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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1152

02/15/2021 Authored by Long, Garofalo, Pinto, Vang, Hertaus and others
The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; establishing the Clean Slate Act; providing for an
1.3 automatic expungement process for certain offenders; amending Minnesota Statutes
1.4 2020, sections 609A.01; 609A.02, subdivision 3, by adding a subdivision;
1.5 609A.025; 609A.03, subdivisions 5, 7a, 9; 611A.03, subdivision 1; proposing
1.6 coding for new law in Minnesota Statutes, chapter 609A.

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

1.8 Section 1. TITLE.

1.9 This act may be referred to as the "Clean Slate Act."

1.10 Sec. 2. Minnesota Statutes 2020, section 609A.01, is amended to read:

1.11 609A.01 EXPUNGEMENT OF CRIMINAL RECORDS.

1.12 This chapter provides the grounds and procedures for expungement of criminal records
1.13 under section 13.82; 152.18, subdivision 1; 299C.11, where expungement is automatic under
1.14 section 609A.015, subdivision 1, or a petition is authorized under section 609A.02,
1.15 subdivision 3; or other applicable law. The remedy available is limited to a court order
1.16 sealing the records and prohibiting the disclosure of their existence or their opening except
1.17 under court order or statutory authority. Nothing in this chapter authorizes the destruction
1.18 of records or their return to the subject of the records.

1.19 EFFECTIVE DATE. This section is effective August 1, 2021, and applies to individuals
1.20 sentenced on or after that date.

2.1 Sec. 3. **[609A.015] AUTOMATIC EXPUNGEMENT OF RECORDS.**

2.2 **Subdivision 1. Eligibility; dismissal; exoneration.** A person who is the subject of a
2.3 criminal record or delinquency record is eligible for a grant of expungement relief without
2.4 the filing of a petition:

2.5 (1) upon the dismissal and discharge of proceedings against a person under section
2.6 152.18, subdivision 1, for violation of section 152.024, 152.025, or 152.027 for possession
2.7 of a controlled substance;

2.8 (2) if the person was arrested and all charges were dismissed prior to a determination
2.9 of probable cause; or

2.10 (3) if all pending actions or proceedings were resolved in favor of the person. For
2.11 purposes of this chapter, a verdict of not guilty by reason of mental illness is not a resolution
2.12 in favor of the person. For purposes of this chapter, an action or proceeding is resolved in
2.13 favor of the person if the petitioner received an order under section 590.11 determining that
2.14 the person is eligible for compensation based on exoneration.

2.15 **Subd. 2. Eligibility; diversion and stay of adjudication.** A person is eligible for a grant
2.16 of expungement relief if the person has successfully completed the terms of a diversion
2.17 program or stay of adjudication and has not been petitioned or charged with a new crime
2.18 for one year immediately following completion of the diversion program or stay of
2.19 adjudication.

2.20 **Subd. 3. Eligibility; certain criminal and delinquency proceedings.** (a) A person is
2.21 eligible for a grant of expungement relief if the person:

2.22 (1) was adjudicated delinquent for, convicted of, or received a stayed sentence for a
2.23 qualifying offense other than one that may be used to enhance a criminal penalty;

2.24 (2) has not been convicted of a new crime in Minnesota during the applicable waiting
2.25 period immediately following discharge of the disposition or sentence for the crime;

2.26 (3) is not incarcerated or charged with an offense in Minnesota at the time the person
2.27 reaches the end of the applicable waiting period; and

2.28 (4) has not been convicted of a new crime in any other jurisdiction during the applicable
2.29 waiting period immediately following discharge of the disposition or sentence for the crime,
2.30 if the qualifying offense was a felony.

