CHAPTER 299C

BUREAU OF CRIMINAL APPREHENSION

299C.01 CRIMINAL BUREAU.

Subdivision 1. [Repealed, 2014 c 212 art 4 s 3]

Subd. 2. **Division of Department of Public Safety.** A division in the Department of Public Safety to be known as the Bureau of Criminal Apprehension is hereby created, under the supervision and control of the superintendent of criminal apprehension, who shall be appointed by the commissioner and serve at the commissioner's pleasure in the unclassified service of the state civil service, to whom shall be assigned the duties and responsibilities described in this section.

Subd. 3. [Repealed, 1984 c 649 s 6]

Subd. 4. **Duties generally.** The Division of the Bureau of Criminal Apprehension shall perform such functions and duties as relate to statewide and nationwide crime information systems as the commissioner may direct.

History: *1969 c 1129 art 1 s 3; 1986 c 444*

299C.03 SUPERINTENDENT; RULES.

The superintendent, with the approval of the commissioner of public safety, from time to time, shall make such rules and adopt such measures as the superintendent deems necessary, within the provisions and limitations of sections 299C.03 to 299C.08, 299C.10, 299C.105, 299C.11, 299C.17, 299C.18, and 299C.21, to secure the efficient operation of the bureau. The bureau shall cooperate with the respective sheriffs, police, and other peace officers of the state in the detection of crime and the apprehension of criminals throughout the state, and shall have the power to conduct such investigations as the superintendent, with the approval of the commissioner of public safety, may deem necessary to secure evidence which may be essential to the apprehension and conviction of alleged violators of the criminal laws of the state. The various members of the bureau shall have and may exercise throughout the state the same powers of arrest possessed by a sheriff, but they shall not be employed to render police service in connection with strikes and other industrial disputes.

History: *(9950-6) 1927 c 224 s 2; 1935 c 197 s 1; 1949 c 739 s 21; 1951 c 713 s 34; 1971 c 25 s 97; 1985 c 248 s 70; 1986 c 444; 2005 c 10 art 2 s 4; 2005 c 136 art 12 s 2*

299C.04 [Repealed, 2014 c 212 art 4 s 3]

299C.041 [Repealed, 1982 c 568 s 13]

299C.05 CRIME DATA COLLECTION.

It shall be the duty of this division to collect, and preserve as a record of the bureau, information concerning the number and nature of offenses known to have been committed in the state, of the legal steps taken in connection therewith from the inception of the complaint to the final discharge of the defendant, and such other information as may be useful in the study of crime and the administration of justice. The information so collected and preserved shall include such data as may be requested by the United States

Department of Justice, at Washington, under its national system of crime reporting. To the extent possible, the superintendent must utilize a nationally recognized system or standard approved by the Federal Bureau of Investigation to collect and preserve crime data.

History: *(9950-7) 1927 c 224 s 3; 1935 c 197 s 2; 1939 c 441 s 41; 1Sp2003 c 2 art 4 s 5; 2014 c 212 art 4 s 1*

299C.06 DIVISION POWERS AND DUTIES; COOPERATION.

It shall be the duty of all sheriffs, chiefs of police, prison wardens, superintendents of hospitals for persons with mental illnesses, reformatories, and correctional schools, probation and parole officers, school attendance officers, coroners, county attorneys, court clerks, the commissioner of public safety, the commissioner of transportation, and the state fire marshal to furnish to the division statistics and information regarding the number of crimes reported and discovered; arrests made; complaints, informations, and indictments filed, and the disposition made of same; pleas, convictions, acquittals, probations granted or denied; conditional release information; receipts, transfers, and discharges to and from prisons, reformatories, correctional schools, and other institutions; paroles granted and revoked; commutation of sentences and pardons granted and rescinded; and all other data useful in determining the cause and amount of crime in this state and to form a basis for the study of crime, police methods, court procedure, and penal problems. Such statistics and information shall be furnished upon the request of the division and upon such forms as may be prescribed and furnished by it. Unless otherwise required or permitted by the superintendent of the Bureau of Criminal Apprehension, an agency or person furnishing information under this section must utilize a nationally recognized system or standard approved by the Federal Bureau of Investigation for reporting statistics and information. The division shall have the power to inspect and prescribe the form and substance of the records kept by those officials from which the information is so furnished.

History: *(9950-7) 1927 c 224 s 3; 1935 c 197 s 2; 1939 c 441 s 41; 1976 c 5 s 11; 1976 c 166 s 7; 1998 c 367 art 7 s 4; 1Sp2003 c 2 art 4 s 6; 2005 c 10 art 2 s 4; 2013 c 62 s 22*

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*

SPECIAL FUNDS

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 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.

Subd. 1a. **Witness and victim protection fund.** (a) 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.

(b) 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.

Subd. 2. **Application for grant.** A county sheriff or the chief administrative officer of a municipal police department may apply to the commissioner of public safety for a grant for any of the purposes described in subdivision 1 or 1a, on forms and pursuant to procedures developed by the superintendent. For grants under subdivision 1, the application shall describe the type of intended criminal investigation, an estimate of the amount of money required, and any other information the superintendent deems necessary.

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.

Subd. 4. **Data classification.** An application to the commissioner for money is a confidential record. Information within investigative files that identifies or could reasonably be used to ascertain the identity of assisted witnesses, sources, or undercover investigators is a confidential record. A report at the conclusion of an investigation is a public record, except that information in a report pertaining to the identity or location of an assisted witness is private data.

History: *1979 c 333 s 96; 1985 c 126 s 1; 1991 c 279 s 20; 1993 c 326 art 12 s 6; 1994 c 636 art 4 s 17; 1995 c 226 art 4 s 8,9; art 7 s 2; 1997 c 239 art 2 s 1; 1998 c 367 art 2 s 32*

299C.066 CRIME INFORMATION REWARD FUND.

Subdivision 1. **Fund created; advisory group.** A crime information reward fund is created as an account in the state treasury. Money appropriated to the account is available to pay rewards as directed by the commissioner of public safety, in consultation with the attorney general, under this section.

The attorney general shall appoint an advisory group, in consultation with the commissioner, of five members to assist in implementation of this section.

Subd. 2. **Reward.** The commissioner is authorized to pay a reward to any person who, in response to a reward offer, provides information leading to the arrest and conviction of a criminal offender. The commissioner shall establish criteria for determining the amount of the reward and the duration of the reward offer. In no event shall a reward exceed $10,000 or a reward offer remain open longer than ten days. The commissioner shall select the criminal investigations for which rewards are offered based on recommendations made by the advisory group members or by the law enforcement agency or agencies conducting the criminal investigation.

History: *1994 c 636 art 4 s 18*

DISPOSAL OF STOLEN PROPERTY

299C.07 RESTORATION OR DISPOSAL OF STOLEN PROPERTY.

The Bureau of Criminal Apprehension shall make every effort for a period of 90 days after the seizure or recovery of abandoned or stolen property to return the property to the lawful owner or to the sheriff of the county from which it was stolen.

Any such property held by the bureau for more than 90 days, in case the owner cannot be found or if it cannot be determined from what county the property was stolen, shall be sold at public auction by the superintendent of the bureau, or the superintendent's agent, after two weeks' published notice thereof in a legal newspaper in Ramsey County, stating the time and place of the sale and a list of the property to be sold.

The proceeds of the sale shall be applied in payment of the necessary expenses of the sale and all necessary costs, storage, or charges incurred in relation to the property. The balance of the proceeds shall be paid into the general fund.

History: *1941 c 389; 1969 c 399 s 1; 1979 c 333 s 97; 1986 c 444*

OATH

299C.08 OATH OF SUPERINTENDENT AND EMPLOYEES.

The superintendent and each employee in the bureau whom the superintendent shall designate, before entering upon the performance of duties under sections 299C.03 to 299C.08, 299C.10, 299C.105, 299C.11, 299C.17, 299C.18, and 299C.21, shall take the usual oath.

History: *(9950-8) 1927 c 224 s 4; 1935 c 197 s 3; 1986 c 444; 1991 c 326 s 14; 2005 c 136 art 12 s 3*

IDENTIFICATION AND INVESTIGATION DATA SYSTEMS

299C.09 SYSTEM FOR IDENTIFYING CRIMINALS; RECORD, INDEX.

The bureau shall install systems for identification of criminals, including the fingerprint system, the modus operandi system, and such others as the superintendent deems proper. The bureau shall keep a complete record and index of all information received in convenient form for consultation and comparison. The bureau shall obtain from wherever procurable and file for record finger and thumb prints, measurements, photographs, plates, outline pictures, descriptions, modus operandi statements, conditional release information, or such other information as the superintendent considers necessary, of persons who have been or shall hereafter be convicted of a felony, gross misdemeanor, or an attempt to commit a felony or gross misdemeanor, within the state, or who are known to be habitual criminals. To the extent that the superintendent may determine it to be necessary, the bureau shall obtain like information concerning persons convicted of a crime under the laws of another state or government, the central repository of this records system is the Bureau of Criminal Apprehension in St. Paul.

History: *(9950-9) 1927 c 224 s 5; 1957 c 790 s 1; 1969 c 9 s 92; 1998 c 367 art 7 s 5; 2002 c 233 s 2*

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 260B.171, subdivision 5, 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 Violent Crime Coordinating Council under section 299A.642, subdivision 3, clause (8), 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; reports.** (a) At least once every three years, the bureau shall conduct random audits of data under subdivision 2 that documents inclusion of an individual in, and removal of an individual from, 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. By October 1 of each year, the bureau shall submit a report on the results of the audits to the commissioner of public safety.

(b) If any audit requirements under federal rule or statute overlap with requirements in paragraph (a), the audit required by paragraph (a) may be done in conjunction with the federal audit to the extent they overlap. Nothing in this paragraph shall be construed to eliminate any audit requirements specified in this subdivision.

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; 1999 c 139 art 4 s 2; 2006 c 212 art 1 s 16; 2010 c 383 s 2,7*

299C.093 DATABASE OF REGISTERED PREDATORY OFFENDERS.

The superintendent of the Bureau of Criminal Apprehension shall maintain a computerized data system relating to individuals required to register as predatory offenders under section 243.166. To the degree feasible, the system must include the data required to be provided under section 243.166, subdivisions 4 and 4a, and indicate the time period that the person is required to register. The superintendent shall maintain this data in a manner that ensures that it is readily available to law enforcement agencies. This data is private data on individuals under section 13.02, subdivision 12, but may be used for law enforcement and corrections purposes. Law enforcement may disclose the status of an individual as a predatory offender to a child protection worker with a local welfare agency for purposes of doing a family assessment under section 626.556. The commissioner of human services has access to the data for state-operated services, as defined in section 246.014, for the purposes described in section 246.13, subdivision 2, paragraph (b), and for purposes of conducting background studies under chapter 245C.

History: *2000 c 311 art 2 s 14; 2005 c 136 art 5 s 4; 1Sp2005 c 4 art 1 s 49; 2013 c 108 art 5 s 12; 2016 c 136 s 3*

299C.095 SYSTEM FOR IDENTIFYING JUVENILE OFFENDERS.

Subdivision 1. **Access to data on juveniles.** (a) The bureau shall administer and maintain the computerized juvenile history record system based on sections 260B.171 and 260C.171 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 sections 260B.171 and 260C.171 or under court rule, to public defenders as provided in section 611.272, 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 299C.62 or 624.713. If the background check is performed under section 299C.62, juvenile adjudication history disseminated under this paragraph is limited to offenses that would constitute a background check crime as defined in section 299C.61, subdivision 2. 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. Data maintained under section 243.166, released in conjunction with a background check, regardless of the age of the offender at the time of the offense, does not constitute releasing information in a manner that reveals the existence of a juvenile adjudication history.

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 260B.171, subdivision 2, 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 260B.130, 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, unless the person has access to the data under other law. The bureau shall include a notice of the destruction schedule with all data it disseminates on juveniles.

History: *1992 c 571 art 7 s 10; 1996 c 440 art 1 s 49; 1997 c 239 art 8 s 13; 1998 c 371 s 16; 1999 c 139 art 4 s 2; 2000 c 377 s 1; 2001 c 202 s 13; 2005 c 136 art 8 s 9*

299C.10 IDENTIFICATION DATA REQUIRED.

