

## CHAPTER 299C

## BUREAU OF CRIMINAL APPREHENSION

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

Subdivision 1. **Grants.** The commissioner of public safety shall make grants to local officials for the following purposes:

- (1) the cooperative investigation of cross jurisdictional criminal activity relating to the possession and sale of controlled substances;
- (2) receiving or selling stolen goods;
- (3) participating in gambling activities in violation of section 609.76;
- (4) violations of section 609.322, 609.323, or any other state or federal law prohibiting the recruitment, transportation, or use of juveniles for purposes of prostitution;
- (5) for partial reimbursement of local costs associated with unanticipated, intensive, long-term, multijurisdictional criminal investigations that exhaust available local resources, except that the commissioner may not reimburse the costs of a local investigation involving a child who is reported to be missing and endangered unless the law enforcement agency complies with section 299C.53 and the agency's own investigative policy; and
- (6) for partial reimbursement of local costs associated with criminal investigations into the activities of violent criminal gangs and gang members.

*[For text of subs 1a to 4, see M.S.1996]*

**History:** 1997 c 239 art 2 s 1

**299C.091 CRIMINAL GANG INVESTIGATIVE DATA SYSTEM.**

Subdivision 1. **Establishment.** The bureau shall administer and maintain a computerized criminal gang investigative data system for the purpose of assisting criminal justice agencies in the investigation and prosecution of criminal activity by gang members. The system consists of data on individuals whom law enforcement agencies determine are or may be engaged in criminal gang activity. Notwithstanding section 260.161, subdivision 3, data on adults and juveniles in the system and data documenting an entry in the system may be maintained together. Data in the system must be submitted and maintained as provided in this section.

Subd. 2. **Entry of data into system.** (a) A law enforcement agency may submit data on an individual to the criminal gang investigative data system only if the agency obtains and maintains the documentation required under this subdivision. Documentation may include data obtained from other criminal justice agencies, provided that a record of all of the documentation required under paragraph (b) is maintained by the agency that submits the data to the bureau. Data maintained by a law enforcement agency to document an entry in the system are confidential data on individuals as defined in section 13.02, subdivision 3, but may be released to criminal justice agencies.

(b) A law enforcement agency may submit data on an individual to the bureau for inclusion in the system if the individual is 14 years of age or older and the agency has documented that:

- (1) the individual has met at least three of the criteria or identifying characteristics of gang membership developed by the criminal gang oversight council under section 299A.65 as required by the council; and

(2) the individual has been convicted of a gross misdemeanor or felony or has been adjudicated or has a stayed adjudication as a juvenile for an offense that would be a gross misdemeanor or felony if committed by an adult.

**Subd. 3. Classification of data in system.** Data in the criminal gang investigative data system are confidential data on individuals as defined in section 13.02, subdivision 3, but are accessible to law enforcement agencies and may be released to the criminal justice agencies.

**Subd. 4. Audit of data submitted to system.** The bureau shall conduct periodic random audits of data under subdivision 2 that documents inclusion of an individual in the criminal gang investigative data system for the purpose of determining the validity, completeness, and accuracy of data submitted to the system. The bureau has access to the documenting data for purposes of conducting an audit.

**Subd. 5. Removal of data from system.** Notwithstanding section 138.17, the bureau shall destroy data entered into the system when three years have elapsed since the data were entered into the system, except as otherwise provided in this subdivision. If the bureau has information that the individual has been convicted as an adult, or has been adjudicated or has a stayed adjudication as a juvenile for an offense that would be a crime if committed by an adult, since entry of the data into the system, the data must be maintained until three years have elapsed since the last record of a conviction or adjudication or stayed adjudication of the individual. Upon request of the law enforcement agency that submitted data to the system, the bureau shall destroy the data regardless of whether three years have elapsed since the data were entered into the system.

**History:** 1997 c 239 art 8 s 12

## **299C.095 SYSTEM FOR IDENTIFICATION OF JUVENILE OFFENDERS.**

**Subdivision 1. Access.** (a) The bureau shall administer and maintain the computerized juvenile history record system based on section 260.161 and other statutes requiring the reporting of data on juveniles. The data in the system are private data as defined in section 13.02, subdivision 12, but are accessible to criminal justice agencies as defined in section 13.02, subdivision 3a, to all trial courts and appellate courts, to a person who has access to the juvenile court records as provided in section 260.161 or under court rule and to criminal justice agencies in other states in the conduct of their official duties.

