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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **1380**

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The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

1.1 A bill for an act
1.2 relating to crimes; providing for the sealing of certain criminal justice data;
1.3 specifying circumstances under which criminal justice data should be sealed;
1.4 providing the legal consequences of sealing; requiring business screening
1.5 services to correct and delete disputed records; providing civil penalties;
1.6 proposing coding for new law as Minnesota Statutes, chapter 609C.

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

1.8 Section 1. **[609C.01] SEALING OF NONCONVICTION AND FAVORABLE**
1.9 **RESOLUTION DATA.**

1.10 This chapter provides for the sealing of data relating to:

1.11 (1) arrests that do not lead to a referral for prosecution;

1.12 (2) arrests that lead to a referral for prosecution but no charges are brought; and

1.13 (3) charged offenses resolved in favor of the subject of the data.

1.14 Nothing in this chapter authorizes the destruction of data. Upon sealing, the data
1.15 shall remain accessible to law enforcement and the courts.

1.16 Sec. 2. **[609C.02] ARREST DATA NOT LEADING TO A REFERRAL FOR**
1.17 **PROSECUTION.**

1.18 Subdivision 1. **Automatic sealing of arrest data.** On the expiration of 180 days
1.19 from the date of an arrest, arrest data pertaining to the person arrested shall be thereafter
1.20 sealed unless the arrest has led to the prosecution of the subject of the data.

1.21 Subd. 2. **Responsibility for sealing.** It is the responsibility of the arresting law
1.22 enforcement agency to seal the arrest data in the agency's possession and to notify all
1.23 other criminal justice agencies, enumerated in section 13.02, subdivision 3a, to which it
1.24 has transmitted the data, including the Bureau of Criminal Apprehension, that the arrest

2.1 data has been sealed. Any agency receiving notification shall seal the arrest data in its
2.2 possession.

2.3 **Sec. 3. [609C.03] ARREST AND PROSECUTION DATA NOT LEADING TO**
2.4 **A CHARGE.**

2.5 **Subdivision 1. Automatic sealing of arrest and prosecution data not leading to**
2.6 **a charge.** Upon a declination of charges or upon successful completion of a precharge
2.7 diversion program, arrest and prosecution data shall be sealed.

2.8 **Subd. 2. Responsibility for sealing.** It is the responsibility of the prosecuting
2.9 agency to seal the prosecution data pertaining to the action and to notify the superintendent
2.10 of the Bureau of Criminal Apprehension, and the heads of all appropriate law enforcement
2.11 agencies that the records related to the action shall be sealed.

2.12 **Sec. 4. [609C.04] DATA ON OFFENSES RESOLVED IN FAVOR OF AN**
2.13 **INDIVIDUAL.**

2.14 **Subdivision 1. Automatic sealing of data resolved in favor of an individual.**
2.15 Upon a favorable resolution as defined in subdivision 3, all criminal justice agency and
2.16 court records pertaining to the action shall be sealed, unless the prosecuting attorney
2.17 upon motion with not less than five days' notice to the person or the person's attorney
2.18 demonstrates to the satisfaction of the court that the interests of justice require otherwise,
2.19 or the court on its own motion with not less than five days' notice to the person or the
2.20 person's attorney determines that the interests of justice require otherwise and states the
2.21 reasons for such determination on the record.

2.22 **Subd. 2. Responsibility for sealing.** Upon a favorable resolution as defined in
2.23 subdivision 3, it shall be the responsibility of the court administrator to seal the judicial
2.24 records pertaining to the action and to notify the superintendent of the Bureau of Criminal
2.25 Apprehension, the Department of Corrections, the prosecuting authority, and the heads of
2.26 all appropriate law enforcement agencies and, unless the court has directed otherwise, that
2.27 the criminal justice agency records related to the action shall be sealed.

2.28 **Subd. 3. Resolutions resulting in automatic sealing.** For purposes of subdivision
2.29 1, a favorable resolution means:

2.30 (1) charges against a person were dismissed without a plea of guilt;

2.31 (2) the person was acquitted;

2.32 (3) charges against the person were dismissed pursuant to a continuance for
2.33 dismissal or a stay of adjudication;

3.1 (4) charges against the person were dismissed upon successful completion of a
 3.2 pretrial diversion program with or without a plea of guilt; or

3.3 (5) there was dismissal and discharge of proceedings against a person under section
 3.4 152.18.

3.5 Subd. 4. **Motion for sealing.** A person whose criminal action was favorable
 3.6 resolved as set forth in subdivision 3, but prior to the effective date of this law, may upon
 3.7 motion, with not less than 30 days' notice to the appropriate prosecuting authority, apply
 3.8 for an order to seal the criminal justice agency and court records relating to the action.