2.31 (b) As used in this subdivision, "qualifying offense" means an adjudication, conviction,
2.32 or stayed sentence for:

- 3.1 (1) any petty misdemeanor offense other than a violation of a traffic regulation relating
3.2 to the operation or parking of motor vehicles;
- 3.3 (2) any misdemeanor offense other than:
- 3.4 (i) section 169A.27 (fourth-degree driving while impaired);
- 3.5 (ii) section 518B.01, subdivision 14 (violation of an order for protection);
- 3.6 (iii) section 609.224 (assault in the fifth degree);
- 3.7 (iv) section 609.2242 (domestic assault);
- 3.8 (v) section 609.748 (violation of a harassment restraining order);
- 3.9 (vi) section 609.78 (interference with emergency call);
- 3.10 (vii) section 609.79 (obscene or harassing phone calls);
- 3.11 (viii) section 617.23 (indecent exposure); or
- 3.12 (ix) section 629.75 (violation of domestic abuse no contact order);
- 3.13 (3) any gross misdemeanor offense other than:
- 3.14 (i) section 169A.27 (third-degree driving while impaired);
- 3.15 (ii) section 518B.01, subdivision 14 (violation of an order for protection);
- 3.16 (iii) section 609.2231 (assault in the fourth degree);
- 3.17 (iv) section 609.224 (assault in the fifth degree);
- 3.18 (v) section 609.2242 (domestic assault);
- 3.19 (vi) section 609.233 (criminal neglect);
- 3.20 (vii) section 609.3451 (criminal sexual conduct in the fifth degree);
- 3.21 (viii) section 609.377 (malicious punishment of child);
- 3.22 (ix) section 609.485 (escape from custody);
- 3.23 (x) section 609.498 (tampering with witness);
- 3.24 (xi) section 609.582, subdivision 4 (burglary in the fourth degree);
- 3.25 (xii) section 609.746 (interference with privacy);
- 3.26 (xiii) section 609.748 (violation of a harassment restraining order);
- 3.27 (xiv) section 609.749 (harassment; stalking);

- 4.1 (xv) section 609.78 (interference with emergency call);
- 4.2 (xvi) section 617.23 (indecent exposure);
- 4.3 (xvii) section 617.261 (nonconsensual dissemination of private sexual images); or
- 4.4 (xviii) section 629.75 (violation of domestic abuse no contact order); and
- 4.5 (4) any of the following felony offenses:
- 4.6 (i) section 152.025 (controlled substance crime in the fifth degree);
- 4.7 (ii) section 152.097 (simulated controlled substances);
- 4.8 (iii) section 256.98 (wrongfully obtaining assistance; theft);
- 4.9 (iv) section 256.984 (false declaration in assistance application);
- 4.10 (v) any offense sentenced under section 609.52, subdivision 3, clause (3)(a) (theft of
- 4.11 \$5,000 or less);
- 4.12 (vi) any offense sentenced under section 609.528, subdivision 3, clause (3) (possession
- 4.13 or sale of stolen or counterfeit check);
- 4.14 (vii) section 609.529 (mail theft);
- 4.15 (viii) section 609.53 (receiving stolen property);
- 4.16 (ix) any offense sentenced under section 609.535, subdivision 2a, paragraph (a), clause
- 4.17 (1) (dishonored check over \$500);
- 4.18 (x) section 609.59 (possession of burglary tools);
- 4.19 (xi) section 609.595, subdivision 1, clauses (3) to (5) (criminal damage to property);
- 4.20 (xii) section 609.63 (forgery);
- 4.21 (xiii) any offense sentenced under section 609.631, subdivision 4, clause (3)(a) (check
- 4.22 forgery \$2,500 or less); and
- 4.23 (xiv) any offense sentenced under section 609.821, subdivision 3, paragraph (a), clause
- 4.24 (1), item (iii) (financial transaction card fraud).
- 4.25 (c) As used in this subdivision, "applicable waiting period" means:
- 4.26 (1) if the offense was a petty misdemeanor or a misdemeanor, two years;
- 4.27 (2) if the offense was a gross misdemeanor, four years; and
- 4.28 (3) if the offense was a felony, five years.

5.1 (d) Offenses ineligible for an order of expungement under this section remain ineligible
5.2 if deemed to be for a misdemeanor pursuant to section 609.13, subdivision 1, clause (2) or
5.3 subdivision 2, clause (2).

