

1.1 A bill for an act

1.2 relating to public safety; modifying expungement law; amending Minnesota
1.3 Statutes 2008, sections 609A.02, subdivision 3; 609A.03, subdivision 5;
1.4 proposing coding for new law in Minnesota Statutes, chapter 609A.

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

1.6 Section 1. Minnesota Statutes 2008, section 609A.02, subdivision 3, is amended to
1.7 read:

1.8 Subd. 3. **Certain criminal proceedings not resulting in conviction.** (a) A petition
1.9 may be filed under section 609A.03 to seal all records relating to an arrest, indictment or
1.10 information, trial, or verdict a criminal offense if the records are not subject to section
1.11 299C.11, subdivision 1, paragraph (b), and if all pending actions or proceedings were
1.12 resolved in favor of the the case was ultimately dismissed without the petitioner being
1.13 convicted of the offense. For purposes of this chapter, a verdict of not guilty by reason of
1.14 mental illness is not a resolution in favor of the petitioner.

1.15 (b) A person is not considered to have been convicted or adjudicated under this
1.16 subdivision if the person has successfully completed the terms of a diversion program,
1.17 stay of adjudication, continuance for dismissal, or similar proceeding.

1.18 (c) A person found not guilty of a criminal offense by reason of mental illness is not
1.19 eligible to file for an expungement under this subdivision.

1.20 Sec. 2. **[609A.025] PROSECUTOR REQUEST FOR EXPUNGEMENT WHEN**
1.21 **CHARGES ARE DISMISSED; NO PETITION REQUIRED.**

1.22 The prosecutor of a case described in section 609A.02, subdivision 3, may ask the
1.23 court to seal, upon dismissal, all records relating to the offense or alleged offense. If there

2.1 is an identifiable victim in the case, the victim must be given the opportunity to object
2.2 to the expungement. The court shall grant the request unless the interests of the public
2.3 and public safety in keeping the record public outweigh the disadvantages to the movant
2.4 of not sealing the record. Absence or denial of expungement under this section does not
2.5 prejudice the person if the person later petitions for an expungement under this chapter.

2.6 Sec. 3. Minnesota Statutes 2008, section 609A.03, subdivision 5, is amended to read:

2.7 Subd. 5. **Nature of remedy; standard; firearms restriction.** (a) Except as
2.8 otherwise provided by paragraph (b), expungement of a criminal record is an extraordinary
2.9 remedy to be granted only upon clear and convincing evidence that it would yield a benefit
2.10 to the petitioner commensurate with the disadvantages to the public and public safety of:

2.11 (1) sealing the record; and

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

2.14 ~~(b) Except as otherwise provided by this paragraph,~~ If the petitioner is petitioning
2.15 for the sealing of a criminal record under section 609A.02, subdivision 3, the court shall
2.16 grant the petition to seal the record unless the agency or jurisdiction whose records would
2.17 be affected establishes by clear and convincing evidence that the interests of the public
2.18 and public safety outweigh the disadvantages to the petitioner of not sealing the record.
2.19 If the petitioner has received a stay of adjudication, it shall be presumed that the interests
2.20 of the public and public safety outweigh the disadvantages to the petitioner of not sealing
2.21 the record, until the petitioner has successfully completed the conditions of the stay of
2.22 adjudication and has not been charged with any new crime for a period of at least one year
2.23 after completion of the period of the stay.

2.24 (c) If the court issues an expungement order it may require that the criminal record
2.25 be sealed, the existence of the record not be revealed, and the record not be opened except
2.26 as required under subdivision 7. Records must not be destroyed or returned to the subject
2.27 of the record.