juveniles committing felonies as distinguished from those committed by adult offenders, of all persons reasonably believed by the arresting officer to be fugitives from justice, of all persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes, and within 24 hours thereafter to forward such fingerprint records and other identification data on such forms and in such manner as may be prescribed by the superintendent of the bureau of criminal apprehension.

(b) Effective August 1, 1997, the identification reporting requirements shall also apply to persons committing misdemeanor offenses, including violent and enhanceable crimes, and juveniles committing gross misdemeanors.

[For text of subs 2 and 3, see M.S.1994]

Subd. 4. **Fee for background check; account; appropriation.** The superintendent shall collect a fee in an amount to cover the expense for each background check provided for a purpose not directly related to the criminal justice system or required by section 624.7131, 624.7132, or 624.714. The proceeds of the fee must be deposited in a special account. Until July 1, 1997, money in the account is appropriated to the commissioner to maintain and improve the quality of the criminal record system in Minnesota.

History: 1995 c 226 art 4 s 10,11

299C.11 IDENTIFICATION DATA FURNISHED TO BUREAU.

The sheriff of each county and the chief of police of each city of the first, second, and third classes shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data as may be requested or required by the superintendent of the bureau, which may be taken under the provisions of section 299C.10, of persons who shall be convicted of a felony, gross misdemeanor, or who shall be found to have been convicted of a felony or gross misdemeanor, within ten years next preceding their arrest. Upon

the determination of all pending criminal actions or proceedings in favor of the arrested person, the arrested person shall, upon demand, have all such finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data, and all copies and duplicates thereof, returned, provided it is not established that the arrested person has been convicted of any felony, either within or without the state, within the period of ten years immediately preceding such determination.

For purposes of this section, "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

- (1) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or 609.168; or
- (2) the arrested person's successful completion of a diversion program.

History: 1995 c 259 art 1 s 49

299C.61 DEFINITIONS.

[For text of subds 1 to 3, see M.S.1994]

Subd. 4. Child abuse crime. "Child abuse crime" means:

(1) an act committed against a minor victim that constitutes a violation of section 609.185, clause (5); 609.221; 609.222; 609.223; 609.224; 609.2242; 609.322; 609.323; 609.324; 609.342; 609.343; 609.344; 609.345; 609.352; 609.377; or 609.378; or

(2) a violation of section 152.021, subdivision 1, clause (4); 152.022, subdivision 1, clause (5) or (6); 152.023, subdivision 1, clause (3) or (4); 152.023, subdivision 2, clause (4) or (6); or 152.024, subdivision 1, clause (2), (3), or (4).

[For text of subds 5 to 9, see M.S.1994]

History: 1995 c 259 art 3 s 5

299C.62 BACKGROUND CHECKS.

[For text of subds 1 to 3, see M.S.1994]

Subd. 4. Response of bureau. The superintendent shall respond to a background check request within a reasonable time after receiving the signed, written document described in subdivision 2. The superintendent shall provide the children's service provider with a copy of the applicant's criminal record or a statement that the applicant is not the subject of a criminal history record at the bureau. It is the responsibility of the service provider to determine if the applicant qualifies as an employee or volunteer under this section.

[For text of subds 5 and 6, see M.S.1994]

History: 1995 c 226 art 4 s 12

PROPERTY MANAGER BACKGROUND CHECK

299C.66 CITATION.

Sections 299C.66 to 299C.71 may be cited as the "Kari Koskinen manager background check act."

History: 1995 c 226 art 4 s 13

299C.67 DEFINITIONS.

Subdivision 1. Terms. The definitions in this section apply to sections 299C.66 to 299C.71.