5.4 Subd. 4. Bureau of Criminal Apprehension to identify eligible persons and grant
5.5 expungement relief. (a) The Bureau of Criminal Apprehension shall identify adjudications
5.6 and convictions that qualify for a grant of expungement relief pursuant to this subdivision
5.7 or subdivision 1, 2, or 3.

5.8 (b) The Bureau of Criminal Apprehension shall grant expungement relief to qualifying
5.9 persons and seal its own records without requiring an application, petition, or motion.

5.10 (c) Nonpublic criminal records maintained by the Bureau of Criminal Apprehension and
5.11 subject to a grant of expungement relief shall display a notation stating "expungement relief
5.12 granted pursuant to section 609A.015."

5.13 (d) The Bureau of Criminal Apprehension shall inform the judicial branch of all cases
5.14 for which expungement relief was granted pursuant to this section. Notification may be
5.15 through electronic means and may be made in real time or in the form of a monthly report.
5.16 Upon receipt of notice, the judicial branch shall seal all records relating to an arrest,
5.17 indictment or information, trial, verdict, or dismissal and discharge for any case in which
5.18 expungement relief was granted.

5.19 (e) The Bureau of Criminal Apprehension shall inform each agency and jurisdiction
5.20 whose records are affected by the grant of expungement relief. Notification may be through
5.21 electronic means and may be made in real time or in the form of a monthly report. Each
5.22 agency shall seal all records relating to an arrest, indictment or information, trial, verdict,
5.23 or dismissal and discharge for any case in which expungement relief was granted.

5.24 (f) Ninety days before the grant of expungement relief, the Bureau of Criminal
5.25 Apprehension shall make a reasonable effort to send a letter to the last known address of
5.26 the person whose offense will be expunged, notifying that person:

5.27 (1) of the offense that qualifies;

5.28 (2) of the date on which the Bureau of Criminal Apprehension expects to grant
5.29 expungement relief;

5.30 (3) that an expunged record of a conviction may be opened for purposes of a background
5.31 study by the Department of Human Services under section 245C.08 and for purposes of a
5.32 background check by the Professional Educator Licensing and Standards Board and the
5.33 Board of School Administrators as required under section 122A.18, subdivision 8; and

6.1 (4) that the person can file a petition to expunge the record and request that it be directed
6.2 to the commissioner of human services, the Professional Educator Licensing and Standards
6.3 Board, or the licensing division of the Department of Education.

6.4 (g) Data on the person whose offense has been expunged under this subdivision are
6.5 private data on individuals as defined in section 13.02.

6.6 (h) The prosecuting attorney shall notify the victim that an offense qualifies for automatic
6.7 expungement under this section in the manner provided in section 611A.03, subdivisions
6.8 1 and 2.

6.9 (i) In any subsequent prosecution of a person granted expungement relief, the expunged
6.10 criminal record may be pleaded and has the same effect as if the relief had not been granted.

6.11 (j) The Bureau of Criminal Apprehension is directed to develop a system to provide
6.12 criminal justice agencies with uniform statewide access to criminal records sealed by
6.13 expungement.

6.14 (k) At sentencing, the prosecuting agency with jurisdiction over the criminal record may
6.15 ask the court to prohibit the Bureau of Criminal Apprehension from granting expungement
6.16 relief under this section. The court shall grant the request upon a showing of clear and
6.17 convincing evidence that the interests of the public and public safety outweigh the
6.18 disadvantages to the defendant of not sealing the record.

6.19 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to individuals
6.20 sentenced on or after that date.

6.21 Sec. 4. Minnesota Statutes 2020, section 609A.02, is amended by adding a subdivision to
6.22 read:

6.23 Subd. 2a. **Expungement of arrest.** A petition may be filed under section 609A.03 to
6.24 seal all records relating to an arrest if:

6.25 (1) the prosecuting authority declined to file any charges and a grand jury did not return
6.26 an indictment; and

6.27 (2) the applicable limitations period under section 628.26 has expired, and no indictment
6.28 or complaint was found or made and filed against the person.

