

1.1 ..... moves to amend H.F. No. 1083 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2022, section 299C.11, subdivision 1, is amended to read:

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

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

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

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

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

2.5 (c) The bureau or agency shall destroy an arrested person's finger and thumb prints,  
2.6 photographs, distinctive physical mark identification data, information on known aliases  
2.7 and street names, and other identification data, and all copies and duplicates of them without  
2.8 the demand of any person or the granting of a petition under chapter 609A if:

2.9 (1) the sheriff, chief of police, bureau, or other arresting agency determines that the  
2.10 person was arrested or identified as the result of mistaken identity before presenting  
2.11 information to the prosecuting authority for a charging decision; or

2.12 (2) the prosecuting authority declines to file any charges or a grand jury does not return  
2.13 an indictment based on a determination that the person was identified or arrested as the  
2.14 result of mistaken identity.

2.15 (d) A prosecuting authority that determines a person was arrested or identified as the  
2.16 result of mistaken identity and either declines to file any charges or receives notice that a  
2.17 grand jury did not return an indictment shall notify the bureau and the applicable sheriff,  
2.18 chief of police, or other arresting agency of the determination.

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

2.27 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to  
2.28 determinations that a person was identified as the result of mistaken identity made on or  
2.29 after that date.

2.30 Sec. 2. Minnesota Statutes 2022, section 299C.11, subdivision 3, is amended to read:

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

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

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

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

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

3.5 (iv) a pardon granted under section 638.02; ~~and~~

3.6 (2) "mistaken identity" means the person was incorrectly identified as being a different  
 3.7 person:

3.8 (i) because the person's identity had been transferred, used, or possessed in violation of  
 3.9 section 609.527; or

3.10 (ii) as a result of misidentification by a witness or law enforcement, confusion on the  
 3.11 part of a witness or law enforcement as to the identity of the person who committed the  
 3.12 crime, misinformation provided to law enforcement as to the identity of the person who  
 3.13 committed the crime, or some other mistake on the part of a witness or law enforcement as  
 3.14 to the identity of the person who committed the crime; and

3.15 ~~(2)~~ (3) "targeted misdemeanor" has the meaning given in section 299C.10, subdivision  
 3.16 1.

3.17 **EFFECTIVE DATE.** This section is effective August 1, 2023.

3.18 **Sec. 3. [609A.017] MISTAKEN IDENTIFY; AUTOMATIC EXPUNGEMENT.**

3.19 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the  
 3.20 meanings given.

3.21 (b) "Conviction" means a plea of guilty, a verdict of guilty by a jury, or a finding of  
 3.22 guilty by a court.

3.23 (c) "Mistaken identity" means a person was incorrectly identified as being a different  
 3.24 person:

3.25 (1) because the person's identity had been transferred, used, or possessed in violation of  
 3.26 section 609.527; or

3.27 (2) as a result of misidentification by a witness or law enforcement, confusion on the  
 3.28 part of a witness or law enforcement as to the identity of the person who committed the  
 3.29 crime, misinformation provided to law enforcement as to the identity of the person who  
 3.30 committed the crime, or some other mistake on the part of a witness or law enforcement as  
 3.31 to the identity of the person who committed the crime.

4.1 Subd. 2. **Determination by prosecutor; notification.** If, before a conviction, a prosecutor  
4.2 determines that a defendant was issued a citation, charged, indicted, or otherwise prosecuted  
4.3 as the result of mistaken identity, the prosecutor must dismiss or move to dismiss the action  
4.4 or proceeding and must state in writing or on the record that mistaken identity is the reason  
4.5 for the dismissal.

4.6 Subd. 3. **Order of expungement.** (a) The court shall issue an order of expungement  
4.7 without the filing of a petition when an action or proceeding is dismissed based on a  
4.8 determination that a defendant was issued a citation, charged, indicted, or otherwise  
4.9 prosecuted as the result of mistaken identity.

4.10 (b) An order issued under this section is not subject to the considerations or standards  
4.11 identified in section 609A.025 or 609A.03, subdivision 5, paragraph (a), (b), or (c).

4.12 Subd. 4. **Effect of order.** (a) An order issued under this section is not subject to the  
4.13 limitations in section 609A.03, subdivision 7a or 9. The effect of the court order to seal the  
4.14 record of the proceedings shall be to restore the person, in the contemplation of the law, to  
4.15 the status the person occupied before the arrest, indictment, or information. The person shall  
4.16 not be guilty of perjury or otherwise of giving a false statement if the person fails to  
4.17 acknowledge the arrest, indictment, information, or trial in response to any inquiry made  
4.18 for any purpose.

4.19 (b) A criminal justice agency may seek access to a record that was sealed under this  
4.20 section for purposes of determining whether the subject of the order was identified in any  
4.21 other action or proceeding as the result of mistaken identity, or for a criminal investigation,  
4.22 prosecution, or sentencing involving any other person. The requesting agency must obtain  
4.23 an ex parte court order after stating a good-faith basis to believe that opening the record  
4.24 may lead to relevant information.

4.25 (c) The court administrator must distribute and confirm receipt of an order issued under  
4.26 this section pursuant to section 609A.03, subdivision 8, but shall not order the commissioner  
4.27 of health, commissioner of human services, or the Professional Educator Licensing and  
4.28 Standards Board to seal records in their possession.

4.29 (d) A record subject to an expungement under this section may not be considered in a  
4.30 background study under section 245C.08 or a background check required under section  
4.31 122A.18, subdivision 8.

4.32 (e) In consultation with the commissioner of human services, the court shall establish a  
4.33 schedule on which the court administrator shall provide the commissioner of human services  
4.34 and the Professional Educator Licensing and Standards Board a list identifying the name

5.1 and case number or if no case number is available, the citation number of each person who  
5.2 received an expungement order issued under this section.

5.3 (f) Data on the person whose offense has been expunged contained in a letter or other  
5.4 notification sent under this subdivision are private data on individuals as defined in section  
5.5 13.02.

5.6 (g) The commissioner of human services and the Professional Educator Licensing and  
5.7 Standards Board must establish written procedures to ensure that only individuals authorized  
5.8 by law may enter, update, or access the data received pursuant to paragraph (e) that are  
5.9 classified as private data on individuals. An authorized individual's ability to enter, update,  
5.10 or access data in the system must correspond to the official duties or training level of the  
5.11 individual and to the statutory authorization granting access for that purpose. All queries  
5.12 and responses, and all actions in which not public data are entered, updated, accessed, shared,  
5.13 or disseminated, must be recorded in a data audit trail. Data contained in the audit trail have  
5.14 the same classification as the underlying data tracked by the audit trail.

5.15 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to  
5.16 determinations that a person was identified as the result of mistaken identity on or after that  
5.17 date."

5.18 Amend the title accordingly