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

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

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

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

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

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

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

(1) section 35.824 (altering livestock certificate);

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

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

(4) section 152.025 (controlled substance in the fifth degree); or 152.097 (sale of simulated controlled substance);
(5) section 168A.30, subdivision 1 (certificate of title false information); or 169.09, subdivision 14, paragraph (a), clause (2) (accident resulting in great bodily harm);
(6) chapter 201; 203B; or 204C (voting violations);
(7) section 228.45; 228.47; 228.49; 228.50; or 228.51 (false bill of lading);
(8) section 256.984 (false declaration in assistance application);
(9) section 296A.23, subdivision 2 (willful evasion of fuel tax);
(10) section 297D.09, subdivision 1 (failure to affix stamp on scheduled substances);
(11) section 297G.19 (liquor taxation); or 340A.701 (unlawful acts involving liquor);
(12) section 325F.743 (precious metal dealers); or 325F.755, subdivision 7 (prize notices and solicitations);
(13) section 346.155, subdivision 10 (failure to control regulated animal);
(14) section 349.2127; or 349.22 (gambling regulations);
(15) section 588.20 (contempt);
(16) section 609.27, subdivision 1, clauses (2) to (5) (coercion);
(17) section 609.31 (leaving state to evade establishment of paternity);
(18) section 609.485, subdivision 4, paragraph (a), clause (2) or (4) (escape from civil commitment for mental illness);
(19) section 609.49 (failure to appear in court);
(20) section 609.52, subdivision 3, clause (3)(a) (theft of $5,000 or less), or other theft offense that is sentenced under this provision; or 609.52, subdivision 3a, clause (1) (theft of $1,000 or less with risk of bodily harm);
(21) section 609.525 (bringing stolen goods into state);

(22) section 609.526, subdivision 2, clause (2) (metal dealer receiving stolen goods);
(23) section 609.527, subdivision 5b (possession or use of scanning device or reencoder); 609.528, subdivision 3, clause (3) (possession or sale of stolen or counterfeit check); or 609.529 (mail theft);
(24) section 609.53 (receiving stolen goods);
(25) section 609.535, subdivision 2a, paragraph (a), clause (1) (dishonored check over $500);
(26) section 609.54, clause (1) (embezzlement of public funds $2,500 or less);
(27) section 609.551 (rustling and livestock theft);
(28) section 609.5641, subdivision 1a, paragraph (a) (wildfire arson);
(29) section 609.576, subdivision 1, clause (3), item (iii) (negligent fires);
(30) section 609.595, subdivision 1, clauses (2) to (4), and subdivision 1a, paragraph (a) (criminal damage to property);
(31) section 609.597, subdivision 3, clause (3) (assaulting or harming police horse);
(32) section 609.625 (aggravated forgery); 609.63 (forgery); 609.631, subdivision 4, clause (3)(a) (check forgery $2,500 or less); 609.635 (obtaining signature by false pretense); 609.64 (recording, filing forged instrument); or 609.645 (fraudulent statements);
(33) section 609.65, clause (1) (false certification by notary); or 609.651, subdivision 4, paragraph (a) (lottery fraud);
(34) section 609.652 (fraudulent driver's license and identification card);
(35) section 609.66, subdivision 1a, paragraph (a) (discharge of firearm; silencer); or 609.66, subdivision 1b (furnishing firearm to minor);
(36) section 609.662, subdivision 2, paragraph (b) (duty to render aid);