Subdivision 1. **Required fingerprinting.** (a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities shall take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, information on any known aliases or street names, and other identification data requested or required by the superintendent of the bureau, of the following:

(1) persons arrested for, appearing in court on a charge of, or convicted of a felony, gross misdemeanor, or targeted misdemeanor;

(2) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent for, or alleged to have committed felonies or gross misdemeanors as distinguished from those committed by adult offenders;

(3) adults and juveniles admitted to jails or detention facilities;

(4) persons reasonably believed by the arresting officer to be fugitives from justice;

(5) 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;

(6) juveniles referred by a law enforcement agency to a diversion program for a felony or gross misdemeanor offense; and

(7) persons currently involved in the criminal justice process, on probation, on parole, or in custody for any offense whom the superintendent of the bureau identifies as being the subject of a court disposition record which cannot be linked to an arrest record, and whose fingerprints are necessary to reduce the number of suspense files, or to comply with the mandates of section 299C.111, relating to the reduction of the number of suspense files. This duty to obtain fingerprints for the offenses in suspense at the request of the bureau shall include the requirement that fingerprints be taken in post-arrest interviews, while making court appearances, while in custody, or while on any form of probation, diversion, or supervised release.

(b) Unless the superintendent of the bureau requires a shorter period, within 24 hours of taking the fingerprints and data, the fingerprint records and other identification data specified under paragraph (a) must be electronically entered into a bureau-managed searchable database in a manner as may be prescribed by the superintendent.

(c) Prosecutors, courts, and probation officers and their agents, employees, and subordinates shall attempt to ensure that the required identification data is taken on a person described in paragraph (a). Law enforcement may take fingerprints of an individual who is presently on probation.

(d) Finger and thumb prints must be obtained no later than:

(1) release from booking; or

(2) if not booked prior to acceptance of a plea of guilty or not guilty.

Prior to acceptance of a plea of guilty or not guilty, an individual's finger and thumb prints must be submitted to the Bureau of Criminal Apprehension for the offense. If finger and thumb prints have not been successfully received by the bureau, an individual may, upon order of the court, be taken into custody for no more than eight hours so that the taking of prints can be completed. Upon notice and motion of the prosecuting attorney, this time period may be extended upon a showing that additional time in custody is essential for the successful taking of prints.

(e) For purposes of this section, a targeted misdemeanor is a misdemeanor violation of section 169A.20 (driving while impaired), 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), 617.23 (indecent exposure), or 629.75 (domestic abuse no contact order).

Subd. 1a. **Court disposition record in suspense; fingerprinting.** The superintendent of the bureau shall inform a prosecuting authority that a person prosecuted by that authority is the subject of a court disposition record in suspense which requires fingerprinting under this section. Upon being notified by the superintendent or otherwise learning of the suspense status of a court disposition record, any prosecuting authority may bring a motion in district court to compel the taking of the person's fingerprints upon a showing to the court that the person is the subject of the court disposition record in suspense.

Subd. 2. **Law enforcement education.** The sheriffs and police officers who take finger and thumb prints must obtain training in the proper methods of taking and transmitting fingerprints under this section consistent with bureau requirements.

Subd. 3. **Bureau duty.** The bureau must convert into an electronic format for entry in the criminal records system fingerprints, thumbprints, and other identification data within three business days after they are received under this section if the fingerprints, thumbprints, and other identification data were not electronically entered by a criminal justice agency.

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 annually appropriated to the commissioner to maintain and improve the quality of the criminal record system in Minnesota. The superintendent shall collect an additional handling fee of $7 for FBI background fingerprint checks.

Subd. 5. **Fee for taking fingerprints; account, appropriation.** The superintendent may charge a fee of $10 to take fingerprints for the public when required by an employer or government entity for either employment or licensing. No fee will be charged when there is a question whether the person is the subject of a criminal history record. The proceeds of the fee must be deposited in an account in the special revenue fund. Money in the account is annually appropriated to the commissioner to maintain and improve the quality of the criminal record system in Minnesota.

History: *(9950-10) 1927 c 224 s 6; 1929 c 46 s 1; 1935 c 197 s 4; 1957 c 790 s 2; 1993 c 266 s 32; 1994 c 636 art 4 s 19; 1995 c 226 art 4 s 10,11; 1996 c 408 art 6 s 11; 1996 c 440 art 1 s 50; 1997 c 159 art 2 s 43; 1997 c 239 art 8 s 14,15; 2000 c 478 art 2 s 7; 1Sp2001 c 8 art 6 s 1; 1Sp2003 c 2 art 4 s 7,8; 2005 c 136 art 11 s 8,9; 2008 c 242 s 2; 2011 c 79 s 1; 2012 c 211 s 1; 2013 c 86 art 4 s 3,4*

299C.105 DNA DATA REQUIRED.

Subdivision 1. **Required collection of biological specimen for DNA testing.** (a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities shall take or cause to be taken biological specimens for the purpose of DNA analysis as defined in section 299C.155, of the following:

(1) persons who have appeared in court and have had a judicial probable cause determination on a charge of committing, or persons having been convicted of or attempting to commit, any of the following:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 609.3453;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3;

(2) persons sentenced as patterned sex offenders under section 609.3455, subdivision 3a; or

(3) juveniles who have appeared in court and have had a judicial probable cause determination on a charge of committing, or juveniles having been adjudicated delinquent for committing or attempting to commit, any of the following:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 609.3453;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3.

(b) Unless the superintendent of the bureau requires a shorter period, within 72 hours the biological specimen required under paragraph (a) must be forwarded to the bureau in such a manner as may be prescribed by the superintendent.

(c) Prosecutors, courts, and probation officers shall attempt to ensure that the biological specimen is taken on a person described in paragraph (a).

[See Note.]

Subd. 2. **Law enforcement training; duties.** (a) The persons who collect the biological specimens required under subdivision 1 must be trained to bureau-established standards in the proper method of collecting and transmitting biological specimens.

(b) A law enforcement officer who seeks to collect a biological specimen from a juvenile pursuant to subdivision 1 must notify the juvenile's parent or guardian prior to collecting the biological specimen.

Subd. 3. **Bureau duty.** (a) The bureau shall destroy the biological specimen and return all records to a person who submitted a biological specimen under subdivision 1 but who was found not guilty of a felony. Upon the request of a person who submitted a biological specimen under subdivision 1 but where the charge against the person was later dismissed, the bureau shall destroy the person's biological specimen and return all records to the individual.

(b) If the bureau destroys a biological specimen under paragraph (a), the bureau shall also remove the person's information from the bureau's combined DNA index system and return all related records and all copies or duplicates of them.

History: *2005 c 136 art 12 s 4; 2006 c 260 art 1 s 47*

NOTE: Subdivision 1, paragraph (a), clauses (1) and (3), were found unconstitutional as applied to a person who has been charged but not convicted in In re Welfare of C.T.L., 722 N.W.2d 484 (Minn. Ct. App. 2006).

299C.106 SEXUAL ASSAULT EXAMINATION KIT HANDLING.

Subdivision 1. **Definitions.** (a) As used in this section, the terms in this subdivision have the meanings given.

(b) "Forensic laboratory" has the meaning given in section 299C.157, subdivision 1, clause (2).

(c) "Patient" has the meaning given in section 144.291, subdivision 2, paragraph (g), and means a person who consents to a sexual assault examination.

(d) "Release form" means a document provided by the hospital to the patient at the time of the sexual assault examination that gives the patient the option of authorizing, in writing, the release of the kit to law enforcement.

(e) "Restricted sexual assault examination kit" means a kit that does not have an accompanying release form signed by the patient authorizing law enforcement to submit the kit to a forensic laboratory. A health care professional shall provide the patient with information about how to convert a restricted sexual assault examination kit to unrestricted status.

(f) "Sexual assault examination kit" means a collection of evidence, including biological material, gathered from a patient by a health care professional.

(g) "Submitted sexual assault examination kit" means an unrestricted kit that has been submitted by law enforcement to a forensic laboratory.

(h) "Unrestricted sexual assault examination kit" means a kit that has an accompanying release form signed by the patient allowing law enforcement to submit the kit to a forensic laboratory.

(i) "Unsubmitted sexual assault examination kit" means an unrestricted kit that has not been submitted by law enforcement to a forensic laboratory.

Subd. 2. **Transfer of unrestricted sexual assault examination kit from health care professional to law enforcement agency.** When a sexual assault examination is performed, evidence is collected, and the patient requests that law enforcement officials be notified and signs a release form, the individual performing the examination, or the individual's designee, shall notify the appropriate law enforcement agency of the collection of the evidence in an unrestricted sexual assault examination kit. The agency must retrieve an unrestricted sexual assault examination kit from the health care professional within ten days of receiving notice that the kit is available for transfer. Notification to the agency shall be made in writing, by telephone, or by electronic communication.

Subd. 3. **Submission of unrestricted sexual assault examination kit.** Within 60 days of receiving an unrestricted sexual assault examination kit, a law enforcement agency shall submit the kit for testing to a forensic laboratory, unless the law enforcement agency deems the result of the kit would not add evidentiary value to the case. If a kit is not submitted during this time, the agency shall make a record, in consultation with the county attorney, stating the reasons why the kit was not submitted. Restricted sexual assault examination kits shall not be submitted for testing.

Subd. 4. **No basis for dismissal or bar to admissibility of evidence.** Failure to meet a deadline established in this section is not a basis for dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

History: *2018 c 160 s 2*

299C.11 IDENTIFICATION DATA FURNISHED TO BUREAU.

Subdivision 1. **Identification data other than DNA.** (a) Each sheriff and chief of police shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data as may be requested or required by the superintendent of the bureau, which must be taken under the provisions of section 299C.10. In addition, sheriffs and chiefs of police shall furnish this identification data to the bureau for individuals found to have been convicted of a felony, gross misdemeanor, or targeted misdemeanor, within the ten years immediately preceding their arrest. When the bureau learns that an individual who is the subject of a background check has used, or is using, identifying information, including, but not limited to, name and date of birth, other than those listed on the criminal history, the bureau shall convert into an electronic format, if necessary, and enter into a bureau-managed searchable database the new identifying information when supported by fingerprints within three business days of learning the information if the information is not entered by a law enforcement agency.

(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, destroy the arrested person's finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, 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, information on known aliases and street names, 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.

Subd. 2. **DNA samples; law enforcement duties.** (a) Each sheriff and chief of police shall furnish the bureau, in such form as the superintendent shall prescribe, with the biological specimens required to be taken under section 299C.105.

(b) DNA samples and DNA records of the arrested person obtained through authority other than section 299C.105 shall not be returned, sealed, or destroyed as to a charge supported by probable cause.

Subd. 3. **Definitions.** For purposes of this section:

(1) "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

(i) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or chapter 609A;

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

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

(iv) a pardon granted under section 638.02; and

(2) "targeted misdemeanor" has the meaning given in section 299C.10, subdivision 1.

History: *(9950-11) 1927 c 224 s 7; 1929 c 46 s 2; 1935 c 197 s 5; 1957 c 790 s 3; 1986 c 444; 1992 c 569 s 16; 1994 c 636 art 4 s 20; 1995 c 259 art 1 s 49; 1996 c 408 art 9 s 5; 1997 c 7 art 1 s 122; 1Sp2001 c 8 art 6 s 2; 2005 c 136 art 8 s 10; art 12 s 5; 2013 c 82 s 25; 2013 c 86 art 4 s 5*

299C.111 SUSPENSE FILE REPORTING.

The superintendent shall immediately notify the appropriate entity or individual when a disposition record is received that cannot be linked to an arrest record.

History: *1Sp2001 c 8 art 6 s 3; 2014 c 212 art 4 s 2*

299C.115 WARRANT INFORMATION PROVIDED TO STATE.

(a) By January 1, 1996, every county shall, in the manner provided in either clause (1) or (2), make warrant information available to other users of the criminal justice data communications network as defined in section 299C.46:

(1) the county shall enter the warrant information in the warrant file maintained by the Bureau of Criminal Apprehension in the Department of Public Safety; or

(2) the county, at no charge to the state, shall make the warrant information that is maintained in the county's computer accessible by means of a single query made through the Bureau of Criminal Apprehension in the Department of Public Safety.

(b) As used in this section, "warrant information" means information on all outstanding felony, gross misdemeanor, and misdemeanor warrants for adults and juveniles that are issued within the county.

History: *1994 c 636 art 4 s 21; 2009 c 59 art 6 s 7*

299C.12 RECORD KEPT BY PEACE OFFICER; REPORT.

Every peace officer shall keep or cause to be kept a permanent written record, in such form as the superintendent may prescribe, of all felonies reported to or discovered by the officer within the officer's jurisdiction and of all warrants of arrest for felonies and search warrants issued to the officer in relation to the commission of felonies, and shall make or cause to be made to the sheriff of the county and the bureau reports of all such crimes, upon such forms as the superintendent may prescribe, including a statement of the facts and a description of the offender, so far as known, the offender's method of operation, the action taken by the officer, and such other information as the superintendent may require.

History: *(9950-12) 1927 c 224 s 8; 1959 c 409 s 1; 1986 c 444*

299C.13 INFORMATION FURNISHED TO PEACE OFFICER.