6.29 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to individuals
6.30 sentenced on or after that date.

7.1 Sec. 5. Minnesota Statutes 2020, section 609A.02, subdivision 3, is amended to read:

7.2 Subd. 3. **Certain criminal proceedings.** (a) A petition may be filed under section
7.3 609A.03 to seal all records relating to an arrest, indictment or information, trial, or verdict
7.4 if the records are not subject to section 299C.11, subdivision 1, paragraph (b), and if:

7.5 (1) all pending actions or proceedings were resolved in favor of the petitioner. For
7.6 purposes of this chapter, a verdict of not guilty by reason of mental illness is not a resolution
7.7 in favor of the petitioner. For the purposes of this chapter, an action or proceeding is resolved
7.8 in favor of the petitioner, if the petitioner received an order under section 590.11 determining
7.9 that the petitioner is eligible for compensation based on exoneration;

7.10 (2) the petitioner has successfully completed the terms of a diversion program or stay
7.11 of adjudication and has not been charged with a new crime for at least one year since
7.12 completion of the diversion program or stay of adjudication;

7.13 (3) the petitioner was convicted of or received a stayed sentence for a petty misdemeanor
7.14 or misdemeanor and has not been convicted of a new crime for at least two years since
7.15 discharge of the sentence for the crime;

7.16 (4) the petitioner was convicted of or received a stayed sentence for a gross misdemeanor
7.17 and has not been convicted of a new crime for at least four years since discharge of the
7.18 sentence for the crime; or

7.19 (5) the petitioner was convicted of or received a stayed sentence for a felony violation
7.20 of an offense listed in paragraph (b), and has not been convicted of a new crime for at least
7.21 five years since discharge of the sentence for the crime.

7.22 (b) Paragraph (a), clause (5), applies to the following offenses:

7.23 (1) section 35.824 (altering livestock certificate);

7.24 (2) section 62A.41 (insurance regulations);

7.25 (3) section 86B.865, subdivision 1 (certification for title on watercraft);

7.26 (4) section 152.025 (controlled substance in the fifth degree); or 152.097 (sale of
7.27 simulated controlled substance);

7.28 (5) section 168A.30, subdivision 1 (certificate of title false information); or 169.09,
7.29 subdivision 14, paragraph (a), clause (2) (accident resulting in great bodily harm);

7.30 (6) chapter 201; 203B; or 204C (voting violations);

7.31 (7) section 228.45; 228.47; 228.49; 228.50; or 228.51 (false bill of lading);