Subd. 2. Background check crime. "Background check crime" means:

(a)(1) a felony violation of section 609.185 (first degree murder); 609.19 (second degree murder); 609.20 (first degree manslaughter); 609.221 (first degree assault); 609.222

(second degree assault); 609.223 (third degree assault); 609.25 (kidnapping); 609.342 (first degree criminal sexual conduct); 609.343 (second degree criminal sexual conduct); 609.344 (third degree criminal sexual conduct); 609.345 (fourth degree criminal sexual conduct); 609.561 (first degree arson); or 609.749 (harassment and stalking);

(2) an attempt to commit a crime in clause (1); or

(3) a conviction for a crime in another jurisdiction that would be a violation under clause (1) or an attempt under clause (1) in this state; or

(b)(1) a felony violation of section 609.195 (third degree murder); 609.205 (second degree manslaughter); 609.21 (criminal vehicular homicide and injury); 609.2231 (fourth degree assault); 609.224 (fifth degree assault); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.255 (false imprisonment); 609.52 (theft); 609.582, subdivision 1 or 2 (burglary); 609.713 (terroristic threats); or a nonfelony violation of section 609.749 (harassment and stalking);

(2) an attempt to commit a crime in clause (1); or

(3) a conviction for a crime in another jurisdiction that would be a violation under clause (1) or an attempt under clause (1) in this state.

Subd. 3. **CJIS.** "CJIS" means the Minnesota criminal justice information system.

Subd. 4. **Manager.** "Manager" means an individual who is hired or is applying to be hired by an owner and who has or would have the means, within the scope of the individual's duties, to enter tenants' dwelling units. "Manager" does not include a person who is hired on a casual basis and not in the ongoing course of the business of the owner.

Subd. 5. **Owner.** "Owner" has the meaning given in section 566.18, subdivision 3. However, "owner" does not include a person who owns, operates, or is in control of a health care facility or a home health agency licensed by the commissioner of health or human services under chapter 144, 144A, or 245A.

Subd. 6. **Superintendent.** "Superintendent" means the superintendent of the bureau of criminal apprehension.

Subd. 7. **Tenant.** "Tenant" has the meaning given in section 566.18, subdivision 2.

History: 1995 c 226 art 4 s 14

299C.68 BACKGROUND CHECKS ON MANAGERS.

Subdivision 1. **When required.** Before hiring a manager, an owner shall request the superintendent to conduct a background check under this section. An owner may employ a manager after requesting a background check under this section before receipt of the background check report, provided that the owner complies with section 299C.69. An owner may request a background check for a currently employed manager under this section. By July 1, 1996, an owner shall request the superintendent to conduct a background check under this section for managers hired before July 1, 1995, who are currently employed.

Subd. 2. **Procedures.** The superintendent shall develop procedures to enable an owner to request a background check to determine whether a manager is the subject of a reported conviction for a background check crime. The superintendent shall perform the background check by retrieving and reviewing data on background check crimes maintained in the CJIS computers. If the manager has resided in Minnesota for less than five years or upon request of the owner, the superintendent shall also conduct a search of the national criminal records repository, including the criminal justice data communications network. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. The superintendent shall recover the cost of a background check through a fee charged to the owner.

Subd. 3. **Form.** The superintendent shall develop a standardized form to be used for requesting a background check, which must include:

(1) a notification to the manager that the owner will request the superintendent to perform a background check under this section;

(2) a notification to the manager of the manager's rights under subdivision 4; and

(3) a signed consent by the manager to conduct the background check.

If the manager has resided in Minnesota for less than five years, or if the owner is requesting a search of the national criminal records repository, the form must be accompanied by the fingerprints of the manager on whom the background check is to be performed.

Subd. 4. **Manager's rights.** (a) The owner shall notify the manager of the manager's rights under paragraph (b).

(b) A manager who is the subject of a background check request has the following rights:

(1) the right to be informed that the owner will request a background check on the manager to determine whether the manager has been convicted of a crime specified in section 299C.67, subdivision 2;

(2) the right to be informed by the owner of the superintendent's response to the background check and to obtain from the owner a copy of the background check report;

(3) the right to obtain from the superintendent any record that forms the basis for the report;

(4) the right to challenge the accuracy and completeness of information contained in the report or record under section 13.04, subdivision 4; and

(5) the right to be informed by the owner if the manager's application to be employed by the owner or to continue as an employee has been denied because of the result of the background check.