3.9 **Sec. 5. [609C.05] DISSEMINATION AND RETENTION OF SEALED DATA.**

3.10 Subdivision 1. **Sealed data may be transmitted between criminal justice agencies**
 3.11 **and the courts.** Data sealed pursuant to this chapter may be transmitted between and
 3.12 among criminal justice agencies, as defined in section 13.02, subdivision 3a, and the courts.

3.13 Subd. 2. **Disclosure prohibited.** The existence of a sealed criminal record shall
 3.14 not be revealed unless allowed by subdivision 1 or to evaluate a prospective employee
 3.15 in a criminal justice agency. Sealed records must not be destroyed or returned to the
 3.16 subject of the record.

3.17 **Sec. 6. [609C.06] EFFECT OF SEALING.**

3.18 Subdivision 1. **Unlawful discriminatory practice.** It is an unlawful discriminatory
 3.19 practice, unless specifically required or permitted by statute, for any person, agency,
 3.20 bureau, corporation, or association, including the state and any political subdivision of the
 3.21 state, to make any inquiry about, whether in any form of application or otherwise, or to
 3.22 act upon adversely to the individual involved, any sealed or expunged criminal record
 3.23 in connection with the licensing, employment, or providing of credit or insurance to
 3.24 the individual. The provisions of this section do not apply to the licensing activities of
 3.25 governmental bodies in relation to the regulation of guns, firearms, and other deadly
 3.26 weapons or in relation to an application for employment as a police officer or peace officer.

3.27 Subd. 2. **Application.** An application for employment used by an employer which
 3.28 seeks information concerning prior arrests or convictions of the applicant must state that
 3.29 the request for information does not apply to sealed or expunged criminal records.

3.30 **Sec. 7. [609C.07] EXCEPTIONS TO CHAPTER 609C.**

3.31 Subdivision 1. **Domestic abuse data.** This chapter does not apply to domestic
 3.32 abuse data, as defined in section 13.82, subdivision 5, and to court and prosecution data
 3.33 related to a domestic abuse charge.

4.1 Subd. 2. **Data for crime victims.** This chapter does not apply to data for crime
4.2 victims as defined in section 13.82, subdivision 13.

4.3 Subd. 3. **Other exceptions.** This chapter does not apply to arrests or charges for
4.4 crimes listed in section 364.09, paragraph (a), clauses (1) to (3).

4.5 **Sec. 8. [609C.08] EFFECT ON EXISTING STATUTORY EXPUNGEMENT**
4.6 **OR SEALING LAWS.**

4.7 The provisions of this chapter must not be construed to affect or repeal chapter
4.8 609A or section 299C.11.

4.9 **Sec. 9. [609C.09] BUSINESS SCREENING SERVICES; REMOVABLE AND**
4.10 **UNREPORTABLE DATA.**

4.11 Subdivision 1. **Definitions.** For purposes of this section, "business screening
4.12 service" means a person engaged in whole or in part in the practice of collecting,
4.13 assembling, evaluating, compiling, reporting, transmitting, transferring, or communicating
4.14 to third parties, background information on individuals that includes records of arrests,
4.15 citations, criminal proceedings, or convictions involving the individual.

4.16 Subd. 2. **Correction and deletion of records.** (a) If the completeness or accuracy
4.17 of a record involving an arrest, citation, criminal proceeding, or conviction maintained by
4.18 a business screening service is disputed by the individual who is the subject of the record,
4.19 the screening service shall, without charge, investigate the disputed record.

4.20 (b) In conducting an investigation, the business screening service shall review and
4.21 consider all relevant information submitted by the subject of the record with respect to
4.22 the disputed record.

4.23 (c) If, after an investigation, the disputed record is found to be inaccurate or
4.24 incomplete, the business screening service shall modify the record.

4.25 (d) If, after an investigation, the disputed record is found to be sealed, expunged, or
4.26 pardoned, the business screening agency shall promptly delete the record.

4.27 (e) A business screening service may terminate an investigation of a disputed
4.28 record if the business screening agency determines that the dispute is frivolous or
4.29 irrelevant, including by reason of a failure by the subject of the record to provide sufficient
4.30 information to investigate the disputed record. Upon making a determination that the
4.31 dispute is frivolous or irrelevant, the business screening service shall state the specific
4.32 reasons why it has determined that the dispute is frivolous or irrelevant and provide a
4.33 description of any information required to investigate the disputed record.

5.1 (f) The business screening service shall notify the subject of the record of the
5.2 modification, deletion, or termination of the investigation related to the disputed record
5.3 within a 30-day period beginning on the date on which the agency receives the notice of
5.4 the dispute from the subject of the record.

5.5 Subd. 3. **Remedy.** A business screening service that violates this section is liable
5.6 to the individual who is the subject of the record for a penalty of \$10,000 or actual
5.7 damages caused by the violation, whichever is greater, plus costs and disbursements and
5.8 reasonable attorney fees.