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 juvenile or 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: *(9950-13) 1927 c 224 s 9; 1992 c 569 s 17; 1996 c 408 art 9 s 6; 1997 c 239 art 8 s 16; 2001 c 202 s 14*

299C.14 INFORMATION ON RELEASED PRISONER.

It shall be the duty of the officials having charge of the penal institutions of the state or the release of prisoners therefrom to furnish to the bureau, as the superintendent may require, finger and thumb prints, photographs, distinctive physical mark identification data, other identification data, modus operandi reports, and criminal records of prisoners heretofore, now, or hereafter confined in such penal institutions, together with the period of their service and the time, terms, and conditions of their discharge. This duty to furnish information includes, but is not limited to, requests for fingerprints as the superintendent of the bureau deems necessary to maintain and ensure the accuracy of the bureau's criminal history files, to reduce the number of suspense files, or to comply with the mandates of section 299C.111 relating to the reduction of the number of suspense files where a disposition record is received that cannot be linked to an arrest record. The officials shall electronically enter the information in a bureau-managed searchable database within 24 hours of a prisoner's date of release or discharge. The bureau shall convert the information into an electronic format and enter it into the searchable database within three business days of the date of receipt, if the information is not entered by the officials.

History: *(9950-14) 1937 c 224 s 10; 1969 c 9 s 93; 1994 c 636 art 4 s 22; 2005 c 136 art 11 s 10; 2013 c 86 art 4 s 6*

299C.145 DISTINCTIVE PHYSICAL MARK IDENTIFICATION SYSTEM.

Subdivision 1. **Definition.** As used in this section and in sections 299C.10, 299C.11, and 299C.14, "distinctive physical mark identification data" means a photograph of a brand, scar, or tattoo, and a description of the body location where the distinctive physical mark appears.

Subd. 2. **System establishment.** The superintendent shall establish and maintain a system within the bureau to enable law enforcement agencies to submit and obtain distinctive physical mark identification data on persons who are under investigation for criminal activity. The system shall cross-reference the distinctive physical mark identification data with the name of the individual from whose body the distinctive physical mark identification data was obtained. The system also shall cross-reference distinctive physical mark identification data with the names of individuals who have been identified as having a similar or identical distinctive physical mark in the same body location.

Subd. 3. **Authority to enter or retrieve data.** Only criminal justice agencies, as defined in section 299C.46, subdivision 2, may submit data to and obtain data from the distinctive physical mark identification system.

Subd. 4. [Repealed, 2014 c 212 art 4 s 3]

History: *1994 c 636 art 4 s 23; 2005 c 136 art 11 s 11*

299C.147 [Renumbered 241.065]

299C.15 COOPERATION; CRIMINAL IDENTIFICATION ORGANIZATIONS.

The bureau shall cooperate and exchange information with other organizations for criminal identification, either within or without the state, for the purpose of developing, improving, and carrying on an efficient system for the identification and apprehension of criminals.

History: *(9950-15) 1927 c 224 s 11*

299C.155 STANDARDIZED EVIDENCE COLLECTION; DNA ANALYSIS.

Subdivision 1. **Definition.** As used in this section, "DNA analysis" means the process through which deoxyribonucleic acid (DNA) in a human biological specimen is analyzed and compared with DNA from another human biological specimen for identification purposes.

Subd. 2. **Uniform evidence collection.** The bureau shall develop uniform procedures and protocols for collecting evidence in cases of alleged or suspected criminal sexual conduct, including procedures and protocols for the collection and preservation of human biological specimens for DNA analysis. Law enforcement agencies and medical personnel who conduct evidentiary exams shall use the uniform procedures and protocols in their investigation of criminal sexual conduct offenses. The uniform procedures and protocols developed under this subdivision are not subject to the rulemaking provisions of chapter 14.

Subd. 3. **DNA analysis and data bank.** The bureau shall adopt uniform procedures and protocols to maintain, preserve, and analyze human biological specimens for DNA. The bureau shall establish a centralized system to cross-reference data obtained from DNA analysis. Data contained on the bureau's centralized system is private data on individuals, as that term is defined in section 13.02. The bureau's centralized system may only be accessed by authorized law enforcement personnel and used solely for law enforcement identification purposes. The remedies in section 13.08 apply to a violation of this subdivision. The uniform procedures and protocols developed under this subdivision are not subject to the rulemaking provisions of chapter 14.

Subd. 4. **Record.** The bureau shall perform DNA analysis and make data obtained available to law enforcement officials in connection with criminal investigations in which human biological specimens have been recovered. Upon request, the bureau shall also make the data available to the prosecutor and the subject of the data in any subsequent criminal prosecution of the subject. The results of the bureau's DNA analysis and related records are private data on individuals, as that term is defined in section 13.02, and may only be used for law enforcement identification purposes. The remedies in section 13.08 apply to a violation of this subdivision.

History: *1989 c 290 art 4 s 7; 1990 c 499 s 5,6; 2005 c 136 art 12 s 6*

299C.156 [Repealed, 2014 c 286 art 6 s 9]

299C.157 FORENSIC LABORATORIES; ACCREDITATION.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given:

(1) "forensic analysis" means the application of scientific knowledge and methodology by an individual who:

(i) has or should have specialized training and utilizes standardized procedures to conduct examinations on items of evidence;

(ii) forms an opinion or conclusion based on the outcome of the procedure or comparison under item (i) and the individual's training, experience, or both, and writes a report including the individual's conclusions; and

(iii) has the potential to offer expert testimony of the individual's analysis in a court of law.

Forensic analysis does not pertain to activities limited to evidence documentation, collection, screening, processing, preservation, or storage.

(2) "forensic laboratory" means a publicly financed laboratory within the state that conducts forensic analysis on items of evidence that are part of or have the potential to be used in a criminal investigation. The term does not include the following laboratories:

(i) medical examiners and coroners;

(ii) educational institutions; and

(iii) clinical laboratories and medical facilities.

Subd. 2. **Forensic laboratories; mandatory accreditation; posting on website.** (a) A forensic laboratory operating on or after January 1, 2015, that conducts forensic analysis in the disciplines of DNA, must: (1) be accredited by an accrediting body that requires conformance to the appropriate quality assurance standards set forth by the Federal Bureau of Investigation (Quality Assurance Standards for DNA Testing Laboratories or Quality Assurance Standards for Databasing Laboratories), forensic-specific requirements and which is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangements for Testing Laboratories (ISO/IEC 17025); or (2) have begun the formal process of seeking accreditation under clause (1) and follow the standards necessary for accreditation.

(b) A forensic laboratory operating on or after January 1, 2015, that conducts forensic analysis in the disciplines of toxicology, identification of controlled substances, or trace evidence must: (1) be accredited by an accrediting body that requires conformance to forensic-specific requirements and which is a signatory to the ILAC Mutual Recognition Arrangements for Testing Laboratories (ISO/IEC 17025); or (2) have begun the formal process of seeking accreditation under clause (1) and follow the standards necessary for accreditation.

(c) A forensic laboratory operating on or after January 1, 2015, that conducts forensic analysis in the disciplines of latent print, impression evidence, firearms, toolmarks, questioned documents, or bloodstain pattern analysis must: (1) be accredited by an accrediting body that requires conformance to forensic-specific requirements and which is a signatory to the ILAC Mutual Recognition Arrangements for Testing Laboratories (ISO/IEC 17025) or Inspection Agencies (ISO/IEC 17020); or (2) have begun the formal process of seeking accreditation under clause (1) and follow the standards necessary for accreditation.

(d) No forensic laboratory may operate on or after July 1, 2015, unless:

(1) it is accredited as provided in paragraph (a), (b), or (c); or

(2) for laboratories that have either begun or resumed operation after a hiatus on or after July 1, 2011, the laboratory complies with paragraph (a), clause (2); paragraph (b), clause (2); or paragraph (c), clause (2), and becomes accredited within three years of August 1, 2014, or beginning operation, whichever is later.

(e) An accredited forensic laboratory operating on or after July 1, 2015, may conduct forensic analysis in a new forensic discipline as provided in this paragraph. If the standard described in paragraph (a), (b), or (c), under which the laboratory is accredited applies to the new discipline, the laboratory must become

accredited in the new discipline under the appropriate standard within one year of when it first begins conducting forensic analysis in the new discipline. If the standard described in paragraph (a), (b), or (c), under which the laboratory is accredited does not apply to the new discipline, the laboratory must become accredited in the new discipline under the appropriate standard within three years of when it first begins conducting forensic analysis in the new discipline. A laboratory seeking accreditation in a new discipline under this paragraph must follow the standards necessary for accreditation during the period before accreditation.

(f) Notwithstanding paragraphs (d) and (e), upon the written request of a laboratory that contains the specific reasons for the request, the commissioner of public safety may extend by one year the three-year and one-year periods described in paragraphs (d) and (e) by which a laboratory must become initially accredited or accredited in a new discipline. Each deadline may be extended only once.

(g) A forensic laboratory must forward to the commissioner of public safety copies of the laboratory's certificate of accreditation and scope of accreditation or, every six months, an affirmation that the laboratory is in compliance with paragraph (a), clause (2); paragraph (b), clause (2); or paragraph (c), clause (2). A forensic laboratory seeking accreditation in a new discipline must forward to the commissioner every six months an affirmation that the laboratory is in compliance with paragraph (e). The commissioner shall post these items on the department's website. In addition, the commissioner shall post any approved requests for extensions of a laboratory's deadline to become accredited along with the laboratory's stated reasons for the extension. The commissioner shall ensure that the website is kept up to date and delete affirmations of compliance with paragraph (a), clause (2); paragraph (b), clause (2); paragraph (c), clause (2); and paragraph (e) once the laboratory has achieved accreditation or is no longer working towards accreditation.

History: *2014 c 168 s 1*

INFORMATION GATHERING AND DISSEMINATION

299C.16 INFORMATION BROADCAST TO PEACE OFFICERS.

The bureau shall broadcast, by mail, wire, and wireless, to peace officers such information as to wrongdoers wanted, property stolen or recovered, and other intelligence as may help in controlling crime.

History: *(9950-16) 1927 c 224 s 12*

299C.17 REPORT BY COURT ADMINISTRATOR.

The superintendent shall require the court administrator of every court which sentences a defendant for a felony, gross misdemeanor, or targeted misdemeanor to electronically transmit within 24 hours of the disposition of the case a report, in a form prescribed by the superintendent providing information required by the superintendent with regard to the prosecution and disposition of criminal cases. A copy of the report shall be kept on file in the office of the court administrator.

History: *(9950-18) 1927 c 224 s 14; 1935 c 197 s 6; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 2013 c 86 art 4 s 7*

299C.18 BUREAU OPERATIONS REPORT.

Biennially, on or before November 15, in each even-numbered year the superintendent shall submit to the governor and the legislature a detailed report of the operations of the bureau, of information about crime and the handling of crimes and criminals by state and local officials collected by the bureau, and the superintendent's interpretations of the information, with comments and recommendations. The data contained

in the report on Part I offenses cleared by arrest, as defined by the United States Department of Justice, shall be collected and tabulated geographically at least on a county-by-county basis. In such reports the superintendent shall, from time to time, include recommendations to the legislature for dealing with crime and criminals and information as to conditions and methods in other states in reference thereto, and shall furnish a copy of such report to each member of the legislature.

History: *(9950-19) 1927 c 224 s 15; 1935 c 197 s 7; 1955 c 847 s 29; 1969 c 540 s 14; 1986 c 444; 1992 c 511 art 1 s 12*

OTHER PROVISIONS

299C.19 [Repealed, 2014 c 212 art 4 s 3]

299C.20 [Repealed, 2014 c 212 art 4 s 3]

299C.21 PENALTY ON LOCAL OFFICER REFUSING INFORMATION.

If any public official charged with the duty of furnishing to the bureau fingerprint records, biological specimens, reports, or other information required by sections 299C.06, 299C.10, 299C.105, 299C.11, 299C.17, shall neglect or refuse to comply with such requirement, the bureau, in writing, shall notify the state, county, or city officer charged with the issuance of a warrant for the payment of the salary of such official. Upon the receipt of the notice the state, county, or city official shall withhold the issuance of a warrant for the payment of the salary or other compensation accruing to such officer for the period of 30 days thereafter until notified by the bureau that such suspension has been released by the performance of the required duty.

History: *(9950-22) 1935 c 197 s 8; 2005 c 136 art 12 s 7*

299C.215 [Repealed, 2014 c 212 art 4 s 3]

299C.22 SECURITY GUARD; DISCHARGE OF FIREARM; REPORT.

