

Sec. 2. EFFECTIVE DATE.

Section 1 is effective August 1, 1997, and applies to causes of action arising on or after that date.

Presented to the governor May 20, 1997

Signed by the governor May 22, 1997, 12:15 p.m.

CHAPTER 214—S.F.No. 294

An act relating to peace officers; requiring law enforcement agencies to do background investigations for applicants for employment as peace officers; requiring employers to disclose personnel records for law enforcement background investigations; providing immunity for employers who disclose information to law enforcement; requiring notice to the POST board when a background investigation is initiated; authorizing sharing of data on subjects of background investigations; amending Minnesota Statutes 1996, sections 13.41, subdivision 2a; 13.43, by adding a subdivision; 604A.31, subdivision 3; and 626.845, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 626.

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

Section 1. Minnesota Statutes 1996, section 13.41, subdivision 2a, is amended to read:

Subd. 2a. **BOARD OF PEACE OFFICER STANDARDS AND TRAINING.** The following government data of the board of peace officer standards and training are private data:

- (1) home addresses of licensees and applicants for licenses; and
- (2) data that identify the state agency, statewide system, or political subdivision that employs a licensed peace officer.

The board may disseminate private data on applicants and licensees as is necessary to administer law enforcement licensure or to provide data under section 626.845, subdivision 1, to law enforcement agencies who are conducting employment background investigations.

Sec. 2. Minnesota Statutes 1996, section 13.43, is amended by adding a subdivision to read:

Subd. 12. **SHARING OF LAW ENFORCEMENT PERSONNEL BACKGROUND INVESTIGATION DATA.** A law enforcement agency shall share data from a background investigation done under section 626.87 with the peace officer standards and training board or with a law enforcement agency doing an investigation of the subject of the data under section 626.87.

Sec. 3. Minnesota Statutes 1996, section 604A.31, subdivision 3, is amended to read:

Subd. 3. **BACKGROUND CHECKS.** (a) Certain persons who issue certificates in conjunction with gun permit background checks are immune from liability as provided in section 624.713, subdivision 1.

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(b) Employers who provide information in conjunction with background investigations of applicants for employment with a law enforcement agency are immune from civil liability as provided in section 626.87, subdivision 4.

Sec. 4. Minnesota Statutes 1996, section 626.845, subdivision 1, is amended to read:

Subdivision 1. **POWERS AND DUTIES.** The board shall have the following powers and duties:

(a) To certify peace officers' training schools or programs administered by state, county and municipalities located within this state in whole or in part no later than 90 days after receipt of an application for certification. The reasons for noncertification of any school or program or part thereof shall be transmitted to the school within 90 days and shall contain a detailed explanation of the reasons for which the school or program was disapproved and an explanation of what supporting material or other requirements are necessary for the board to reconsider. Disapproval of a school or program shall not preclude the reapplication for certification of the school or program;

(b) To issue certificates to schools, and to revoke such certification when necessary to maintain the objectives and purposes of sections 626.841 to 626.855;

(c) To certify, as qualified, instructors at peace officer training schools, and to issue appropriate certificates to such instructors;

(d) To license peace officers who have satisfactorily completed certified basic training programs, and passed examinations as required by the board;

(e) To cause studies and surveys to be made relating to the establishment, operation, and approval of state, county, and municipal peace officer training schools;

(f) To consult and cooperate with state, county, and municipal peace officer training schools for the development of in-service training programs for peace officers;

(g) To consult and cooperate with universities, colleges, and technical colleges for the development of specialized courses of instruction and study in the state for peace officers and part-time peace officers in police science and police administration;

(h) To consult and cooperate with other departments and agencies of the state and federal government concerned with peace officer standards and training;

(i) To perform such other acts as may be necessary and appropriate to carry out the powers and duties as set forth in the provisions of sections 626.841 to 626.855;

(j) To coordinate the provision, on a regional basis, of skills oriented basic training courses to graduates of certified law enforcement training schools or programs;

(k) To obtain criminal conviction data for persons seeking a license to be issued or possessing a license issued by the board. The board shall have authority to obtain criminal conviction data to the full extent that any other law enforcement agency, as that term is defined by state or federal law, has to obtain the data;

(l) To prepare and transmit annually to the governor and the legislature a report of its activities with respect to allocation of moneys appropriated to it for peace officers training, including the name and address of each recipient of money for that purpose, the amount awarded, and the purpose of the award;

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(m) To assist and cooperate with any political subdivision or state law enforcement agency which employs persons licensed by the board to establish written procedures for the investigation and resolution of allegations of misconduct of persons licensed by the board, and to enforce licensing sanctions for failure to implement such procedures; and

(n) To assist and cooperate with political subdivisions and state law enforcement agencies that employ persons licensed by the board in establishing written procedures to govern the conduct of peace officers who are in pursuit of a vehicle in violation of section 609.487, and requirements for the training of peace officers in conducting pursuits. The board may impose licensing sanctions for failure to establish pursuit procedures and training requirements by October 1, 1989.