Subd. 5. **Response of bureau.** The superintendent shall respond to a background check request within a reasonable time not to exceed ten working days after receiving the signed form under subdivision 3. If a search is being done of the national criminal records repository and that portion of the background check is not completed, the superintendent shall notify the owner that the background check is not complete and shall provide that portion of the background check to the owner as soon as it is available. The superintendent's response must indicate whether the manager has ever been convicted of a background check crime and, if so, a description of the crime, date and jurisdiction of conviction, and date of discharge of the sentence.

Subd. 6. **Equivalent background check.** (a) An owner may satisfy the requirements of this section by obtaining a background check from a private business or a local law enforcement agency rather than the superintendent if the scope of the background check provided by the private business or local law enforcement agency is at least as broad as that of a background check performed by the superintendent and the response to the background check request occurs within a reasonable time not to exceed ten working days after receiving the signed form described in subdivision 3. Local law enforcement agencies may access the criminal justice data network to perform the background check.

(b) A private business or local law enforcement agency providing a background check under this section must use a notification form similar to the form described in subdivision 3, except that the notification form must indicate that the background check will be performed by the private business or local law enforcement agency using records of the superintendent and other data sources.

History: 1995 c 226 art 4 s 15

299C.69 OWNER DUTIES IF MANAGER CONVICTED OF BACKGROUND CHECK CRIME.

(a) If the superintendent's response indicates that the manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (a), the owner may not hire the manager or, if the manager was hired pending completion of the background check, shall terminate the manager's employment. Except as provided in paragraph (c), if an owner otherwise knows that a manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (a), the owner shall terminate the manager's employment.

(b) If the superintendent's response indicates that the manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (b), the owner may not hire the manager unless more than ten years have elapsed since the date of discharge of the sentence. If the manager was hired pending completion of the background check, the

owner shall terminate the manager's employment unless more than ten years have elapsed since the date of discharge of the sentence. Except as provided in paragraph (c), if an owner otherwise knows that a manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (b), the owner shall terminate the manager's employment unless more than ten years have elapsed since the date of discharge of the sentence.

(c) If an owner knows that a manager hired before July 1, 1995, was convicted of a background check crime for an offense committed before July 1, 1995, the owner may continue to employ the manager. However, the owner shall notify all tenants and prospective tenants whose dwelling units would be accessible to the manager of the crime for which the manager has been convicted and of the right of a current tenant to terminate the tenancy under this paragraph, if the manager was convicted of a background check crime defined in:

(1) section 299C.67, subdivision 2, paragraph (a); or

(2) section 299C.67, subdivision 2, paragraph (b), unless more than ten years have elapsed since the sentence was discharged.

Notwithstanding a lease provision to the contrary, a current tenant who receives a notice under this paragraph may terminate the tenancy within 60 days of receipt of the notice by giving the owner at least 14 days' advance notice of the termination date.

(d) The owner shall notify the manager of any action taken under this subdivision.

(e) If an owner is required to terminate a manager's employment under paragraph (a) or (b), or terminates a manager's employment in lieu of notifying tenants under paragraph (c), the owner is not liable under any law, contract, or agreement, including liability for unemployment compensation claims, for terminating the manager's employment in accordance with this section. Notwithstanding a lease or agreement governing termination of the tenancy, if the manager whose employment is terminated is also a tenant, the owner may terminate the tenancy immediately upon giving notice to the manager. An unlawful detainer action to enforce the termination of the tenancy must be treated as a priority writ under sections 566.05, 566.07, 566.09, subdivision 1, 566.16, subdivision 2, and 566.17, subdivision 1a.

History: 1995 c 226 art 4 s 16

299C.70 PENALTY.

An owner who knowingly fails to comply with the requirements of section 299C.68 or 299C.69 is guilty of a petty misdemeanor.

History: 1995 c 226 art 4 s 17

299C.71 BUREAU OF CRIMINAL APPREHENSION IMMUNITY.

The bureau of criminal apprehension is immune from any civil or criminal liability that might otherwise arise under section 299C.68, based on the accuracy or completeness of records it receives from the Federal Bureau of Investigation, if the bureau acts in good faith.

History: 1995 c 226 art 4 s 18