Subdivision 1. **Definitions.** (a) For purposes of this section, "security guard" means any person who is paid a fee, wage or salary to perform one or more of the following functions:

(1) prevention or detection of intrusion, unauthorized entry or activity, vandalism, or trespass on private property;

(2) prevention or detection of theft, loss, embezzlement, misappropriation, or concealment of merchandise, money, bonds, stocks, notes, or other valuable documents or papers;

(3) control, regulation, or direction of the flow or movements of the public, whether by vehicle or otherwise, to assure protection of private property;

(4) protection of individuals from bodily harm; or

(5) enforcement of policies and rules of the security guard's employer related to crime reduction insofar as such enforcement falls within the scope of the guard's duties.

(b) The provisions of this subdivision are not intended to include within the definition of "security guard" auditors, accountants, and accounting personnel whether or not they are employees of a private firm, corporation or independent accounting firm.

Subd. 2. **Report.** Each discharge of a firearm by a security guard in the course of employment, other than for training purposes, shall be reported to the chief of police of an organized full-time police department of the municipality in which the discharge occurred or to the county sheriff if there is no local chief of police. Reports required to be made under this subdivision shall be forwarded to the Bureau of Criminal Apprehension upon forms as may be prescribed and furnished by the bureau. The superintendent shall cause a summary of the reports to be compiled and published annually.

History: *1979 c 196 s 1; 1986 c 444*

299C.23 CONTINUING EDUCATION FEE; APPROPRIATION.

The commissioner of public safety may charge tuition to cover the cost of continuing education courses provided by the Bureau of Criminal Apprehension when money available to the commissioner for this purpose is not adequate to pay these costs. The tuition fees collected are appropriated to the commissioner.

History: *1989 c 269 s 44*

299C.25 SCRAP METAL DEALERS; EDUCATIONAL MATERIALS.

(a) The superintendent shall develop educational materials relating to the laws governing scrap metal dealers, including, but not limited to, applicable laws addressing receiving stolen property and the provisions of section 325E.21. In addition, the materials must address the proper use of the criminal alert network under section 299A.61, and must include a glossary of the terms used by law enforcement agencies to describe items of scrap metal that are different from the terms used in the scrap metal industry to describe those same items.

(b) In developing the materials under paragraph (a), the superintendent shall seek the advice of scrap metal trade associations, Minnesota scrap metal dealers, and law enforcement agencies.

(c) The superintendent shall distribute the materials developed in paragraph (a) to all scrap metal dealers registered with the criminal alert network.

History: *2007 c 54 art 7 s 7*

POLICE COMMUNICATION

299C.30 [Repealed, 2014 c 212 art 4 s 3]

299C.31 [Repealed, 2014 c 212 art 4 s 3]

299C.32 [Repealed, 2014 c 212 art 4 s 3]

299C.33 [Repealed, 2014 c 212 art 4 s 3]

299C.34 [Repealed, 2014 c 212 art 4 s 3]

299C.35 BUREAU TO BROADCAST CRIMINAL INFORMATION.

It shall be the duty of the bureau to broadcast all police dispatches and reports submitted which, in the opinion of the superintendent, shall have a reasonable relation to or connection with the apprehension of criminals, the prevention of crime, and the maintenance of peace and order throughout the state. Every

sheriff, peace officer, or other person shall make reports to the bureau at such times and containing such information as the superintendent shall direct.

History: *(9950-46) 1935 c 195 s 6; 2015 c 65 art 3 s 8*

299C.36 [Repealed, 2015 c 65 art 3 s 38]

299C.37 POLICE COMMUNICATION EQUIPMENT; USE, SALE.

Subdivision 1. **Use regulated.** (a) No person other than peace officers within the state, the members of the State Patrol, and persons who hold an amateur radio license issued by the Federal Communications Commission, shall equip any motor vehicle with any radio equipment or combination of equipment, capable of receiving any radio signal, message, or information from any police emergency frequency, or install, use, or possess the equipment in a motor vehicle without permission from the superintendent of the bureau upon a form prescribed by the superintendent. An amateur radio license holder is not entitled to exercise the privilege granted by this paragraph if the license holder has been convicted in this state or elsewhere of a crime of violence, as defined in section 624.712, subdivision 5, unless ten years have elapsed since the person has been restored to civil rights or the sentence has expired, whichever occurs first, and during that time the person has not been convicted of any other crime of violence. For purposes of this section, "crime of violence" includes a crime in another state or jurisdiction that would have been a crime of violence if it had been committed in this state. Radio equipment installed, used, or possessed as permitted by this paragraph must be under the direct control of the license holder whenever it is used. A person who is designated in writing by the chief law enforcement officer of a political subdivision issued a permit under subdivision 3 may use and possess radio equipment while in the course and scope of duties or employment without also having to obtain an individual permit.

(b) Except as provided in paragraph (c), any person who is convicted of a violation of this subdivision shall, upon conviction for the first offense, be guilty of a misdemeanor, and for the second and subsequent offenses shall be guilty of a gross misdemeanor.

(c) An amateur radio license holder who exercises the privilege granted by paragraph (a) shall carry the amateur radio license in the motor vehicle at all times and shall present the license to a peace officer on request. A violation of this paragraph is a petty misdemeanor. A second or subsequent violation is a misdemeanor.

Subd. 2. [Repealed, 1971 c 71 s 2]

Subd. 3. **Permit.** (a) The superintendent of the bureau shall, upon written application, issue a written permit, which shall be nontransferable, to a person, firm, political subdivision, or corporation showing good cause to use radio equipment capable of receiving a police emergency frequency, as a necessity, in the lawful pursuit of a business, trade, or occupation.

(b) Notwithstanding paragraph (a), a permit is not required for emergency response personnel, as defined in section 299F.092, who are members of a public safety agency, as defined in section 403.02, to use agency-issued radio equipment as described in subdivision 1, paragraph (a), when:

(1) the holder of a Federal Communications Commission (FCC) license has granted the public safety agency written permission for the use of the frequencies authorized under the FCC license; or

(2) the agency is authorized to monitor or operate on any police emergency talk group on the ARMER public safety radio system in accordance with the technical and operational standards adopted by the Statewide

Radio Board, as provided in section 403.37 or where the public safety agency use of a frequency allocated to police interoperability is consistent with any applicable rules or regulations.

Subd. 4. [Repealed, 1983 c 293 s 115]

History: *(9950-48) 1935 c 195 s 8; 1961 c 661 s 1; 1965 c 721 s 1; 1981 c 37 s 2; 1983 c 293 s 91; 1986 c 444; 1987 c 191 s 1; 2003 c 121 s 1,2; 2008 c 224 s 1*

299C.38 PRIORITY OF POLICE COMMUNICATIONS; MISDEMEANOR.

Any person who willfully makes any false, misleading, or unfounded report to any public safety answering point for the purpose of interfering with the operation thereof, or with the intention of misleading any officer of this state, shall be guilty of a misdemeanor.

History: *(9950-50) 1935 c 195 s 10; 1965 c 721 s 2; 2015 c 65 art 3 s 9*

DATA SHARING

299C.40 COMPREHENSIVE INCIDENT-BASED REPORTING SYSTEM.

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

(b) "CIBRS" means the Comprehensive Incident-Based Reporting System, located in the Department of Public Safety and managed by the Bureau of Criminal Apprehension. A reference in this section to "CIBRS" includes the Bureau of Criminal Apprehension.

(c) "Law enforcement agency" means a Minnesota municipal police department, the Metropolitan Transit Police, the Metropolitan Airports Police, the University of Minnesota Police Department, the Department of Corrections Fugitive Apprehension Unit, a Minnesota county sheriff's department, the Enforcement Division of the Department of Natural Resources, the Commerce Fraud Bureau, the Bureau of Criminal Apprehension, or the Minnesota State Patrol.

Subd. 2. **Purpose.** CIBRS is a statewide system containing data from law enforcement agencies. Data in CIBRS must be made available to law enforcement agencies to:

(1) prepare a case against a person, whether known or unknown, for the commission of a crime or other offense for which the agency has investigative authority;

(2) serve process in a criminal case;

(3) inform law enforcement officers of possible safety issues before service of process;

(4) enforce no contact orders;

(5) locate missing persons; or

(6) conduct background investigations required by section 626.87.

Subd. 3. **Data practices act governs.** The provisions of chapter 13 apply to this section.

Subd. 4. **Data classification; general rule; changes in classification; audit trail.** (a) The classification of data in the law enforcement agency does not change after the data is submitted to CIBRS. If CIBRS is the only source of data made public by section 13.82, subdivisions 2, 3, 6, and 7, data described in those subdivisions must be downloaded and made available to the public as required by section 13.03.

(b) Data on individuals created, collected, received, maintained, or disseminated by CIBRS is classified as confidential data on individuals as defined in section 13.02, subdivision 3, and becomes private data on individuals as defined in section 13.02, subdivision 12, as provided by this section.

(c) Data not on individuals created, collected, received, maintained, or disseminated by CIBRS is classified as protected nonpublic data as defined in section 13.02, subdivision 13, and becomes nonpublic data as defined in section 13.02, subdivision 9, as provided by this section.

(d) Confidential or protected nonpublic data created, collected, received, maintained, or disseminated by CIBRS must automatically change classification from confidential data to private data or from protected nonpublic data to nonpublic data on the earlier of the following dates:

(1) upon receipt by CIBRS of notice from a law enforcement agency that an investigation has become inactive; or

(2) when the data has not been updated by the law enforcement agency that submitted it for a period of 120 days.

(e) For the purposes of this section, an investigation becomes inactive upon the occurrence of any of the events listed in section 13.82, subdivision 7, clauses (a) to (c).

(f) Ten days before making a data classification change because data has not been updated, CIBRS must notify the law enforcement agency that submitted the data that a classification change will be made on the 120th day. The notification must inform the law enforcement agency that the data will retain its classification as confidential or protected nonpublic data if the law enforcement agency updates the data or notifies CIBRS that the investigation is still active before the 120th day. A new 120-day period begins if the data is updated or if a law enforcement agency notifies CIBRS that an active investigation is continuing.

(g) A law enforcement agency that submits data to CIBRS must notify CIBRS if an investigation has become inactive so that the data is classified as private data or nonpublic data. The law enforcement agency must provide this notice to CIBRS within ten days after an investigation becomes inactive.

(h) All queries and responses and all actions in which data is submitted to CIBRS, changes classification, or is disseminated by CIBRS to any law enforcement agency must be recorded in the CIBRS audit trail.

(i) Notwithstanding paragraphs (b) and (c), the name of each law enforcement agency that submits data to CIBRS, and a general description of the types of data submitted by the agency, are public.

Subd. 5. **Access to CIBRS data by law enforcement agency personnel.** Only law enforcement agency personnel with certification from the Bureau of Criminal Apprehension may enter, update, or access CIBRS data. The ability of particular law enforcement agency personnel to enter, update, or access CIBRS data must be limited through the use of purpose codes that correspond to the official duties and training level of the personnel.

Subd. 6. **Access to CIBRS data by data subject.** (a) Upon request to the Bureau of Criminal Apprehension or to a law enforcement agency participating in CIBRS an individual shall be informed whether the individual is the subject of private or confidential data held by CIBRS. An individual who is the subject of private data held by CIBRS may obtain access to the data by making a request to the Bureau of Criminal Apprehension or to a participating law enforcement agency. Private data provided to the subject under this subdivision must also include the name of the law enforcement agency that submitted the data to CIBRS and the name, telephone number, and address of the responsible authority for the data.

(b) If an individual who is the subject of private data held by CIBRS requests access to the data or release of the data to a third party, the individual must appear in person at the Bureau of Criminal Apprehension or a participating law enforcement agency to give informed consent to the data access or release.

Subd. 7. **Challenge to completeness and accuracy of data.** An individual who is the subject of public or private data held by CIBRS and who wants to challenge the completeness or accuracy of the data under section 13.04, subdivision 4, must notify in writing the responsible authority for the data. A law enforcement agency must notify the Bureau of Criminal Apprehension when data held by CIBRS is challenged. The notification must identify the data that was challenged and the subject of the data. CIBRS must include any notification received under this paragraph whenever disseminating data about which no determination has been made. When the responsible authority of a law enforcement agency completes, corrects, or destroys successfully challenged data, the corrected data must be submitted to CIBRS and any future dissemination must be of the corrected data.

History: *2005 c 163 s 81; 2006 c 253 s 16,17; 2006 c 260 art 3 s 14; 2009 c 59 art 6 s 8; 2010 c 383 s 3; 1Sp2011 c 2 art 4 s 26; 2013 c 135 art 3 s 21; 2014 c 284 s 4*

299C.405 SUBSCRIPTION SERVICE.

(a) For the purposes of this section "subscription service" means a process by which law enforcement agency personnel may obtain ongoing, automatic electronic notice of any contacts an individual has with any criminal justice agency.