(b) Except for access authorized under paragraph (a), the bureau shall only disseminate a juvenile adjudication history record in connection with a background check required by statute or rule and performed on a licensee, license applicant, or employment applicant or performed under section 624.713. A consent for release of information from an individual who is the subject of a juvenile adjudication history is not effective and the bureau shall not release a juvenile adjudication history record and shall not release information in a manner that reveals the existence of the record.

**Subd. 2. Retention.** (a) Notwithstanding section 138.17, the bureau shall retain juvenile history records for the time periods provided in this subdivision. Notwithstanding contrary provisions of paragraphs (b) to (e), all data in a juvenile history record must be retained for the longest time period applicable to any item in the individual juvenile history record. If, before data are destroyed under this subdivision, the subject of the data is convicted of a felony as an adult, the individual's juvenile history record must be retained for the same time period as an adult criminal history record.

(b) Juvenile history data on a child who was arrested must be destroyed six months after the arrest if the child has not been referred to a diversion program and no petition has been filed against the child by that time.

(c) Juvenile history data on a child against whom a delinquency petition was filed and subsequently dismissed must be destroyed upon receiving notice from the court that the petition was dismissed.

(d) Juvenile history data on a child who was referred to a diversion program or against whom a delinquency petition has been filed and continued for dismissal must be destroyed when the child reaches age 21.

(e) Juvenile history data on a child against whom a delinquency petition was filed and continued without adjudication, or a child who was found to have committed a felony or

gross misdemeanor-level offense, must be destroyed when the child reaches age 28. If the offender commits a felony violation as an adult, the bureau shall retain the data for as long as the data would have been retained if the offender had been an adult at the time of the juvenile offense.

(f) The bureau shall retain extended jurisdiction juvenile data on an individual received under section 260.161, subdivision 1a, paragraph (c), for as long as the data would have been retained if the offender had been an adult at the time of the offense.

(g) Data retained on individuals under this subdivision are private data under section 13.02, except that extended jurisdiction juvenile data become public data under section 13.87, subdivision 2, when the juvenile court notifies the bureau that the individual's adult sentence has been executed under section 260.126, subdivision 5.

(h) A person who receives data on a juvenile under paragraphs (b) to (e) from the bureau shall destroy the data according to the schedule in this subdivision. The bureau shall include a notice of the destruction schedule with all data it disseminates on juveniles.

**History:** 1997 c 239 art 8 s 13

### 299C.10 IDENTIFICATION DATA REQUIRED.

Subdivision 1. **Law enforcement duty.** (a) It is hereby made the duty of the sheriffs of the respective counties, of the police officers in cities of the first, second, and third classes, under the direction of the chiefs of police in such cities, and of community corrections agencies operating secure juvenile detention facilities to take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data requested or required by the superintendent of the bureau, of the following:

- (1) persons arrested for a felony or gross misdemeanor;
- (2) juveniles arrested for or alleged to have committed felonies as distinguished from those committed by adult offenders;
- (3) persons reasonably believed by the arresting officer to be fugitives from justice;
- (4) 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
- (5) juveniles referred by a law enforcement agency to a diversion program for a felony or gross misdemeanor offense.

Within 24 hours the fingerprint records and other identification data specified under this paragraph must be forwarded to the bureau of criminal apprehension 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 arrested for or alleged to have committed targeted misdemeanor offenses and juveniles arrested for or alleged to have committed gross misdemeanors. In addition, the reporting requirements shall include any known aliases or street names of the offenders.

For purposes of this section, a targeted misdemeanor is a misdemeanor violation of section 169.121 (driving while intoxicated), 518B.01 (order for protection violation), 609.224 (fifth degree assault), 609.2242 (domestic assault), 609.746 (interference with privacy), 609.748 (harassment or restraining order violation), or 617.23 (indecent exposure).

