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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2958

03/10/2016 Authored by Hertaus and Albright

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to criminal justice; expanding law enforcement access to financial
1.3 records in certain limited circumstances; amending Minnesota Statutes 2014,
1.4 sections 13A.01, subdivision 3; 13A.02, subdivisions 1, 2; 609.527, subdivision
1.5 1, by adding a subdivision; 626.15.

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

1.7 Section 1. Minnesota Statutes 2014, section 13A.01, subdivision 3, is amended to read:

1.8 Subd. 3. Financial record. "Financial record" means an original of, a copy of, or
1.9 information known to have been derived from, any record held by a financial institution
1.10 pertaining to a customer's relationship with the financial institution. To the extent
1.11 available, the term includes a video or image recording of a transaction or attempted
1.12 transaction involving a customer's account with the financial institution.

1.13 Sec. 2. Minnesota Statutes 2014, section 13A.02, subdivision 1, is amended to read:

1.14 Subdivision 1. Access by government. Except as authorized by this chapter,
1.15 no government authority may have access to, or obtain copies of, or the information
1.16 contained in, the financial records of any customer from a financial institution unless the
1.17 financial records are reasonably described and:

- 1.18 (1) the customer has authorized the disclosure;
1.19 (2) the financial records are disclosed in response to a search warrant;
1.20 (3) the financial records are disclosed in response to a judicial or administrative
1.21 subpoena;
1.22 (4) the financial records are disclosed to law enforcement, a lead investigative
1.23 agency as defined in section 626.5572, subdivision 13, or prosecuting authority that is

2.1 investigating financial exploitation of a vulnerable adult in response to a judicial subpoena
 2.2 or administrative subpoena under section 388.23; or

2.3 (5) the financial records are disclosed pursuant to section 609.527 or 609.535 or
 2.4 other statute or rule.

2.5 Sec. 3. Minnesota Statutes 2014, section 13A.02, subdivision 2, is amended to read:

2.6 Subd. 2. **Release prohibited.** No financial institution, or officer, employee, or
 2.7 agent of a financial institution, may provide to any government authority access to, or
 2.8 copies of, or the information contained in, the financial records of any customer except in
 2.9 accordance with the provisions of this chapter.

2.10 Nothing in this chapter shall require a financial institution to inquire or determine that
 2.11 those seeking disclosure have duly complied with the requirements of this chapter, provided
 2.12 only that the customer authorization, search warrant, subpoena, or written certification
 2.13 pursuant to section 609.527, subdivision 8; 609.535, subdivision 6; 626.557; or other
 2.14 statute or rule, served on or delivered to a financial institution shows compliance on its face.

2.15 Sec. 4. Minnesota Statutes 2014, section 609.527, subdivision 1, is amended to read:

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

2.18 (b) "Direct victim" means any person or entity described in section 611A.01,
 2.19 paragraph (b), whose identity has been transferred, used, or possessed in violation of
 2.20 this section.

2.21 (c) "False pretense" means any false, fictitious, misleading, or fraudulent information
 2.22 or pretense or pretext depicting or including or deceptively similar to the name, logo, Web
 2.23 site address, e-mail address, postal address, telephone number, or any other identifying
 2.24 information of a for-profit or not-for-profit business or organization or of a government
 2.25 agency, to which the user has no legitimate claim of right.

2.26 (d) "Financial institution" has the meaning given in section 13A.01, subdivision 2.

2.27 ~~(d)~~ (e) "Identity" means any name, number, or data transmission that may be used,
 2.28 alone or in conjunction with any other information, to identify a specific individual or
 2.29 entity, including any of the following:

2.30 (1) a name, Social Security number, date of birth, official government-issued driver's
 2.31 license or identification number, government passport number, or employer or taxpayer
 2.32 identification number;

2.33 (2) unique electronic identification number, address, account number, or routing
 2.34 code; or

3.1 (3) telecommunication identification information or access device.

3.2 ~~(e)~~ (f) "Indirect victim" means any person or entity described in section 611A.01,
3.3 paragraph (b), other than a direct victim.

3.4 ~~(f)~~ (g) "Loss" means value obtained, as defined in section 609.52, subdivision 1,
3.5 clause (3), and expenses incurred by a direct or indirect victim as a result of a violation
3.6 of this section.

3.7 ~~(g)~~ (h) "Unlawful activity" means:

3.8 (1) any felony violation of the laws of this state or any felony violation of a similar
3.9 law of another state or the United States; and

3.10 (2) any nonfelony violation of the laws of this state involving theft, theft by swindle,
3.11 forgery, fraud, or giving false information to a public official, or any nonfelony violation
3.12 of a similar law of another state or the United States.

3.13 ~~(h)~~ (i) "Scanning device" means a scanner, reader, or any other electronic device
3.14 that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently,
3.15 information encoded on a computer chip or magnetic strip or stripe of a payment card,
3.16 driver's license, or state-issued identification card.

3.17 ~~(i)~~ (j) "Reencoder" means an electronic device that places encoded information
3.18 from the computer chip or magnetic strip or stripe of a payment card, driver's license,
3.19 or state-issued identification card, onto the computer chip or magnetic strip or stripe
3.20 of a different payment card, driver's license, or state-issued identification card, or any
3.21 electronic medium that allows an authorized transaction to occur.

3.22 ~~(j)~~ (k) "Payment card" means a credit card, charge card, debit card, or any other
3.23 card that:

3.24 (1) is issued to an authorized card user; and

3.25 (2) allows the user to obtain, purchase, or receive credit, money, a good, a service, or
3.26 anything of value.

3.27 Sec. 5. Minnesota Statutes 2014, section 609.527, is amended by adding a subdivision
3.28 to read:

3.29 **Subd. 8. Release of limited account information to law enforcement authorities.**

3.30 (a) A financial institution shall release the information described in paragraph (b) to a
3.31 law enforcement or prosecuting authority that certifies in writing that it is investigating
3.32 or prosecuting a crime under this section.

3.33 (b) This subdivision applies to requests for the following information relating to a
3.34 potential victim's account:

3.35 (1) the name of the account holder or holders;

- 4.1 (2) whether the account remains open;
 4.2 (3) whether there are any payment cards that can access the account and if they are
 4.3 currently activated; and
 4.4 (4) the last known home address and telephone numbers of the account holder
 4.5 or holders.
 4.6 (c) A financial institution shall release the information requested under this
 4.7 subdivision that it possesses within a reasonable time after the request. The financial
 4.8 institution may not impose a fee for furnishing this information.
 4.9 (d) A financial institution is not liable in a criminal or civil proceeding for releasing
 4.10 information in accordance with this subdivision.

4.11 Sec. 6. Minnesota Statutes 2014, section 626.15, is amended to read:

4.12 **626.15 EXECUTION AND RETURN OF WARRANT; TIME.**

4.13 (a) Except as provided in paragraph (b), a search warrant must be executed and
 4.14 returned to the court which issued it within ten days after its date. After the expiration of
 4.15 this time, the warrant is void unless previously executed.

4.16 (b) A search warrant on a financial institution for financial records is valid for
 4.17 30 days. A district court judge may grant an extension of a the warrant on a financial
 4.18 institution for financial records upon an application under oath stating that the financial
 4.19 institution has not produced the requested financial records within ten days the 30-day
 4.20 period and that an extension is necessary to achieve the purposes for which the search
 4.21 warrant was granted. Each extension may not exceed 30 days.

4.22 For the purposes of this paragraph, "financial institution" has the meaning given in
 4.23 section 13A.01, subdivision 2, and "financial records" has the meaning given in section
 4.24 13A.01, subdivision 3.