(b) The Department of Public Safety must not establish a subscription service without prior legislative authorization; except that, the Bureau of Criminal Apprehension may employ under section 299C.40 a secure subscription service designed to promote and enhance officer safety during tactical operations by and between federal, state, and local law enforcement agencies by notifying law enforcement agencies of conflicts where multiple law enforcement operations may be occurring on the same subject or vehicle or on or near the same location. The notification may include warrant executions, surveillance activities, SWAT activities, undercover operations, and other investigative operations.

History: *2005 c 163 s 82; 2006 c 253 s 18; 2006 c 260 art 3 s 15*

299C.41 E-CHARGING.

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

(b) "Auditing data" means data in e-charging that document:

(1) who took a particular action;

(2) when the action took place;

(3) the Internet Protocol address of the computer used to take the action;

(4) the identification number of the organization employing the individual taking action;

(5) what action was taken;

(6) the unique identification for the document against which the action was taken;

(7) the purpose for taking the action;

(8) the date and time the request was received by the e-charging system; and

(9) the identification number of the system from which the request originated.

(c) "Credentialed individual" means an individual who has provided credentialing data to a government entity or a court and has been authorized to use e-charging.

(d) "Credentialing data" means data in e-charging that document for an individual who is or was authorized to use e-charging:

(1) user identification;

(2) password; and

(3) jurisdiction identification.

For law enforcement officers, credentialing data also includes a biometric identifier. For notaries public, credentialing data also includes an e-notary digital certificate.

(e) "E-charging" means a service operated by the Bureau of Criminal Apprehension to provide communication and work flow tools for law enforcement agencies, prosecutors, and the courts to use in apprehending, prosecuting, or adjudicating a person for an alleged delinquent act or an alleged criminal or petty misdemeanor offense under a law of this state or its political subdivisions. The e-charging service also includes communication and work flow tools provided for the use of the Department of Public Safety in its administration of the license revocation provisions under sections 169A.50 to 169A.53 or 171.177.

(f) "Government entity" has the meaning given in section 13.02, subdivision 7a.

(g) "Individual" has the meaning given in section 13.02, subdivision 8.

(h) "Work flow and routing data" means data in e-charging that document:

(1) the assignment or reassignment of a document to a person or place;

(2) any deadline for the action on the assignment; and

(3) validation that the needed action has been completed.

Subd. 2. **Data classification.** (a) Credentialing data held by a government entity are classified as private data on individuals as defined in section 13.02, subdivision 12, or nonpublic data as defined in section 13.02, subdivision 9.

(b) Auditing data and work flow and routing data maintained by the Bureau of Criminal Apprehension are classified as confidential data on individuals as defined in section 13.02, subdivision 3, or protected nonpublic data as defined in section 13.02, subdivision 13, until the investigation is inactive as defined in section 13.82, subdivision 7. Once the investigation is inactive, and the recipient of the data authorizes release to the data subject, the auditing data and work flow and routing data maintained by the Bureau of Criminal Apprehension are classified as private data on individuals as defined in section 13.02, subdivision 12, or nonpublic data as defined in section 13.02, subdivision 9. The same data maintained by any other government entity are classified as provided by other law.

Subd. 3. **Data sharing authorized.** (a) Auditing data, work flow and routing data, or credentialing data must be disclosed to a credentialed individual to resolve issues about the integrity of data at issue in a pending criminal matter. No use outside the pending criminal matter is authorized and no recipient can redisclose the data that are received. To the extent that court rules make the data accessible to the public, they are accessible in the court records.

(b) Auditing, work flow and routing data, or credentialing data must be disclosed to a defendant in a pending criminal matter when the data are relevant to the individual's defense as defined in the Rules of Criminal Procedure. Relevance must be determined by the court using the standard set in Rules of Criminal Procedure, rule 9.01, subdivision 2(1). If the data are found to be relevant, the court must issue an order directing disclosure and send it to the Bureau of Criminal Apprehension. Disclosure cannot be made unless the court's order provides the full name and date of birth of the defendant, the law enforcement agency number, the law enforcement case number connected to the charge, the specific data to be disclosed, and that the recipient must not redisclose the data. The bureau shall provide the data to the defendant's attorney and the prosecutor. The data may not be used outside the pending criminal matter and a recipient may not redisclose the data that are received. To the extent that court rules make the data accessible to the public, they are accessible in the court records.

(c) Auditing data, work flow and routing data, or credentialing data may be disclosed to an employee of a government entity or court who has been accused of inappropriate access to, or use of data in, e-charging and to the employee's employer. The data may not be used outside the pending employee disciplining case and a recipient may not redisclose the data that are received. To the extent that section 13.43 or court rules require the disclosure of the data as part of the final disposition of discipline against an employee, the data are public.

(d) Auditing data, work flow and routing data, or credentialing data may be disclosed as part of a criminal or civil matter against a person for unauthorized access to, or use of data in, e-charging. The data may not be used outside the civil or criminal case and a recipient may not redisclose the data that are received. To the extent that the rules of public access to records of the judicial branch make the data accessible to the public, they are accessible in the court records.

Subd. 4. [Repealed, 2008 c 299 s 28]

History: *2008 c 242 s 3; 2008 c 299 s 15; 2011 c 91 s 1; 2017 c 83 art 3 s 18*

299C.45 [Repealed, 1977 c 424 s 5]

299C.46 CRIMINAL JUSTICE DATA COMMUNICATIONS NETWORK.

Subdivision 1. **Establishment.** The commissioner of public safety shall establish a criminal justice data communications network that will provide secure access to systems and services available from or through the Bureau of Criminal Apprehension. The commissioner of public safety is authorized to lease or purchase facilities and equipment as may be necessary to establish and maintain the data communications network.

Subd. 2. **Criminal justice agency defined.** For the purposes of sections 299C.46 and 299C.48, "criminal justice agency" means an agency of the state or a political subdivision or the federal government charged with detection, enforcement, prosecution, adjudication or incarceration in respect to the criminal or traffic laws of this state. This definition also includes all sites identified and licensed as a detention facility by the commissioner of corrections under section 241.021 and those federal agencies that serve part or all of the state from an office located outside the state.

Subd. 2a. **Noncriminal justice agency defined.** For the purposes of sections 299C.46 and 299C.48, "noncriminal justice agency" means an agency of the state or a political subdivision of the 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 United States Code, title 5, section 9101;

(3) other agencies to the extent necessary to provide for protection of the public or property in a declared 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;

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

(6) the public defender, as provided in section 611.272;

(7) a county attorney or the attorney general, as the county attorney's designee, for the purpose of determining whether a petition for the civil commitment of a proposed patient as a sexual psychopathic personality or as a sexually dangerous person should be filed, and during the pendency of the commitment proceedings;

(8) an agency of the state or a political subdivision whose access to systems or services provided from or through the bureau is specifically authorized by federal law or regulation or state statute; and

(9) a court for access to data as authorized by federal law or regulation or state statute and related to the disposition of a pending case.

(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 state, or country for the secure exchange of information for any of the purposes authorized in paragraph (a), clauses (1), (2), (3), (8) and (9).

(d) Prior to establishing a secure connection, a criminal justice agency that is not part of the Minnesota judicial branch must:

(1) agree to comply with all applicable policies governing access to, submission of or use of the data and Minnesota law governing the classification of the data;

(2) meet the bureau's security requirements;

(3) agree to pay any required fees; and

(4) conduct fingerprint-based state and national background checks on its employees and contractors as required by the Federal Bureau of Investigation.

(e) Prior to establishing a secure connection, a criminal justice agency that is part of the Minnesota judicial branch must:

(1) agree to comply with all applicable policies governing access to, submission of or use of the data and Minnesota law governing the classification of the data to the extent applicable and with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court;

(2) meet the bureau's security requirements;

(3) agree to pay any required fees; and

(4) conduct fingerprint-based state and national background checks on its employees and contractors as required by the Federal Bureau of Investigation.

(f) Prior to establishing a secure connection, a noncriminal justice agency must:

(1) agree to comply with all applicable policies governing access to, submission of or use of the data and Minnesota law governing the classification of the data;

(2) meet the bureau's security requirements;

(3) agree to pay any required fees; and

(4) conduct fingerprint-based state and national background checks on its employees and contractors.

(g) Those noncriminal justice agencies that do not have a secure network connection yet receive data either retrieved over the secure network by an authorized criminal justice agency or as a result of a state or federal criminal history records check shall conduct a background check as provided in paragraph (h) of those individuals who receive and review the data to determine another individual's eligibility for employment, housing, a license, or another legal right dependent on a statutorily mandated background check.

(h) The background check required by paragraph (f) or (g) is accomplished by submitting a request to the superintendent of the Bureau of Criminal Apprehension that includes a signed, written consent for the Minnesota and national criminal history records check, fingerprints, and the required fee. The superintendent may exchange the fingerprints with the Federal Bureau of Investigation for purposes of obtaining the individual's national criminal history record information.

The superintendent shall return the results of the national criminal history records check to the noncriminal justice agency to determine if the individual is qualified to have access to state and federal criminal history record information or the secure network. An individual is disqualified when the state and federal criminal history record information show any of the disqualifiers that the individual will apply to the records of others.

When the individual is to have access to the secure network, the noncriminal justice agency shall review the criminal history of each employee or contractor with the Criminal Justice Information Services systems officer at the bureau, or the officer's designee, to determine if the employee or contractor qualifies for access to the secure network. The Criminal Justice Information Services systems officer or the designee shall make the access determination based on Federal Bureau of Investigation policy and Bureau of Criminal Apprehension policy.

Subd. 4. **Commissioner administers and coordinates.** The commissioner of public safety shall administer the data communications network and shall coordinate matters relating to its use by other state agencies and political subdivisions. The commissioner shall receive the assistance of the commissioner of administration on matters involving the Department of Administration and its information systems division. Other state department or agency heads shall assist the commissioner where necessary in the performance of the commissioner's duties under this section.

Subd. 5. **Diversion program data.** Counties operating diversion programs under section 401.065 shall supply to the bureau of criminal apprehension the names of and other identifying data specified by the bureau concerning diversion program participants. Notwithstanding section 299C.11, the bureau shall maintain the names and data in the computerized criminal history system for 20 years from the date of the offense. Data maintained under this subdivision are private data.

Subd. 6. **Orders for protection; no contact orders; harassment restraining orders.** (a) As used in this subdivision, "no contact orders" include orders issued as pretrial orders under section 629.72, subdivision 2, orders under section 629.75, and orders issued as probationary or sentencing orders at the time of disposition in a criminal domestic abuse case.

(b) The data communications network must include orders for protection issued under section 518B.01, harassment restraining orders, and no contact orders issued against adults and juveniles. A no contact order must be accompanied by a photograph of the offender for the purpose of enforcement of the order, if a photograph is available and verified by the court to be an image of the defendant.

(c) Data from orders for protection, harassment restraining orders, or no contact orders and data entered by law enforcement to assist in the enforcement of those orders are classified as private data on individuals as defined in section 13.02, subdivision 12. Data about the offender can be shared with the victim for purposes of enforcement of the order.

History: *1965 c 903 s 1; 1967 c 334 s 2; 1977 c 424 s 1; 1983 c 293 s 92; 1986 c 444; 1987 c 166 s 1; 1993 c 326 art 10 s 8; 1996 c 440 art 1 s 51; 1997 c 159 art 2 s 44,45; 1997 c 203 art 6 s 31; 2000 c 377 s 4; 2001 c 167 s 1; 2007 c 54 art 4 s 1; 2009 c 59 art 6 s 9; 2010 c 299 s 3; 2013 c 82 s 26-29; 2015 c 65 art 3 s 10,11; 2017 c 95 art 3 s 11*

299C.47 [Repealed, 1976 c 149 s 63]

299C.48 CONNECTION BY AUTHORIZED AGENCY; FEE, APPROPRIATION.

(a) An agency authorized under section 299C.46, subdivision 3, may connect with and participate in the criminal justice data communications network upon approval of the commissioner of public safety; provided, that the agency shall first agree to pay installation charges as may be necessary for connection and monthly operational charges as may be established by the commissioner of public safety. Before participation by a criminal justice agency may be approved, the agency must have executed an agreement with the commissioner providing for security of network facilities and restrictions on access to data supplied to and received through the network.

(b) In addition to any fee otherwise authorized, the commissioner of public safety shall impose a fee for providing secure dial-up or Internet access for criminal justice agencies and noncriminal justice agencies. The following monthly fees apply:

(1) criminal justice agency accessing via Internet, $15;

(2) criminal justice agency accessing via dial-up, $35;

(3) noncriminal justice agency accessing via Internet, $35; and

(4) noncriminal justice agency accessing via dial-up, $35.

(c) The installation and monthly operational charges collected by the commissioner of public safety under paragraphs (a) and (b) must be deposited in an account in the special revenue fund and are annually appropriated to the commissioner to administer sections 299C.46 to 299C.50.