In addition, the board may maintain data received from law enforcement agencies under section 626.87, subdivision 5, provide the data to requesting law enforcement agencies who are conducting background investigations, and maintain data on applicants and licensees as part of peace officer license data. The data that may be maintained include the name of the law enforcement agency conducting the investigation and data on the candidate provided under section 626.87, subdivision 5, clauses (1) and (2).

Sec. 5. ~~[626.87]~~ LAW ENFORCEMENT BACKGROUND INVESTIGATIONS.

Subdivision 1. BACKGROUND INVESTIGATION REQUIRED. (a) A law enforcement agency shall conduct a thorough background investigation on an applicant for employment as a licensed peace officer or an applicant for a position leading to employment as a licensed peace officer before the applicant may be employed. The background investigation must determine at a minimum whether the candidate meets the following standards:

(1) standards established by the Minnesota board of peace officer standards and training; and

(2) established security standards for access to state and national computerized record and communication systems.

(b) This requirement does not prevent a law enforcement agency from establishing higher standards for law enforcement employees if those standards are not contrary to applicable law.

Subd. 2. DISCLOSURE OF EMPLOYMENT INFORMATION. Upon request of a law enforcement agency, an employer shall disclose or otherwise make available for inspection employment information of an employee or former employee who is the subject of an investigation under subdivision 1. The request for disclosure of employment information must be in writing, must be accompanied by an original authorization and release signed by the employee or former employee, and must be signed by a sworn peace officer or other authorized representative of the law enforcement agency conducting the background investigation.

Subd. 3. REFUSAL TO DISCLOSE A PERSONNEL RECORD. If an employer refuses to disclose employment information in accordance with this section, upon request the district court may issue an ex parte order directing the disclosure of the employment information. The request must be made by a sworn peace officer from the law enforcement agency conducting the background investigation and must include a copy of

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the original request for disclosure made upon the employer or former employer and the authorization and release signed by the employee or former employee. The request must be signed by the peace officer requesting the order and an attorney representing the state or the political subdivision on whose behalf the background investigation is being conducted. It is not necessary for the request or the order to be filed with the court administrator. Failure to comply with the court order subjects the person who fails to comply to civil or criminal contempt of court.

Subd. 4. IMMUNITY FROM LIABILITY. In the absence of fraud or malice, an employer is immune from civil liability for employment information released to a law enforcement agency under this section, or for any subsequent publication made by the employee or former employee of employment information released to a law enforcement agency under this section.

Subd. 5. NOTICE OF INVESTIGATION. Upon initiation of a background investigation under this section, the law enforcement agency shall give written notice to the peace officer standards and training board of:

- (1) the candidate's full name and date of birth; and
- (2) the candidate's peace officer license number, if known.

The initiation of a background investigation does not include the submission of an application for employment. Initiation of a background investigation occurs when the law enforcement agency begins its determination of whether an applicant meets the agency's standards for employment as a law enforcement employee.

Subd. 6. CONFIDENTIALITY AGREEMENTS. If employment information is subject to a confidentiality agreement between the employee or former employee and the employer, the employer shall disclose the fact that such an agreement exists. If the employee or former employee has authorized the release of employment information without regard to any previous agreement to the contrary, the employer shall also disclose the employment information in accordance with subdivision 2. If employment information is sealed or otherwise subject to a nondisclosure order by a court of competent jurisdiction, the employer shall disclose the fact that such an order exists, along with information identifying the court and court's file number.

Subd. 7. EMPLOYMENT INFORMATION. For purposes of this section, "employment information" means written information in connection with job applications, performance evaluations, attendance records, disciplinary actions, and eligibility for re-hire.

Subd. 8. APPLICATION. For purposes of this section, "employer" does not include an entity that is subject to chapter 13.

Sec. 6. EFFECTIVE DATE.

Section 4 is effective July 1, 1998.

Presented to the governor May 20, 1997

Signed by the governor May 22, 1997, 12:18 p.m.

New language is indicated by underline, deletions by strikeout.