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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 2819

February 8, 2010

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

March 4, 2010

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Public Safety Policy and Oversight

March 17, 2010

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

1.1 A bill for an act  
1.2 relating to juvenile records; modifying provisions governing public access to  
1.3 certain juvenile records; limiting release of records with informed consent;  
1.4 amending Minnesota Statutes 2008, section 260B.171, subdivision 5.

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

1.6 Section 1. Minnesota Statutes 2008, section 260B.171, subdivision 5, is amended to  
1.7 read:

1.8 Subd. 5. **Peace officer records of children.** (a) Except for records relating to an  
1.9 offense where the court opens the proceedings ~~are~~ to the public under section 260B.163,  
1.10 subdivision 1, peace officers' records of children who are or may be delinquent or who  
1.11 may be engaged in criminal acts shall be kept separate from records of persons 18  
1.12 years of age or older and are private data but shall be disseminated: (1) by order of the  
1.13 juvenile court, (2) as required by section 121A.28, (3) as authorized under section 13.82,  
1.14 subdivision 2, (4) to the child or the child's parent or guardian unless disclosure of a  
1.15 record would interfere with an ongoing investigation, (5) to the Minnesota crime victims  
1.16 reparations board as required by section 611A.56, subdivision 2, clause (6), for the  
1.17 purpose of processing claims for crime victims reparations, or (6) as otherwise provided in  
1.18 this subdivision. Except as provided in paragraph (c), no photographs of a child taken into  
1.19 custody may be taken without the consent of the juvenile court unless the child is alleged  
1.20 to have violated section 169A.20. Peace officers' records containing data about children  
1.21 who are victims of crimes or witnesses to crimes must be administered consistent with  
1.22 section 13.82, subdivisions 2, 3, 6, and 17. Any person violating any of the provisions of  
1.23 this subdivision shall be guilty of a misdemeanor.

2.1 In the case of computerized records maintained about juveniles by peace officers,  
2.2 the requirement of this subdivision that records about juveniles must be kept separate  
2.3 from adult records does not mean that a law enforcement agency must keep its records  
2.4 concerning juveniles on a separate computer system. Law enforcement agencies may keep  
2.5 juvenile records on the same computer as adult records and may use a common index to  
2.6 access both juvenile and adult records so long as the agency has in place procedures that  
2.7 keep juvenile records in a separate place in computer storage and that comply with the  
2.8 special data retention and other requirements associated with protecting data on juveniles.

2.9 (b) Nothing in this subdivision prohibits the exchange of information by law  
2.10 enforcement agencies if the exchanged information is pertinent and necessary for law  
2.11 enforcement purposes.

2.12 (c) A photograph may be taken of a child taken into custody pursuant to section  
2.13 260B.175, subdivision 1, clause (b), provided that the photograph must be destroyed when  
2.14 the child reaches the age of 19 years. The commissioner of corrections may photograph  
2.15 juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles  
2.16 authorized by this paragraph may be used only for institution management purposes,  
2.17 case supervision by parole agents, and to assist law enforcement agencies to apprehend  
2.18 juvenile offenders. The commissioner shall maintain photographs of juveniles in the same  
2.19 manner as juvenile court records and names under this section.

2.20 (d) Traffic investigation reports are open to inspection by a person who has sustained  
2.21 physical harm or economic loss as a result of the traffic accident. Identifying information  
2.22 on juveniles who are parties to traffic accidents may be disclosed as authorized under  
2.23 section 13.82, subdivision 6, and accident reports required under section 169.09 may be  
2.24 released under section 169.09, subdivision 13, unless the information would identify a  
2.25 juvenile who was taken into custody or who is suspected of committing an offense that  
2.26 would be a crime if committed by an adult, or would associate a juvenile with the offense,  
2.27 and the offense is not an adult court traffic offense under section 260B.225.

2.28 (e) The head of a law enforcement agency or a person specifically given the duty  
2.29 by the head of the law enforcement agency shall notify the superintendent or chief  
2.30 administrative officer of a juvenile's school of an incident occurring within the agency's  
2.31 jurisdiction if:

2.32 (1) the agency has probable cause to believe that the juvenile has committed an  
2.33 offense that would be a crime if committed as an adult, that the victim of the offense is a  
2.34 student or staff member of the school, and that notice to the school is reasonably necessary  
2.35 for the protection of the victim; or

3.1 (2) the agency has probable cause to believe that the juvenile has committed an  
3.2 offense described in subdivision 3, paragraph (a), clauses (1) to (3), that would be a crime  
3.3 if committed by an adult, regardless of whether the victim is a student or staff member  
3.4 of the school.

3.5 A law enforcement agency is not required to notify the school under this paragraph  
3.6 if the agency determines that notice would jeopardize an ongoing investigation. For  
3.7 purposes of this paragraph, "school" means a public or private elementary, middle,  
3.8 secondary, or charter school.

3.9 (f) In any county in which the county attorney operates or authorizes the operation  
3.10 of a juvenile prepetition or pretrial diversion program, a law enforcement agency or  
3.11 county attorney's office may provide the juvenile diversion program with data concerning  
3.12 a juvenile who is a participant in or is being considered for participation in the program.

3.13 (g) Upon request of a local social services agency, peace officer records of  
3.14 children who are or may be delinquent or who may be engaged in criminal acts may be  
3.15 disseminated to the agency to promote the best interests of the subject of the data.

3.16 (h) Upon written request, the prosecuting authority shall release investigative data  
3.17 collected by a law enforcement agency to the victim of a criminal act or alleged criminal  
3.18 act or to the victim's legal representative, except as otherwise provided by this paragraph.  
3.19 Data shall not be released if:

3.20 (1) the release to the individual subject of the data would be prohibited under  
3.21 section 13.821; or

3.22 (2) the prosecuting authority reasonably believes:

3.23 (i) that the release of that data will interfere with the investigation; or

3.24 (ii) that the request is prompted by a desire on the part of the requester to engage in  
3.25 unlawful activities.

3.26 (i) A consent to the release of a peace officer record governed by this subdivision  
3.27 from the individual who is the subject of the record is not effective and a law enforcement  
3.28 agency must not release the record or release information in a manner that reveals the  
3.29 existence of the record.