- 8.1 ~~(8)~~ (8) section 256.98 (wrongfully obtaining assistance);
- 8.2 ~~(9)~~ (9) section 256.984 (false declaration in assistance application);
- 8.3 ~~(9)~~ (10) section 296A.23, subdivision 2 (willful evasion of fuel tax);
- 8.4 ~~(10)~~ (11) section 297D.09, subdivision 1 (failure to affix stamp on scheduled substances);
- 8.5 ~~(11)~~ (12) section 297G.19 (liquor taxation); or 340A.701 (unlawful acts involving liquor);
- 8.6 ~~(12)~~ (13) section 325F.743 (precious metal dealers); or 325F.755, subdivision 7 (prize
- 8.7 notices and solicitations);
- 8.8 ~~(13)~~ (14) section 346.155, subdivision 10 (failure to control regulated animal);
- 8.9 ~~(14)~~ (15) section 349.2127; or 349.22 (gambling regulations);
- 8.10 ~~(15)~~ (16) section 588.20 (contempt);
- 8.11 ~~(16)~~ (17) section 609.27, subdivision 1, clauses (2) to (5) (coercion);
- 8.12 ~~(17)~~ (18) section 609.31 (leaving state to evade establishment of paternity);
- 8.13 ~~(18)~~ (19) section 609.485, subdivision 4, paragraph (a), clause (2) or (4) (escape from
- 8.14 civil commitment for mental illness);
- 8.15 ~~(19)~~ (20) section 609.49 (failure to appear in court);
- 8.16 ~~(20)~~ (21) section 609.52, subdivision 3, clause (3)(a) (theft of \$5,000 or less), or other
- 8.17 theft offense that is sentenced under this provision; 609.52, subdivision 3, clause (2) (theft
- 8.18 of \$5,000 to \$35,000); or 609.52, subdivision 3a, clause (1) (theft of \$1,000 or less with
- 8.19 risk of bodily harm);
- 8.20 ~~(21)~~ (22) section 609.525 (bringing stolen goods into state);
- 8.21 ~~(22)~~ (23) section 609.526, subdivision 2, clause (2) (metal dealer receiving stolen goods);
- 8.22 ~~(23)~~ (24) section 609.527, subdivision 5b (possession or use of scanning device or
- 8.23 reencoder); 609.528, subdivision 3, clause (3) (possession or sale of stolen or counterfeit
- 8.24 check); or 609.529 (mail theft);
- 8.25 ~~(24)~~ (25) section 609.53 (receiving stolen goods);
- 8.26 ~~(25)~~ (26) section 609.535, subdivision 2a, paragraph (a), clause (1) (dishonored check
- 8.27 over \$500);
- 8.28 ~~(26)~~ (27) section 609.54, clause (1) (embezzlement of public funds \$2,500 or less);
- 8.29 ~~(27)~~ (28) section 609.551 (rustling and livestock theft);

- 9.1 ~~(28)~~ (29) section 609.5641, subdivision 1a, paragraph (a) (wildfire arson);
- 9.2 ~~(29)~~ (30) section 609.576, subdivision 1, clause (3), item (iii) (negligent fires);
- 9.3 (31) section 609.59 (possession of burglary or theft tools);
- 9.4 ~~(30)~~ (32) section 609.595, subdivision 1, clauses (3) to (5), ~~and subdivision 1a, paragraph~~
- 9.5 ~~(a) (criminal damage to property);~~
- 9.6 ~~(31)~~ (33) section 609.597, subdivision 3, clause (3) (assaulting or harming police horse);
- 9.7 ~~(32)~~ (34) section 609.625 (aggravated forgery); 609.63 (forgery); 609.631, subdivision
- 9.8 4, clause (3)(a) (check forgery \$2,500 or less); 609.635 (obtaining signature by false
- 9.9 pretense); 609.64 (recording, filing forged instrument); or 609.645 (fraudulent statements);
- 9.10 ~~(33)~~ (35) section 609.65, clause (1) (false certification by notary); or 609.651, subdivision
- 9.11 4, paragraph (a) (lottery fraud);
- 9.12 ~~(34)~~ (36) section 609.652 (fraudulent driver's license and identification card);
- 9.13 ~~(35)~~ (37) section 609.66, subdivision 1a, paragraph (a) (discharge of firearm; silencer);
- 9.14 or 609.66, subdivision 1b (furnishing firearm to minor);
- 9.15 ~~(36)~~ (38) section 609.662, subdivision 2, paragraph (b) (duty to render aid);
- 9.16 ~~(37)~~ (39) section 609.686, subdivision 2 (tampering with fire alarm);
- 9.17 ~~(38)~~ (40) section 609.746, subdivision 1, paragraph (e) (interference with privacy;
- 9.18 subsequent violation or minor victim);
- 9.19 ~~(39)~~ (41) section 609.80, subdivision 2 (interference with cable communications system);
- 9.20 ~~(40)~~ (42) section 609.821, subdivision 2 (financial transaction card fraud);
- 9.21 ~~(41)~~ (43) section 609.822 (residential mortgage fraud);
- 9.22 ~~(42)~~ (44) section 609.825, subdivision 2 (bribery of participant or official in contest);
- 9.23 ~~(43)~~ (45) section 609.855, subdivision 2, paragraph (c), clause (1) (interference with
- 9.24 transit operator);
- 9.25 ~~(44)~~ (46) section 609.88 (computer damage); or 609.89 (computer theft);
- 9.26 ~~(45)~~ (47) section 609.893, subdivision 2 (telecommunications and information services
- 9.27 fraud);
- 9.28 ~~(46)~~ (48) section 609.894, subdivision 3 or 4 (cellular counterfeiting);

