

HOUSE RESEARCH

Bill Summary

FILE NUMBER: S.F. 2790

DATE: May 7, 2010

Version: Conference Committee Report

Authors: Lesch and others

Subject: Miscellaneous juvenile provisions; juvenile records

Analyst: Rebecca Pirius, 651-296-5044

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

The bill does the following: authorizes the expungement of certain juvenile records; authorizes the Commissioner of Human Services to grant set asides or variances for certain individuals disqualified from licensure because of an offense committed as a juvenile; requires chemical use screenings of juvenile offenders; authorizing the opening of certain expunged records without a court hearing; and requires the Revisor to publish a table in Minnesota Statutes cross-referencing collateral sanctions imposed on juveniles as a result of a delinquency adjudication.

Section

- 1 Permanent bar to set aside a disqualification.** Amends the law governing the granting of a set aside or variance for a human services licensing disqualification. The Commissioner of Human Services must consider granting a set aside or variance to an individual who is 21 years of age or older and was disqualified for specified crimes or conduct that occurred while the individual was under the age of 18. This would not apply to an individual who is convicted following certification as an adult.
- 2 Investigation.** Requires the court to order a chemical use screening when a child is found to be delinquent. Provides that a single screening for mental health and chemical use will suffice if the instrument screens for both. If the screening indicates a need for a chemical use assessment then a referral for one must be made in consultation with the child's family.
- 3 Reasons for detention.** Provides that when a child is detained in a juvenile facility, juvenile program, or adult jail for an alleged delinquent act, the supervisor of the facility must, with parental consent, conduct a chemical use screen unless one has been performed within the previous 180 days.
- 4 Offenses committed by juveniles.** Modifies the law governing expungement of records related to offenses committed by juveniles. A petition could be brought for the sealing of any type of delinquency or criminal record relating to a juvenile matter if the person successfully completed the terms of the person's disposition or sentence and is no longer

under correctional supervision if:

- (1) the person received a disposition under Minnesota Statutes, section 260B.198 (disposition for a delinquent child), regardless of whether the person was adjudicated delinquent;
- (2) the matter was designated an extended jurisdiction juvenile prosecution and the adult sentence was never executed;
- (3) the matter was designated an extended jurisdiction juvenile prosecution and the adult sentence was executed; or
- (4) the matter was certified for adult prosecution.

- 5 Certain criminal proceedings not resulting in conviction.** Authorizes an expungement petition to seal criminal records if the petitioner has successfully completed the terms of a diversion program or stay of adjudication that was agreed to by the prosecutor and has not been charged with a new crime for at least one year.
- 6 Expungement for cases involving diversions and stays of adjudication.**
Paragraph (a), requires the sealing of criminal records under **section 5** without the filing of a petition, upon prosecutorial approval, unless the court determines that the interests of the public and public safety in keeping the record public outweigh the disadvantages to the subject of the record in not sealing it.
Paragraph (b) requires a prosecutor to make a good-faith effort to inform any victims of the offense of the intended prosecutorial agreement and give the victims an opportunity to object to the agreement before sealing a record.
Paragraph (c) allows a prosecutor to agree to seal records before or after the criminal charges are dismissed, provided victim notification under **paragraph (b)** has taken place.
- 7 Petition; filing fee.** Requires waiver of the filing fee in cases where expungement is being sought under the provisions described in **section 4, clauses (1) and (2).**
- 8 Contents of petition.** Amends the contents of an expungement petition to include references to delinquency records, consistent with other changes in the bill. Also provides that where practicable, petitioners must attach to an expungement petition a copy of the complaint or the police report for the offense or offenses for which expungement is sought.
- 9 Hearing.** Requires the court to exclude the general public from a hearing on a petition to expunge a record relating to a juvenile matter unless the hearing on the underlying offense for which expungement was sought was open to the public.
- 10 Nature of remedy; standard.** Adds a new provision dealing with the standard for granting an expungement in cases involving a criminal delinquency record. If the petitioner is petitioning for sealing of a record described under **section 4, clause (1) or (2),** the court must grant the petition unless the agency or jurisdiction whose records would be affected establishes by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record.
- 11 Order concerning crimes of violence.** Amends the expungement order concerning crimes of violence to include references to delinquency records.
- 12 Limitations of order.** Amends the limitations of an expungement order to include references to delinquency records and proceedings. Also provides that an expungement record may be opened upon request by a prosecutor, or a probation officer for sentencing purposes, without a court order.

- 13** **Table of juvenile collateral sanctions.** Requires the Revisor to publish a table in Minnesota Statutes cross-referencing state laws that impose collateral sanctions on juvenile offenders adjudicated delinquent.