History: *1965 c 903 s 3; 1967 c 334 s 2; 1973 c 123 art 5 s 7; 1977 c 424 s 2; 1987 c 166 s 2; 1987 c 320 s 2; 1Sp2003 c 2 art 4 s 9; 1Sp2010 c 1 art 14 s 12*

299C.49 [Repealed, 2014 c 212 art 4 s 3]

299C.50 TRANSFER OF FUNCTIONS.

The commissioner of public safety shall perform all duties in respect to the state's criminal justice information system which were transferred from the commissioner of management and budget and the Governor's Commission on Crime Prevention and Control by executive order of the governor; provided, that a transfer shall not occur if the state is informed by a federal agency that the transfer will result in the loss of federal moneys to which the state would otherwise be entitled pursuant to the Omnibus Crime Control and Safe Streets Act of 1968, Public Law 90-351, as amended by the Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415, and the Crime Control Act of 1976, Public Law 94-503.

History: *1977 c 424 s 4; 2009 c 101 art 2 s 109*

MISSING PERSONS

299C.51 CITATION.

Sections 299C.51 to 299C.565 may be cited as the "Minnesota Missing Persons Act."

History: *1984 c 510 s 1; 2009 c 38 s 1*

299C.52 MINNESOTA MISSING CHILDREN AND ENDANGERED PERSONS PROGRAM.

Subdivision 1. **Definitions.** As used in sections 299C.52 to 299C.565, the following terms have the meanings given them:

(a) "Child" means any person under the age of 18 years or any person certified or known to be mentally incompetent.

(b) "DNA" means deoxyribonucleic acid from a human biological specimen.

(c) "Endangered" means that a law enforcement official has received sufficient evidence that the missing person is at risk of physical injury or death. The following circumstances indicate that a missing person is at risk of physical injury or death:

(1) the person is missing as a result of a confirmed abduction or under circumstances that indicate that the person's disappearance was not voluntary;

(2) the person is missing under known dangerous circumstances;

(3) the person is missing more than 30 days;

(4) the person is under the age of 21 and at least one other factor in this paragraph is applicable;

(5) there is evidence the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if the person does not receive the needed care or medication;

(6) the person does not have a pattern of running away or disappearing;

(7) the person is mentally impaired;

(8) there is evidence that the person may have been abducted by a noncustodial parent;

(9) the person has been the subject of past threats or acts of violence;

(10) there is evidence the person is lost in the wilderness, backcountry, or outdoors where survival is precarious and immediate and effective investigation and search and rescue efforts are critical; or

(11) any other factor that the law enforcement agency deems to indicate that the person may be at risk of physical injury or death, including a determination by another law enforcement agency that the person is missing and endangered.

(d) "Missing" means the status of a person after a law enforcement agency that has received a report of a missing person has conducted a preliminary investigation and determined that the person cannot be located.

(e) "NCIC" means National Crime Information Center.

Subd. 2. **Establishment.** The commissioner of public safety shall maintain a Minnesota missing children and endangered persons program within the department to enable documented information about missing Minnesota children and endangered persons to be entered into the NCIC computer.

Subd. 3. **Computer equipment and programs.** (a) The commissioner shall provide the necessary computer hardware and computer programs to enter, modify, and cancel information on missing children and endangered persons in the NCIC computer. These programs must provide for search and retrieval of information using the following identifiers: physical description, name and date of birth, name and Social Security number, name and driver's license number, vehicle license number, and vehicle identification number.

(b) The commissioner shall also provide a system for regional, statewide, multistate, and nationwide broadcasts of information on missing children and endangered persons. These broadcasts shall be made by local law enforcement agencies where possible or, in the case of statewide or nationwide broadcasts, by the Bureau of Criminal Apprehension upon request of the local law enforcement agency.

Subd. 4. **Authority to enter or retrieve information.** Only law enforcement agencies may enter missing children and endangered persons information into the NCIC computer or retrieve information from the NCIC computer.

Subd. 5. **Statistical data.** The commissioner shall annually compile and make available statistical information on the number of missing children and endangered persons entered into the NCIC computer and, if available, information on the number located.

Subd. 6. **Rules.** The commissioner may adopt rules in conformance with sections 299C.52 to 299C.565 to provide for the orderly collection and entry of missing children and endangered persons information and requests for retrieval of missing children and endangered persons information.

Subd. 7. **Cooperation with other agencies.** The commissioner shall cooperate with other states and the NCIC in the exchange of information on missing persons.

History: *1984 c 510 s 2; 1991 c 285 s 4-6; 1994 c 636 art 4 s 24; 2009 c 38 s 2; 2009 c 59 art 6 s 10-12*

299C.53 MISSING PERSONS REPORT; DUTIES OF COMMISSIONER AND LAW ENFORCEMENT AGENCIES.

Subdivision 1. **Investigation and entry of information.** (a) A law enforcement agency shall accept without delay any report of a missing person. The law enforcement agency shall not refuse to accept a missing person report on the basis that:

(1) the missing person is an adult;

(2) the circumstances do not indicate foul play;

(3) the person has been missing for a short amount of time;

(4) the person has been missing for a long amount of time;

(5) there is no indication that the missing person was in the jurisdiction served by the law enforcement agency at the time of the disappearance;

(6) the circumstances suggest that the disappearance may be voluntary;

(7) the reporting person does not have personal knowledge of the facts;

(8) the reporting person cannot provide all of the information requested by the law enforcement agency;

(9) the reporting person lacks a familial or other relationship with the missing person; or

(10) for any other reason, except in cases where the law enforcement agency has direct knowledge that the person is, in fact, not missing and the whereabouts and welfare of the person are known at the time the report is being made.

A law enforcement agency shall accept missing person reports in person. An agency may also accept reports by telephone or other electronic means to the extent the reporting is consistent with the agency's policies or practices.

(b) Upon receiving a report of a person believed to be missing, a law enforcement agency shall conduct a preliminary investigation to determine whether the person is missing, and if missing, whether the person is endangered. If the person is initially determined to be missing and endangered, the agency shall immediately consult the Bureau of Criminal Apprehension during the preliminary investigation, in recognition of the fact that the first two hours are critical. If the person is determined to be missing and endangered, the agency shall immediately enter identifying and descriptive information about the person into the NCIC computer. Law enforcement agencies having direct access to the NCIC computer shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies which do not have direct access to the systems.

Subd. 2. **Location of missing person.** As soon as is practically possible after a missing person is located, the law enforcement agency which located or returned the missing person shall notify the law enforcement agency having jurisdiction over the investigation, and that agency shall cancel the entry from the NCIC computer.

Subd. 3. **Missing and endangered persons.** If the Bureau of Criminal Apprehension receives a report from a law enforcement agency indicating that a person is missing and endangered, the superintendent may assist the law enforcement agency in conducting the preliminary investigation, offer resources, and assist the agency in helping implement the investigation policy with particular attention to the need for immediate action. The law enforcement agency shall promptly notify all appropriate law enforcement agencies in the state and, if deemed appropriate, law enforcement agencies in adjacent states or jurisdictions of any information that may aid in the prompt location and safe return of a missing and endangered person.

Subd. 4. **Federal requirements.** In addition to the provisions of sections 299C.51 to 299C.565, the law enforcement agency and the Bureau of Criminal Apprehension shall comply with requirements provided in federal law on reporting and investigating missing children cases. For purposes of this subdivision, the definition of "child," "children," or "minor" shall be determined in accordance with the applicable federal law.

History: *1984 c 510 s 3; 1994 c 636 art 4 s 25,26; 2009 c 38 s 3; 2009 c 59 art 6 s 13*

299C.535 REQUEST FOR ADDITIONAL INFORMATION ON MISSING PERSON.

(a) If the person identified in the missing person report remains missing for 30 days, and the additional information and materials specified below have not been received, the law enforcement agency shall attempt to obtain:

(1) DNA samples from family members and, if possible, from the missing person along with any needed documentation, including consent forms, required for the use of state or federal DNA databases;

(2) dental information and x-rays, and an authorization to release dental information or x-rays of the missing person;

(3) any additional photographs of the missing person that may aid the investigation or an identification; and

(4) fingerprints.

(b) The law enforcement agency shall immediately determine whether any additional information received on the missing person indicates that the person is endangered.

(c) Any additional information or materials received by the law enforcement agency shall be entered into the applicable state or federal database as soon as possible.

(d) Nothing in this section shall be construed to preclude a law enforcement agency from obtaining any of the materials identified in this section before the 30th day following the filing of the missing person report.

(e) The law enforcement agency shall not be required to obtain written authorization before it releases publicly any photograph that would aid in the investigation or identification of the missing person.

History: *2009 c 38 s 4*

299C.54 MISSING CHILDREN BULLETIN.

Subdivision 1. **Distribution.** The commissioner shall distribute a missing persons bulletin to local law enforcement agencies, county attorneys, and, in the case of missing children, to public and nonpublic schools. The commissioner shall also make this information accessible to other parties involved in efforts to locate missing children and endangered persons and to other persons as the commissioner considers appropriate.

Subd. 2. **Photograph.** Local agencies shall obtain the most recent photograph available for missing children and endangered persons and forward those photographs to the commissioner. The commissioner shall include these photographs, as they become available, in the bulletins.

Subd. 3. **Included with mailing.** State and local elected officials and agencies may enclose in their mailings information regarding missing children and endangered persons obtained from law enforcement agencies or from any organization that is recognized as a nonprofit, tax-exempt organization under state or federal law and has an ongoing missing children and endangered persons program. Elected officials and commissioners of state agencies are urged to develop policies to enclose missing children and endangered persons information in mailings when it will not increase postage costs and is otherwise considered appropriate.

Subd. 3a. **Collection of data.** Identifying information on missing children and endangered persons entered into the NCIC computer regarding cases that are still active at the time the missing persons bulletin is compiled may be included in the bulletin.

Subd. 4. **Data classification.** The information included in the missing children bulletin is public data as defined in section 13.02, subdivision 15.

History: *1991 c 285 s 7; 1993 c 326 art 10 s 9; 2009 c 38 s 5-8; 2014 c 275 art 1 s 101*

299C.55 TRAINING.

The commissioner shall adopt standards for training appropriate personnel concerning the investigation of missing persons cases.

History: *1991 c 285 s 8; 2009 c 38 s 9*

299C.56 RELEASE OF MEDICAL DATA.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Health care facility" means the office of a dentist or physician, or another medical facility, that is in possession of identifying data.

(c) "Identifying data" means dental or skeletal X-rays, or both, and related information, previously created in the course of providing dental or medical care to a child who has now been reported as missing or a person who has now been reported as missing and endangered.

Subd. 2. **Written declaration.** If a child is reported missing or a person is reported missing and endangered, a law enforcement agency may execute a written declaration, stating that an active investigation seeking the location of the missing child or endangered person is being conducted, and that the identifying data are necessary for the exclusive purpose of furthering the investigation. Notwithstanding chapter 13 or section 144.651, subdivision 16, when a written declaration executed under this subdivision, signed by a peace officer, is presented to a health care facility, the facility shall provide access to the missing child or endangered person's identifying data to the law enforcement agency.

History: *1991 c 285 s 9; 2009 c 38 s 10*

299C.565 MISSING PERSON REPORT.

The local law enforcement agency having jurisdiction over the location where a person has been missing or was last seen has the responsibility to take a missing person report from an interested party. If this location cannot be clearly and easily established, the local law enforcement agency having jurisdiction over the last verified location where the missing person last resided has the responsibility to take the report. In the event any circumstances delay a determination of which law enforcement agency has the responsibility to take a missing person report from an interested party, the Bureau of Criminal Apprehension shall offer prompt guidance to the agencies involved.

History: *2006 c 260 art 3 s 16; 2009 c 38 s 11*

299C.5655 MISSING PERSONS; STANDARDIZED REPORTS AND PROCEDURES.

(a) By September 1, 2009, the superintendent of the Bureau of Criminal Apprehension shall develop:

(1) a standardized form for use by all law enforcement agencies when taking a missing person report; and

(2) a model policy that incorporates standard processes, procedures, and information to be provided to interested persons regarding developments in a missing person case.

(b) In developing the standardized form and model policy, the superintendent of the Bureau of Criminal Apprehension shall convene a working group that includes interested members of the public and representatives of the Minnesota Chiefs of Police Association, Minnesota Sheriffs' Association, Minnesota Police and Peace Officers Association, and a nonprofit foundation formed to assist in locating the missing persons. The working group shall be funded by private resources.

History: *2009 c 38 s 12*

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT

299C.57 CITATION.

Sections 299C.58 and 299C.582 may be cited as the "National Crime Prevention and Privacy Compact."