10.1 ~~(47)~~ (49) section 609.895, subdivision 3, paragraph (a) or (b) (counterfeited intellectual
10.2 property);

10.3 ~~(48)~~ (50) section 609.896 (movie pirating);

10.4 ~~(49)~~ (51) section 624.7132, subdivision 15, paragraph (b) (transfer pistol to minor);
10.5 624.714, subdivision 1a (pistol without permit; subsequent violation); or 624.7141,
10.6 subdivision 2 (transfer of pistol to ineligible person); or

10.7 ~~(50)~~ (52) section 624.7181 (rifle or shotgun in public by minor).

10.8 **EFFECTIVE DATE.** This section is effective August 1, 2021.

10.9 Sec. 6. Minnesota Statutes 2020, section 609A.025, is amended to read:

10.10 **609A.025 NO PETITION REQUIRED IN CERTAIN CASES WITH**
10.11 **PROSECUTOR AGREEMENT AND NOTIFICATION.**

10.12 (a) If the prosecutor agrees to the sealing of a criminal record, the court shall seal the
10.13 criminal record for a person described in section 609A.02, subdivision 3, without the filing
10.14 of a petition unless it determines that the interests of the public and public safety in keeping
10.15 the record public outweigh the disadvantages to the subject of the record in not sealing it.
10.16 The prosecutor shall inform the court whether the context and circumstances of the underlying
10.17 crime indicate a nexus between the criminal record to be expunged and the person's status
10.18 as a crime victim and, if so, request that the court make the appropriate findings to support
10.19 the relief described in section 609A.03, subdivision 6a.

10.20 (b) At least 90 days before agreeing to the sealing of a record under this section, the
10.21 prosecutor shall make a good faith effort to notify any identifiable victims of the offense
10.22 of the intended agreement and the opportunity to object to the agreement.

10.23 (c) Subject to paragraph (b), the agreement of the prosecutor to the sealing of records
10.24 for a person described in section 609A.02, subdivision 3, paragraph (a), clause (2), may
10.25 occur before or after the criminal charges are dismissed.

10.26 (d) A prosecutor shall agree to the sealing of a criminal record for a person described
10.27 in section 609A.02, subdivision 2a, unless substantial and compelling reasons exist to object
10.28 to the sealing.

10.29 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to individuals
10.30 sentenced on or after that date.

11.1 Sec. 7. Minnesota Statutes 2020, section 609A.03, subdivision 5, is amended to read:

11.2 Subd. 5. **Nature of remedy; standard.** (a) Except as otherwise provided by paragraph
11.3 (b), expungement of a criminal record under this section is an extraordinary remedy to be
11.4 granted only upon clear and convincing evidence that it would yield a benefit to the petitioner
11.5 commensurate with the disadvantages to the public and public safety of:

11.6 (1) sealing the record; and

11.7 (2) burdening the court and public authorities to issue, enforce, and monitor an
11.8 expungement order.

11.9 (b) Except as otherwise provided by this paragraph, if the petitioner is petitioning for
11.10 the sealing of a criminal record under section 609A.02, subdivision 3, paragraph (a), clause
11.11 (1) or (2), the court shall grant the petition to seal the record unless the agency or jurisdiction
11.12 whose records would be affected establishes by clear and convincing evidence that the
11.13 interests of the public and public safety outweigh the disadvantages to the petitioner of not
11.14 sealing the record.