*[For text of subs 2 and 3, see M.S.1996]*

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. Money in the account is appropriated to the commissioner to maintain and improve the quality of the criminal record system in Minnesota.

**History:** 1997 c 159 art 2 s 43; 1997 c 239 art 8 s 14,15

**299C.11 IDENTIFICATION DATA FURNISHED TO BUREAU.**

(a) 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.

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

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

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

Where these conditions are met, the bureau or agency shall, upon demand, return to the arrested person finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data, and all copies and duplicates of them.

(c) Except as otherwise provided in paragraph (b), upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau shall seal finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data, and all copies and duplicates of them if the arrested person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding such determination.

(d) DNA samples and DNA records of the arrested person shall not be returned, sealed, or destroyed as to a charge supported by probable cause.

(e) 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 chapter 609A;

(2) the arrested person's successful completion of a diversion program;

(3) an order of discharge under section 609.165; or

(4) a pardon granted under section 638.02.

**History:** 1997 c 7 art 1 s 122

**299C.13 INFORMATION FURNISHED TO PEACE OFFICERS.**

Upon receipt of information data as to any arrested person, the bureau shall immediately ascertain whether the person arrested has a criminal record or is a fugitive from justice, and shall at once inform the arresting officer of the facts ascertained, including references to any adult court disposition data that are not in the criminal history system. Upon application by any sheriff, chief of police, or other peace officer in the state, or by an officer of the United States or by an officer of another state, territory, or government duly authorized to receive the same and effecting reciprocal interchange of similar information with the division, it shall be the duty of the bureau to furnish all information in its possession pertaining to the identification of any person. If the bureau has a sealed record on the arrested person, it shall notify the requesting peace officer of that fact and of the right to seek a court order to open the record for purposes of law enforcement. A criminal justice agency shall be notified, upon request, of the existence and contents of a sealed record containing conviction information about an applicant for employment. For purposes of this section a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

**History:** 1997 c 239 art 8 s 16

**299C.46 ESTABLISHMENT OF NETWORK, USE.**

*[For text of subs 1 and 2, see M.S.1996]*

Subd. 2a. **Noncriminal justice agency defined.** For the purposes of sections 299C.46 to 299C.49, "noncriminal justice agency" means an agency of a state or an agency of a political subdivision of a state charged with the responsibility of performing checks of state databases connected to the criminal justice data communications network.

Subd. 3. **Authorized use, fee.** (a) The criminal justice data communications network shall be used exclusively by:

(1) criminal justice agencies in connection with the performance of duties required by law;

(2) agencies investigating federal security clearances of individuals for assignment or retention in federal employment with duties related to national security, as required by Public Law Number 99-1691;

(3) other agencies to the extent necessary to provide for protection of the public or property in an emergency or disaster situation;

(4) noncriminal justice agencies statutorily mandated, by state or national law, to conduct checks into state databases prior to disbursing licenses or providing benefits; and

(5) the public authority responsible for child support enforcement in connection with the performance of its duties.

(b) The commissioner of public safety shall establish a monthly network access charge to be paid by each participating criminal justice agency. The network access charge shall be a standard fee established for each terminal, computer, or other equipment directly addressable by the data communications network, as follows: January 1, 1984 to December 31, 1984, \$40 connect fee per month; January 1, 1985 and thereafter, \$50 connect fee per month.

(c) The commissioner of public safety is authorized to arrange for the connection of the data communications network with the criminal justice information system of the federal government, any adjacent state, or Canada.

*[For text of subs 4 and 5, see M.S.1996]*

**History:** 1997 c 159 art 2 s 44,45; 1997 c 203 art 6 s 31

**299C.65 CRIMINAL AND JUVENILE JUSTICE INFORMATION POLICY GROUP.**

*[For text of subs 1 to 4, see M.S.1996]*

Subd. 5. **Review of funding requests.** The criminal and juvenile justice information policy group shall review the funding requests for criminal justice information systems from state, county, and municipal government agencies. The policy group shall review the requests for compatibility to statewide criminal justice information systems. The review shall be forwarded to the chairs of the house judiciary committee and judiciary finance division, and the chairs of the senate crime prevention committee and crime prevention and judiciary finance division.

**History:** 1997 c 239 art 8 s 17