History: *2002 c 269 s 1*

299C.58 COMPACT.

The National Crime Prevention and Privacy Compact is hereby ratified, enacted into law, and entered into by this state with any other states legally joining therein in the form substantially as follows:

ARTICLE I

DEFINITIONS

In this compact:

(1) **Attorney general.** The term "attorney general" means: the attorney general of the United States.

(2) **Compact officer.** The term "compact officer" means

(A) with respect to the federal government, an official so designated by the director of the FBI; and

(B) with respect to a party state, the chief administrator of the state's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) **Council.** The term "council" means the Compact Council established under article VI.

(4) **Criminal history records.** The term "criminal history records"

(A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) **Criminal history record repository.** The term "criminal history record repository" means the state agency designated by the governor or other appropriate executive official or the legislature of a state to perform centralized record-keeping functions for criminal history records and services in the state.

(6) **Criminal justice.** The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) **Criminal justice agency.** The term "criminal justice agency"

(A) means:

(i) courts; and

(ii) a governmental agency or any subunit thereof that:

(I) performs the administration of criminal justice pursuant to a statute or executive order; and

(II) allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) includes federal and state inspectors general offices.

(8) **Criminal justice services.** The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) **Criterion offense.** The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) **Direct access.** The term "direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) **Executive order.** The term "executive order" means an order of the president of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.

(12) **FBI.** The term "FBI" means the Federal Bureau of Investigation.

(13) **Interstate Identification Index System.** The term "Interstate Identification Index System" or "III System"

(A) means the cooperative federal-state system for the exchange of criminal history records; and

(B) includes the National Identification Index, the National Fingerprint File, and, to the extent of their participation in such system, the criminal history record repositories of the states and the FBI.

(14) **National Fingerprint File.** The term "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) **National Identification Index.** The term "National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(16) **National indexes.** The term "national indexes" means the National Identification Index and the National Fingerprint File.

(17) **Nonparty state.** The term "nonparty state" means a state that has not ratified this compact.

(18) **Noncriminal justice purposes.** The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) **Party state.** The term "party state" means a state that has ratified this compact.

(20) **Positive identification.** The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) **Sealed record information.** The term "sealed record information" means:

(A) with respect to adults, that portion of a record that is:

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.

(22) **State.** The term "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II

PURPOSES

The purposes of this compact are to:

(1) provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;

(2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each party state, and to provide, in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under article VI;

(3) require party states to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the federal government for noncriminal justice purposes, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under article VI;

(4) provide for the establishment of a council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) require the FBI and each party state to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III

RESPONSIBILITIES OF COMPACT PARTIES

(a) **FBI responsibilities.** The director of the FBI shall:

(1) appoint an FBI compact officer who shall:

(A) administer this compact within the Department of Justice and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to article V(c);

(B) ensure that compact provisions and rules, procedures, and standards prescribed by the council under article VI are complied with by the Department of Justice and the federal agencies and other agencies and organizations referred to in article III(1)(A); and

(C) regulate the use of records received by means of the III System from party states when such records are supplied by the FBI directly to other federal agencies;

(2) provide to federal agencies and to state criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in article IV, including:

(A) information from nonparty states; and

(B) information from party states that is available from the FBI through the III System, but is not available from the party state through the III System;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in article

IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in article V.

(b) **State responsibilities.** Each party state shall:

(1) appoint a compact officer who shall:

(A) administer this compact within that state;

(B) ensure that compact provisions and rules, procedures, and standards established by the council under article VI are complied with in the state; and

(C) regulate the in-state use of records received by means of the III System from the FBI or from other party states;

(2) establish and maintain a criminal history record repository, which shall provide:

(A) information and records for the National Identification Index and the National Fingerprint File; and

(B) the state's III System-indexed criminal history records for noncriminal justice purposes described in article IV;

(3) participate in the National Fingerprint File; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this compact.

(c) **Compliance with III System standards.** In carrying out their responsibilities under this compact, the FBI and each party state shall comply with III System rules, procedures, and standards duly established by the council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(d) **Maintenance of record services.**

(1) Use of the III System for noncriminal justice purposes authorized in this compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact.

ARTICLE IV

AUTHORIZED RECORD DISCLOSURES

(a) **State criminal history record repositories.** To the extent authorized by United States Code, title 5, section 552a, commonly known as the "Privacy Act of 1974," the FBI shall provide on request criminal history records (excluding sealed records) to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general and that authorizes national indexes checks.

(b) **Criminal justice agencies and other governmental or nongovernmental agencies.** The FBI, to the extent authorized by United States Code, title 5, section 552a, commonly known as the "Privacy Act of

1974," and state criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general, that authorizes national indexes checks.

(c) **Procedures.** Any record obtained under this compact may be used only for the official purposes for which the record was requested. Each compact officer shall establish procedures, consistent with this compact, and with rules, procedures, and standards established by the council under article VI, which procedures shall protect the accuracy and privacy of the records, and shall:

(1) ensure that records obtained under this compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V

RECORD REQUEST PROCEDURES

(a) **Positive identification.** Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) **Submission of state requests.** Each request for a criminal history record check utilizing the national indexes made under any approved state statute shall be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indexes only if such request is transmitted through another state criminal history record repository or the FBI.

(c) **Submission of federal requests.** Each request for criminal history record checks utilizing the national indexes made under federal authority shall be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which such request originated. Direct access to the National Identification Index by entities other than the FBI and state criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) **Fees.** A state criminal history record repository or the FBI:

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) **Additional search.**

(1) If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indexes.

(2) If, with respect to a request forwarded by a state criminal history record repository under paragraph (1), the FBI positively identifies the subject as having a III System-indexed record or records:

(A) the FBI shall so advise the state criminal history record repository; and

(B) the state criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other state criminal history record repositories.

ARTICLE VI

ESTABLISHMENT OF COMPACT COUNCIL

(a) **Establishment.**

(1) **In general.** There is established a council to be known as the "Compact Council," which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) **Organization.** The council shall:

(A) continue in existence as long as this compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this compact.

(b) **Membership.** The council shall be composed of 15 members, each of whom shall be appointed by the attorney general, as follows.

(1) Nine members, each of whom shall serve a two-year term, who shall be selected from among the compact officers of party states based on the recommendation of the compact officers of all party states, except that, in the absence of the requisite number of compact officers available to serve, the chief administrators of the criminal history record repositories of nonparty states shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a three-year term, of whom:

(A) one shall be a representative of the criminal justice agencies of the federal government and may not be an employee of the FBI; and

(B) one shall be a representative of the noncriminal justice agencies of the federal government.

(3) Two at-large members, nominated by the chairman of the council, once the chair is elected pursuant to article VI(c), each of whom shall serve a three-year term, of whom:

(A) one shall be a representative of state or local criminal justice agencies; and

(B) one shall be a representative of state or local noncriminal justice agencies.

(4) One member, who shall serve a three-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the Director of the FBI, who shall serve a three-year term, and who shall be an employee of the FBI.

(c) **Chair and vice-chair.**

(1) **In general.** From its membership, the council shall elect a chair and a vice-chair of the council, respectively. Both the chair and vice-chair of the council:

(A) shall be a compact officer, unless there is no compact officer on the council who is willing to serve, in which case the chair may be an at-large member; and

(B) shall serve a two-year term and may be reelected to only one additional two-year term.

(2) **Duties of vice-chair.** The vice-chair of the council shall serve as the chair of the council in the absence of the chair.

(d) **Meetings.**

(1) **In general.** The council shall meet at least once each year at the call of the chair. Each meeting of the council shall be open to the public. The council shall provide prior public notice in the Federal Register of each meeting of the council, including the matters to be addressed at such meeting.

(2) **Quorum.** A majority of the council or any committee of the council shall constitute a quorum of the council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) **Rules, procedures, and standards.** The council shall make available for public inspection and copying at the council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the council.

(f) **Assistance from FBI.** The council may request from the FBI such reports, studies, statistics, or other information or materials as the council determines to be necessary to enable the council to perform its duties under this compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) **Committees.** The chair may establish committees as necessary to carry out this compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII

RATIFICATION OF COMPACT

This compact shall take effect upon being entered into by two or more states as between those states and the federal government. Upon subsequent entering into this compact by additional states, it shall become effective among those states and the federal government and each party state that has previously ratified it. When ratified, this compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing state.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

(a) **Relation of compact to certain FBI activities.** Administration of this compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of

criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) **No authority for nonappropriated expenditures.** Nothing in this compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) **Relating to Public Law 92-544.** Nothing in this compact shall diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX

RENUNCIATION

(a) **In general.** This compact shall bind each party state until renounced by the party state.

(b) **Effect.** Any renunciation of this compact by a party state shall:

(1) be effected in the same manner by which the party state ratified this compact; and

(2) become effective 180 days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

ARTICLE X

SEVERABILITY

The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this compact is held contrary to the constitution of any party state, all other portions of this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

ARTICLE XI

ADJUDICATION OF DISPUTES

(a) **In general.** The council shall:

(1) have initial authority to make determinations with respect to any dispute regarding:

(A) interpretation of this compact;

(B) any rule or standard established by the council pursuant to article V; and

(C) any dispute or controversy between any parties to this compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the council. Such decision shall be published pursuant to the requirements of article VI(e).

(b) **Duties of the FBI.** The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the council holds a hearing on such matters.

(c) **Right of appeal.** The FBI or a party state may appeal any decision of the council to the attorney general, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court shall be removed to the appropriate district court of the United States in the manner provided by United States Code, title 28, section 1446, or other statutory authority.

History: *2002 c 269 s 2*

299C.582 POWERS WITH RELATION TO COMPACT.

The commissioner of public safety or a designee is hereby authorized and directed to do all things necessary or incidental to the carrying out of the compact.

History: *2002 c 269 s 3*

CHILD PROTECTION BACKGROUND CHECK

299C.60 CITATION.

Sections 299C.60 to 299C.64 may be cited as the "Minnesota Child Protection Background Check Act."

History: *1992 c 569 s 18*

299C.61 DEFINITIONS.

Subdivision 1. **Terms.** The definitions in this section apply to sections 299C.60 to 299C.64.

Subd. 2. **Background check crime.** "Background check crime" includes child abuse crimes, murder, manslaughter, felony level assault or any assault crime committed against a minor, kidnapping, arson, criminal sexual conduct, and prostitution-related crimes.

Subd. 3. **Child.** "Child" means an individual under the age of 18.

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, paragraph (a), clause (5); 609.221; 609.222; 609.223; 609.224; 609.2242; 609.322; 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).

Subd. 5. **Children's service provider.** "Children's service provider" means a business or organization, whether public, private, for profit, nonprofit, or voluntary, that provides children's services, including a

business or organization that licenses or certifies others to provide children's services. "Children's service provider" includes an international student exchange visitor placement organization under chapter 5A.

Subd. 6. **Children's service worker.** "Children's service worker" means a person who has, may have, or seeks to have access to a child to whom the children's service provider provides children's services, and who:

(1) is employed by, volunteers with, or seeks to be employed by or volunteer with a children's service provider;

(2) is an independent contractor who provides children's services to a children's service provider; or

(3) owns, operates, or seeks to own or operate a children's service provider.

Subd. 7. **Children's services.** "Children's services" means the provision of care, treatment, education, training, instruction, or recreation to children.

Subd. 8. [Repealed, 2009 c 59 art 6 s 25]

Subd. 8a. **Conviction.** "Conviction" means a criminal conviction or an adjudication of delinquency for an offense that would be a crime if committed by an adult.

Subd. 9. **Superintendent.** "Superintendent" means the superintendent of the Bureau of Criminal Apprehension.

History: *1992 c 569 s 19; 1993 c 238 s 8; 1994 c 465 art 1 s 36; 1995 c 259 art 3 s 5; 1998 c 367 art 2 s 32; 2001 c 202 s 15; 2009 c 142 art 3 s 6; 2015 c 21 art 1 s 66*

299C.62 BACKGROUND CHECK.

Subdivision 1. **Generally.** The superintendent shall develop procedures to enable a children's service provider to request a background check to determine whether a children's service worker is the subject of any reported conviction for a background check crime. The superintendent shall perform the background check by retrieving and reviewing data on background check crimes. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of a criminal history check. The superintendent shall recover the cost of a background check through a fee charged the children's service provider.

Subd. 2. **Background check; requirements.** (a) The superintendent may not perform a background check under this section unless the children's service provider submits a written document, signed by the children's service worker on whom the background check is to be performed, containing the following:

(1) a question asking whether the children's service worker has ever been convicted of a background check crime and if so, requiring a description of the crime and the particulars of the conviction;

(2) a notification to the children's service worker that the children's service provider will request the superintendent to perform a background check under this section; and

(3) a notification to the children's service worker of the children's service worker's rights under subdivision 3.