11.15 (c) In making a determination under this subdivision, the court shall consider:

11.16 (1) the nature and severity of the underlying crime, the record of which would be sealed;

11.17 (2) the risk, if any, the petitioner poses to individuals or society;

11.18 (3) the length of time since the crime occurred;

11.19 (4) the steps taken by the petitioner toward rehabilitation following the crime;

11.20 (5) aggravating or mitigating factors relating to the underlying crime, including the
11.21 petitioner's level of participation and context and circumstances of the underlying crime;

11.22 (6) the reasons for the expungement, including the petitioner's attempts to obtain
11.23 employment, housing, or other necessities;

11.24 (7) the petitioner's criminal record;

11.25 (8) the petitioner's record of employment and community involvement;

11.26 (9) the recommendations of interested law enforcement, prosecutorial, and corrections
11.27 officials;

11.28 (10) the recommendations of victims or whether victims of the underlying crime were
11.29 minors;

12.1 (11) the amount, if any, of restitution outstanding, past efforts made by the petitioner
12.2 toward payment, and the measures in place to help ensure completion of restitution payment
12.3 after expungement of the record if granted; and

12.4 (12) other factors deemed relevant by the court.

12.5 (d) Notwithstanding section 13.82, 13.87, or any other law to the contrary, if the court
12.6 issues an expungement order it may require that the criminal record be sealed, the existence
12.7 of the record not be revealed, and the record not be opened except as required under
12.8 subdivision 7. Records must not be destroyed or returned to the subject of the record.

12.9 (e) Information relating to a criminal history record of an employee, former employee,
12.10 or tenant that has been expunged before the occurrence of the act giving rise to the civil
12.11 action may not be introduced as evidence in a civil action against a private employer or
12.12 landlord or its employees or agents that is based on the conduct of the employee, former
12.13 employee, or tenant.

12.14 **EFFECTIVE DATE.** This section is effective August 1, 2021.

12.15 Sec. 8. Minnesota Statutes 2020, section 609A.03, subdivision 7a, is amended to read:

12.16 Subd. 7a. **Limitations of order effective January 1, 2015, and later.** (a) Upon issuance
12.17 of an expungement order related to a charge supported by probable cause, the DNA samples
12.18 and DNA records held by the Bureau of Criminal Apprehension and collected under authority
12.19 other than section 299C.105 shall not be sealed, returned to the subject of the record, or
12.20 destroyed.

12.21 (b) Notwithstanding the issuance of an expungement order:

12.22 (1) except as provided in clause (2), an expunged record may be opened, used, or
12.23 exchanged between criminal justice agencies without a court order for the purposes of
12.24 initiating, furthering, or completing a criminal investigation or prosecution or for sentencing
12.25 purposes or providing probation or other correctional services;

12.26 (2) when a criminal justice agency seeks access to a record that was sealed under section
12.27 609A.02, subdivision 3, paragraph (a), clause (1), or 609A.015, subdivision 1, clause (3),
12.28 after an acquittal or a court order dismissing for lack of probable cause, for purposes of a
12.29 criminal investigation, prosecution, or sentencing, the requesting agency must obtain an ex
12.30 parte court order after stating a good-faith basis to believe that opening the record may lead
12.31 to relevant information;

13.1 (3) an expunged record of a conviction may be opened for purposes of evaluating a
13.2 prospective employee in a criminal justice agency without a court order;

13.3 (4) an expunged record of a conviction may be opened for purposes of a background
13.4 study under section 245C.08 unless the commissioner had been properly served with notice
13.5 of the petition for expungement and the court order for expungement is directed specifically
13.6 to the commissioner of human services;

13.7 (5) an expunged record of a conviction may be opened for purposes of a background
13.8 check required under section 122A.18, subdivision 8, unless the court order for expungement
13.9 is directed specifically to the Professional Educator Licensing and Standards Board or the
13.10 licensing division of the Department of Education; ~~and~~

13.11 (6) the court may order an expunged record opened upon request by the victim of the
13.12 underlying offense if the court determines that the record is substantially related to a matter
13.13 for which the victim is before the court;

13.14 (7) a prosecutor may request, and the district court shall provide, certified records of
13.15 conviction for a record expunged pursuant to sections 609A.015, 609A.02, and 609A.025,
13.16 and the certified records of conviction may be disclosed and introduced in criminal court
13.17 proceedings as provided by the rules of court and applicable law; and

13.18 (8) the subject of an expunged record may request, and the court shall provide, certified
13.19 or uncertified records of conviction for a record expunged pursuant to sections 609A.015,
13.20 609A.02, and 609A.025.