(37) section 609.686, subdivision 2 (tampering with fire alarm);
(38) section 609.746, subdivision 1, paragraph (e) (interference with privacy; subsequent violation or minor victim);
(39) section 609.80, subdivision 2 (interference with cable communications system);
(40) section 609.821, subdivision 2 (financial transaction card fraud);
(41) section 609.822 (residential mortgage fraud);
(42) section 609.825, subdivision 2 (bribery of participant or official in contest);
(43) section 609.855, subdivision 2, paragraph (c), clause (1) (interference with transit operator);
(44) section 609.88 (computer damage); or 609.89 (computer theft);
(45) section 609.893, subdivision 2 (telecommunications and information services fraud);
(46) section 609.894, subdivision 3 or 4 (cellular counterfeiting);
(47) section 609.895, subdivision 3, paragraph (a) or (b) (counterfeited intellectual property);
(48) section 609.896 (movie pirating);
(49) section 624.7132, subdivision 15, paragraph (b) (transfer pistol to minor); 624.714, subdivision 1a (pistol without permit; subsequent violation); or 624.7141, subdivision 2 (transfer of pistol to ineligible person); or
(50) section 624.7181 (rifle or shotgun in public by minor).
(c) Paragraph (a), clause (3) or (4), does not apply if the crime involved domestic abuse or sexual assault, as defined in section 518B.01, subdivision 2, or to violation of an order for protection under section 518B.01, subdivision 14, a harassment restraining order under section 609.748, subdivision 6, a violation of section 609.749, or a violation of section 629.75. This paragraph expires on July 15, 2015.

[See Note.]

Subd. 4.**Expungement prohibited.** Records of a conviction of an offense for which registration is required under section 243.166 may not be expunged.

History: *1996 c 408 art 9 s 8; 1999 c 139 art 4 s 2; 2001 c 209 s 1; 2005 c 136 art 12 s 10; 2014 c 246 s 6; 2014 c 269 s 2*

NOTE: The amendment to subdivision 3 by Laws 2014, chapter 246, section 6, is effective January 1, 2015. Laws 2014, chapter 246, section 6, the effective date.

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2014 Minnesota Statutes

299C.11 IDENTIFICATION DATA FURNISHED TO BUREAU.

Subdivision 1.**Identification data other than DNA.** (a) Each sheriff and chief of police shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data as may be requested or required by the superintendent of the bureau, which must be taken under the provisions of section 299C.10. In addition, sheriffs and chiefs of police shall furnish this identification data to the bureau for individuals found to have been convicted of a felony, gross misdemeanor, or targeted misdemeanor, within the ten years immediately preceding their arrest. When the bureau learns that an individual who is the subject of a background check has used, or is using, identifying information, including, but not limited to, name and date of birth, other than those listed on the criminal history, the bureau shall convert into an electronic format, if necessary, and enter into a bureau-managed searchable database the new identifying information when supported by fingerprints within three business days of learning the information if the information is not entered by a law enforcement agency.

(b) No petition under chapter 609A is required if the person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding the determination of all pending criminal actions or proceedings in favor of the arrested person, and either of the following occurred:

(1) all charges were dismissed prior to a determination of probable cause; or

(2) the prosecuting authority declined to file any charges and a grand jury did not return an indictment.

Where these conditions are met, the bureau or agency shall, upon demand, destroy the arrested person's finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them.

(c) Except as otherwise provided in paragraph (b), upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau shall seal finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them if the arrested person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding such determination.

Subd. 2.**DNA samples; law enforcement duties.** (a) Each sheriff and chief of police shall furnish the bureau, in such form as the superintendent shall prescribe, with the biological specimens required to be taken under section 299C.105.

(b) DNA samples and DNA records of the arrested person obtained through authority other than section 299C.105 shall not be returned, sealed, or destroyed as to a charge supported by probable cause.

Subd. 3.**Definitions.** For purposes of this section:

(1) "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

(i) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or chapter 609A;

(ii) the arrested person's successful completion of a diversion program;

(iii) an order of discharge under section 609.165; or

(iv) a pardon granted under section 638.02; and

(2) "targeted misdemeanor" has the meaning given in section 299C.10, subdivision 1.

History: *(9950-11) 1927 c 224 s 7; 1929 c 46 s 2; 1935 c 197 s 5; 1957 c 790 s 3; 1986 c 444; 1992 c 569 s 16; 1994 c 636 art 4 s 20; 1995 c 259 art 1 s 49; 1996 c 408 art 9 s 5; 1997 c 7 art 1 s 122; 1Sp2001 c 8 art 6 s 2; 2005 c 136 art 8 s 10; art 12 s 5; 2013 c 82 s 25; 2013 c 86 art 4 s 5*