(b) Background checks performed under this section may only be requested by and provided to authorized representatives of a children's service provider who have a need to know the information and may be used

only for the purposes of sections 299C.60 to 299C.64. Background checks may be performed pursuant to this section not later than one year after the document is submitted under this section.

Subd. 3. **Children's service worker rights.** (a) The children's service provider shall notify the children's service worker of the children's service worker's rights under paragraph (b).

(b) A children's service worker who is the subject of a background check request has the following rights:

(1) the right to be informed that a children's service provider will request a background check on the children's service worker:

(i) for purposes of the children's service worker's application to be employed by, volunteer with, be an independent contractor for, or be an owner of a children's service provider or for purposes of continuing as an employee, volunteer, independent contractor, or owner; and

(ii) to determine whether the children's service worker has been convicted of any crime specified in section 299C.61, subdivision 2 or 4;

(2) the right to be informed by the children's service provider of the superintendent's response to the background check and to obtain from the children's service provider 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 any information contained in the report or record pursuant to section 13.04, subdivision 4;

(5) the right to be informed by the children's service provider if the children's service worker's application to be employed with, volunteer with, be an independent contractor for, or be an owner of a children's service provider, or to continue as an employee, volunteer, independent contractor, or owner, has been denied because of the superintendent's response; and

(6) the right not to be required directly or indirectly to pay the cost of the background check.

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, volunteer, or independent contractor under this section.

Subd. 5. **No duty to check.** Sections 299C.60 to 299C.64 do not create a duty to perform a background check.

Subd. 6. **Admissibility of evidence.** Evidence or proof that a background check of a volunteer was not requested under sections 299C.60 to 299C.64 by a children's service provider is not admissible in evidence in any litigation against a nonprofit or charitable organization.

History: *1992 c 569 s 20; 1995 c 226 art 4 s 12; 2009 c 59 art 6 s 14; 2009 c 142 art 3 s 7,8*

299C.63 EXCEPTION; OTHER LAWS.

The superintendent is not required to respond to a background check request concerning a children's service worker who, as a condition of occupational licensure or employment, is subject to the background

study requirements imposed by any statute or rule other than sections 299C.60 to 299C.64. A background check performed on a licensee, license applicant, or employment applicant under this section does not satisfy the requirements of any statute or rule other than sections 299C.60 to 299C.64, that provides for background study of members of an individual's particular occupation.

History: *1992 c 569 s 21*

299C.64 BUREAU IMMUNITY.

The Bureau of Criminal Apprehension is immune from any civil or criminal liability that might otherwise arise under sections 299C.60 to 299C.63, based on the accuracy or completeness of any records it receives from the Federal Bureau of Investigation, if the bureau acts in good faith.

History: *1992 c 569 s 22*

INFORMATION POLICY GROUP

299C.65 CRIMINAL AND JUVENILE JUSTICE INFORMATION ADVISORY GROUP.

Subdivision 1. [Repealed by amendment, 2016 c 116 s 1]

Subd. 1a. **Membership; duties.** (a) The Criminal and Juvenile Justice Information Advisory Group consists of the following members:

(1) the commissioner of corrections or designee;

(2) the commissioner of public safety or designee;

(3) the state chief information officer or designee;

(4) three members of the judicial branch appointed by the chief justice of the supreme court;

(5) the commissioner of administration or designee;

(6) the state court administrator or designee;

(7) two members appointed by the Minnesota Sheriffs Association, at least one of whom must be a sheriff;

(8) two members appointed by the Minnesota Chiefs of Police Association, at least one of whom must be a chief of police;

(9) two members appointed by the Minnesota County Attorneys Association, at least one of whom must be a county attorney;

(10) two members appointed by the League of Minnesota Cities representing the interests of city attorneys, at least one of whom must be a city attorney;

(11) two members appointed by the Board of Public Defense, at least one of whom must be a public defender;

(12) two corrections administrators appointed by the Association of Minnesota Counties representing the interests of local corrections, at least one of whom represents a Community Corrections Act county;

(13) two probation officers appointed by the commissioner of corrections in consultation with the president of the Minnesota Association of Community Corrections Act Counties and the president of the Minnesota Association of County Probation Officers;

(14) four public members appointed by the governor representing both metropolitan and greater Minnesota for a term of four years using the process described in section 15.059, one of whom represents the interests of victims, and one of whom represents the private business community who has expertise in integrated information systems and who, for the purposes of meetings of the advisory group, may be compensated pursuant to section 15.059;

(15) two members appointed by the Minnesota Association for Court Management, at least one of whom must be a court administrator;

(16) one member of the house of representatives appointed by the speaker of the house, or an alternate who is also a member of the house of representatives, appointed by the speaker of the house;

(17) one member of the senate appointed by the majority leader, or an alternate who is also a member of the senate, appointed by the majority leader of the senate;

(18) one member appointed by the attorney general;

(19) two members appointed by the League of Minnesota Cities, one of whom works or resides in greater Minnesota and one of whom works or resides in the seven-county metropolitan area, and at least one of whom is an elected official;

(20) two members appointed by the Association of Minnesota Counties, one of whom works or resides in greater Minnesota and one of whom works or resides in the seven-county metropolitan area, and at least one of whom is an elected official; and

(21) the director of the Sentencing Guidelines Commission or a designee.

(b) The chair, first vice-chair, and second vice-chair shall be elected by the advisory group.

(c) The advisory group shall serve as the state advisory group on statewide criminal justice information policy and funding issues. The advisory group shall study and make recommendations to the governor, the supreme court, and the legislature on criminal justice information funding and policy issues such as related data practices, individual privacy rights, and data on race and ethnicity; information-sharing at the local, state, and federal levels; technology education and innovation; the impact of proposed legislation on the criminal justice system related to information systems and business processes; and data and identification standards.

Subd. 2. [Repealed by amendment, 2016 c 116 s 1]

Subd. 3. [Repealed, 2005 c 136 art 11 s 18]

Subd. 3a. **Report.** The advisory group shall file a biennial report with the governor, supreme court, and chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over criminal justice funding and policy by January 15 in each odd-numbered year. The report must provide the following:

(1) status and review of current statewide criminal justice information systems;

(2) recommendations concerning any legislative changes or appropriations that are needed to ensure that the criminal justice information systems operate accurately and efficiently; and

(3) summary of the activities of the advisory group, including any funding and grant requests.

Subd. 4. [Repealed, 2005 c 136 art 11 s 18]

Subd. 5. **Review of funding and grant requests.** Any funding requests submitted to the advisory group shall be reviewed by members of the advisory group to ensure compatibility with the mission of the advisory group. The advisory group shall establish specific criteria and a review process for awarding and distributing any grant funding to other entities.

Subd. 6. [Repealed, 2005 c 136 art 11 s 18]

Subd. 7. [Repealed, 2005 c 136 art 11 s 18]

Subd. 8. [Repealed, 2005 c 136 art 11 s 18]

Subd. 8a. [Repealed, 2005 c 136 art 11 s 18]

Subd. 9. [Repealed, 2005 c 136 art 11 s 18]

History: *1993 c 266 s 33; 1994 c 576 s 41; 1997 c 239 art 8 s 17; 1999 c 216 art 2 s 14-19; 2000 c 311 art 5 s 1-4; 1Sp2001 c 8 art 6 s 5,6; 2005 c 136 art 11 s 12-15; 2005 c 156 art 5 s 19,20; 2006 c 212 art 1 s 26 subd 6; 2006 c 260 art 3 s 17; 2007 c 54 art 7 s 8,9; 2009 c 59 art 6 s 15,16; 2009 c 83 art 3 s 18; 2009 c 101 art 2 s 109; 2013 c 134 s 26; 2016 c 116 s 1*

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 (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 (2) in this state; or

(b)(1) a felony violation of section 609.195 (third-degree murder); 609.205 (second-degree manslaughter); 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or 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 (stalking); or Minnesota Statutes 2012, section 609.21;

(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 (2) in this state.

Subd. 3. [Repealed, 2009 c 59 art 6 s 25]

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 to "landlord" in section 504B.001, subdivision 7. 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, 144B, or 245A, or a board and lodging establishment with special services registered under section 157.17.

Subd. 6. **Superintendent.** "Superintendent" means the superintendent of the Bureau of Criminal Apprehension.

Subd. 7. **Tenant.** "Tenant" has the meaning given to "residential tenant" in section 504B.001, subdivision 12.

History: *1995 c 226 art 4 s 14; 1996 c 408 art 10 s 7; 1999 c 199 art 2 s 7,8; 2001 c 7 s 62; 2010 c 299 s 14*

299C.68 BACKGROUND CHECK ON RESIDENTIAL BUILDING MANAGER.

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. The superintendent shall notify the owner in writing of the results of the background check. If the manager has resided in Minnesota for less than ten years or upon request of the owner, the superintendent shall also either: (1) conduct a search of the national criminal records repository, including the criminal justice data communications network; or (2) conduct a search of the criminal justice data communications network records in the state or states where the manager has resided for the preceding ten years. 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.** (a) 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.

(b) If the manager has resided in Minnesota for less than ten 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 in writing to a background check request within a reasonable time not to exceed ten working days after receiving the signed form under subdivision 3. The superintendent's response from the search of the Minnesota computerized criminal history system must clearly 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 the conviction, and date of discharge of sentence. If a search is being done of the national criminal records repository, the superintendent shall determine eligibility based upon national records received. The superintendent shall reply to the owner in writing indicating whether the manager is or is not eligible for employment.

Subd. 6. **Equivalent background check.** (a) An owner may satisfy the requirements of this section: (1) by obtaining a copy of a completed background check that was required to be performed by the Department of Human Services as provided for under section 144.057 and chapter 245C, and then placing the copy on file with the owner; (2) in the case of a background check performed on a manager for one residential setting when multiple residential settings are operated by one owner, by placing the results in a central location; or (3) 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; 1996 c 408 art 10 s 8-10; 1Sp2001 c 7 s 1,2; 2002 c 321 s 3; 2003 c 15 art 1 s 33; 2003 c 89 s 1; 2009 c 59 art 6 s 17*

299C.69 OWNER DUTIES IF MANAGER CONVICTED OF 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 insurance 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 eviction action to enforce the

termination of the tenancy must be treated as a priority writ under sections 504B.321; 504B.335; 504B.345, subdivision 1; 504B.361, subdivision 2; and 504B.365, subdivision 2.

History: *1995 c 226 art 4 s 16; 1999 c 199 art 2 s 9; 2004 c 206 s 52*

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 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*

CRIMINAL HISTORY CHECKS

299C.72 MINNESOTA CRIMINAL HISTORY CHECKS.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Applicant for employment" means an individual who seeks either county or city employment or has applied to serve as a volunteer in the county or city.

(b) "Applicant for licensure" means the individual seeks a license issued by the county or city which is not subject to a federal- or state-mandated background check.

(c) "Authorized law enforcement agency" means the county sheriff for checks conducted for county purposes, the police department for checks conducted for city purposes, or the county sheriff for checks conducted for city purposes where there is no police department.

(d) "Criminal history check" means retrieval of criminal history data via the secure network described in section 299C.46.

(e) "Criminal history data" means adult convictions and adult open arrests less than one year old found in the Minnesota computerized criminal history repository.

(f) "Informed consent" has the meaning given in section 13.05, subdivision 4, paragraph (d).

Subd. 2. **Criminal history check authorized.** (a) The criminal history check authorized by this section shall not be used in place of a statutorily mandated or authorized background check.

(b) An authorized law enforcement agency may conduct a criminal history check of an individual who is an applicant for employment or applicant for licensure. Prior to conducting the criminal history check, the authorized law enforcement agency must receive the informed consent of the individual.

(c) The authorized law enforcement agency shall not disseminate criminal history data and must maintain it securely with the agency's office. The authorized law enforcement agency can indicate whether the applicant for employment or applicant for licensure has a criminal history that would prevent hire, acceptance as a

volunteer to a hiring authority, or would prevent the issuance of a license to the department that issues the license.

History: *2013 c 82 s 30*

299C.75 BACKGROUND CHECKS; INDIAN TRIBES.

(a) When requested by a law enforcement agency of an Indian tribe with a reservation in this state, the superintendent shall perform a criminal history background check to determine an individual's eligibility for a license, employment, housing, or candidacy for elective office. When requested by the law enforcement agency of the Indian tribe, the superintendent shall exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history background check. The superintendent shall recover the cost of a background check under this section through a fee charged to the Indian tribe.

(b) For purposes of this section, "Indian tribe" means a tribe, band, nation, or other federally recognized group or community of Indians.

(c) This section does not apply to criminal history background checks conducted under section 3.9221 or 299L.02.

History: *2015 c 8 s 1*