

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 3288

(SENATE AUTHORS: CARLSON)

DATE	D-PG	OFFICIAL STATUS
04/19/2023	5423	Introduction and first reading Referred to Judiciary and Public Safety

1.1 A bill for an act

1.2 relating to public safety; providing for a process to review case files of cold case

1.3 homicides at the request of certain family members and to potentially conduct

1.4 reinvestigations of these cases; requiring a report; proposing coding for new law

1.5 in Minnesota Statutes, chapter 299C.

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

1.7 Section 1. [299C.85] COLD CASE HOMICIDES; REVIEWS; REINVESTIGATIONS.

1.8 Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings

1.9 given:

1.10 (1) "agency" means a state or local law enforcement agency;

1.11 (2) "authorized person" means an immediate family member of a victim, including a

1.12 parent, parent-in-law, grandparent, grandparent-in-law, sibling, spouse, child, or stepchild;

1.13 (3) "cold case homicide" means a homicide:

1.14 (i) committed more than three years prior to the date of an application for a case file

1.15 review;

1.16 (ii) previously investigated by a state, local, or federal law enforcement agency;

1.17 (iii) for which all probative investigative leads have been exhausted; and

1.18 (iv) for which no likely perpetrator has been identified; and

1.19 (4) "victim" means a natural person who died as a result of a cold case homicide.

1.20 Subd. 2. **Initial review.** (a) The head of an agency shall review the case file regarding

1.21 a cold case homicide within the agency's jurisdiction upon the receipt of a written application

2.1 submitted by an authorized person to determine if a full reinvestigation of the case would
2.2 result in either the identification of probative investigative leads or a likely perpetrator. The
2.3 review must include:

2.4 (1) an analysis of what investigative steps or follow-up steps may have been missed in
2.5 the initial investigation;

2.6 (2) an assessment of whether witnesses should be interviewed or reinterviewed;

2.7 (3) an examination of physical evidence to see if all appropriate forensic testing and
2.8 analysis was performed in the first instance or if additional testing might produce information
2.9 relevant to the investigation; and

2.10 (4) an update of the case file using the most current investigative standards as of the
2.11 date of the review to the extent it would help develop probative leads.

2.12 (b) If the head of the agency determines that the case does not satisfy the criteria to be
2.13 considered a cold case homicide, a review under paragraph (a) is not required and the head
2.14 shall issue a written certification to the authorized person stating that a review is not necessary
2.15 because all probative investigative leads have been exhausted or that a likely perpetrator
2.16 will not be identified.

2.17 (c) A review under paragraph (a) may not be conducted by a person who previously
2.18 investigated the homicide at issue.

2.19 (d) The agency shall provide in writing to the authorized person as soon as reasonably
2.20 possible:

2.21 (1) confirmation of the agency's receipt of the application under paragraph (a); and

2.22 (2) notice of the authorized person's rights under this section.

2.23 (e) Only one case file review shall be undertaken at any one time with respect to the
2.24 same cold case homicide victim.

2.25 (f) The agency shall conclude its case file review and reach a conclusion about whether
2.26 or not a full reinvestigation under subdivision 4 is warranted within six months of receiving
2.27 the application for review.

2.28 (g) The agency may extend the time limit under paragraph (f) once for a period of time
2.29 not to exceed six months if the agency makes a finding that the number of case files to be
2.30 reviewed make it impracticable to comply with the limit without unreasonably taking
2.31 resources from other law enforcement activities. For cases for which the time limit in

3.1 paragraph (f) is extended, the agency shall provide notice and an explanation of its reasoning
3.2 to the authorized person who filed the written application for review.

3.3 Subd. 3. **Application.** Each agency shall develop a written application to be used for
3.4 authorized persons to request a case file review under subdivision 2.

3.5 Subd. 4. **Full reinvestigation.** (a) The agency shall conduct a full reinvestigation of the
3.6 cold case homicide at issue if the review of the case file required by subdivision 2 concludes
3.7 that a full reinvestigation of the cold case homicide would result in probative investigative
3.8 leads.

3.9 (b) A full reinvestigation must include analyzing all evidence regarding the cold case
3.10 homicide at issue for the purpose of developing probative investigative leads or a likely
3.11 perpetrator.

3.12 (c) A reinvestigation required under paragraph (a) may not be conducted by a person
3.13 who previously investigated the homicide at issue.

3.14 (d) Only one full reinvestigation may be undertaken at any one time with respect to the
3.15 same cold case homicide victim.

3.16 Subd. 5. **Consultation and updates.** (a) An agency conducting a case file review or full
3.17 reinvestigation under this section shall consult with the authorized person who filed the
3.18 written application for review and provide the person with periodic updates during the case
3.19 file review and full reinvestigation.

3.20 (b) The agency shall meet with the authorized person and discuss the evidence to explain
3.21 to the person its decision whether or not to engage in the full reinvestigation provided for
3.22 under subdivision 4 at the conclusion of the case file review.

3.23 Subd. 6. **Subsequent reviews.** (a) If a case file review is conducted and a conclusion is
3.24 reached not to conduct a full reinvestigation, no additional case file review is required to
3.25 be undertaken with respect to that case for a period of five years, unless there is newly
3.26 discovered, materially significant evidence. An agency may continue an investigation absent
3.27 an authorized person's application.

3.28 (b) If a full reinvestigation of a cold case homicide is completed, and a suspect is not
3.29 identified at its conclusion, no additional case file review or full reinvestigation need be
3.30 undertaken with regard to that case for a period of five years beginning on the date of the
3.31 conclusion of the reinvestigation, unless there is newly discovered, materially significant
3.32 evidence.

4.1 Subd. 7. **Withholding information.** Nothing in this section requires an agency to provide
4.2 information to an authorized person that would endanger the safety of any person,
4.3 unreasonably impede an ongoing investigation, violate a court order, or violate legal
4.4 obligations regarding privacy.

4.5 Subd. 8. **Multiple agencies.** In a case where more than one agency conducted the initial
4.6 investigation of a cold case homicide, each agency shall coordinate their case file review
4.7 or full reinvestigation so that there is only one joint case file review or full reinvestigation
4.8 occurring at a time.

4.9 Subd. 9. **Applicability.** This section applies to cold case homicides occurring on or after
4.10 January 1, 1970.

4.11 Subd. 10. **Annual report.** (a) By January 30 of each year, each agency shall submit to
4.12 the Bureau of Criminal Apprehension in a manner determined by the bureau a report
4.13 describing actions taken and results achieved under this section during the previous calendar
4.14 year. At a minimum, the report must include:

4.15 (1) the number of written applications filed with the agency for case file reviews;

4.16 (2) the number of extensions granted, and an explanation of the reasons for the extension;

4.17 (3) the number of cases where the agency head determined a case file review was not
4.18 warranted;

4.19 (4) the number of cases in which a case file review under subdivision 2 was conducted
4.20 but where a full reinvestigation was determined to be unnecessary;

4.21 (5) the number of full reinvestigations initiated or closed; and

4.22 (6) information on the results of any full investigations conducted.

4.23 (b) By March 15 of each year, the superintendent of the Bureau of Criminal Apprehension
4.24 shall publish on the bureau's website and report to the chairs and ranking minority members
4.25 of the senate and house of representatives committees with jurisdiction over criminal justice
4.26 policy a summary of the reports it received from agencies under paragraph (a).