13.21 (c) An agency or jurisdiction subject to an expungement order shall maintain the record
13.22 in a manner that provides access to the record by a criminal justice agency under paragraph
13.23 (b), clause (1) or (2), but notifies the recipient that the record has been sealed. The Bureau
13.24 of Criminal Apprehension shall notify the commissioner of human services, the Professional
13.25 Educator Licensing and Standards Board, or the licensing division of the Department of
13.26 Education of the existence of a sealed record and of the right to obtain access under paragraph
13.27 (b), clause (4) or (5). Upon request, the agency or jurisdiction subject to the expungement
13.28 order shall provide access to the record to the commissioner of human services, the
13.29 Professional Educator Licensing and Standards Board, or the licensing division of the
13.30 Department of Education under paragraph (b), clause (4) or (5).

13.31 (d) An expunged record that is opened or exchanged under this subdivision remains
13.32 subject to the expungement order in the hands of the person receiving the record.

14.1 (e) A criminal justice agency that receives an expunged record under paragraph (b),
 14.2 clause (1) or (2), must maintain and store the record in a manner that restricts the use of the
 14.3 record to the investigation, prosecution, or sentencing for which it was obtained.

14.4 (f) For purposes of this section, a "criminal justice agency" means a court or government
 14.5 agency that performs the administration of criminal justice under statutory authority.

14.6 (g) This subdivision applies to expungement orders subject to its limitations and effective
 14.7 on or after January 1, 2015.

14.8 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to individuals
 14.9 sentenced on or after that date.

14.10 Sec. 9. Minnesota Statutes 2020, section 609A.03, subdivision 9, is amended to read:

14.11 Subd. 9. **Stay of order; appeal.** An expungement order issued under this section shall
 14.12 be stayed automatically for 60 days after the order is filed and, if the order is appealed,
 14.13 during the appeal period. A person or an agency or jurisdiction whose records would be
 14.14 affected by the order may appeal the order within 60 days of service of notice of filing of
 14.15 the order. An agency or jurisdiction or its officials or employees need not file a cost bond
 14.16 or supersedeas bond in order to further stay the proceedings or file an appeal.

14.17 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to individuals
 14.18 sentenced on or after that date.

14.19 Sec. 10. Minnesota Statutes 2020, section 611A.03, subdivision 1, is amended to read:

14.20 Subdivision 1. **Plea agreements; notification of victim.** Prior to the entry of the factual
 14.21 basis for a plea pursuant to a plea agreement recommendation, a prosecuting attorney shall
 14.22 make a reasonable and good faith effort to inform the victim of:

14.23 (1) the contents of the plea agreement recommendation, including the amount of time
 14.24 recommended for the defendant to serve in jail or prison if the court accepts the agreement;
 14.25 ~~and~~

14.26 (2) the right to be present at the sentencing hearing and at the hearing during which the
 14.27 plea is presented to the court and to express orally or in writing, at the victim's option, any
 14.28 objection to the agreement or to the proposed disposition. If the victim is not present when
 14.29 the court considers the recommendation, but has communicated objections to the prosecuting
 14.30 attorney, the prosecuting attorney shall make these objections known to the court; and

15.1 (3) the eligibility of the offense for automatic expungement pursuant to section 609A.015,
15.2 and the victim's right to express to the court orally or in writing, at the victim's option, any
15.3 objection to a grant of expungement relief. If the victim is not present, but has communicated
15.4 objections to the prosecuting attorney, the prosecuting attorney shall make these objections
15.5 known to the court.

15.6 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to plea
15.7 agreements for individuals sentenced on or after that date.