

1.1 CONFERENCE COMMITTEE REPORT ON S.F. No. 2725

1.2 A bill for an act  
1.3 relating to public safety; establishing a certification process for multijurisdictional  
1.4 gang and drug task forces; regulating law enforcement criminal gang  
1.5 investigative databases; classifying data received from law enforcement agencies  
1.6 in other states; changing membership of a council; delineating uses of data in the  
1.7 comprehensive incident-based reporting system; restricting the acquisition of cell  
1.8 phone tracking devices; amending Minnesota Statutes 2008, sections 13.82, by  
1.9 adding a subdivision; 299A.641; 299C.091, subdivision 4; 299C.40, subdivision  
1.10 2; 609.531, subdivision 1; proposing coding for new law in Minnesota Statutes,  
1.11 chapters 13; 626; 626A.

1.12 May 15, 2010

1.13 The Honorable James P. Metzen  
1.14 President of the Senate

1.15 The Honorable Margaret Anderson Kelliher  
1.16 Speaker of the House of Representatives

1.17 We, the undersigned conferees for S.F. No. 2725 report that we have agreed upon  
1.18 the items in dispute and recommend as follows:

1.19 That the House recede from its amendments and that S.F. No. 2725 be further  
1.20 amended as follows:

1.21 Delete everything after the enacting clause and insert:

1.22 "Section 1. [299A.642] VIOLENT CRIME COORDINATING COUNCIL.

1.23 Subdivision 1. Coordinating council established. The Violent Crime Coordinating  
1.24 Council is established to provide guidance related to the investigation and prosecution of  
1.25 gang and drug crime. For the purposes of this section, "gang and drug crime" includes  
1.26 violent crimes associated with gang activity.

1.27 Subd. 2. Membership. The coordinating council shall consist of the following  
1.28 individuals or their designees:

1.29 (1) the director of the Office of Special Investigations as the representative of the  
1.30 commissioner of corrections;

2.1 (2) the superintendent of the Bureau of Criminal Apprehension as the representative  
2.2 of the commissioner of public safety;

2.3 (3) the attorney general;

2.4 (4) four chiefs of police, selected by the Minnesota Chiefs of Police Association,  
2.5 of which one must be employed by the city of Minneapolis, one must be employed by  
2.6 the city of St. Paul, one must be employed by a municipality located in the seven-county  
2.7 metropolitan area excluding Minneapolis and St. Paul, and one must be employed in  
2.8 greater Minnesota;

2.9 (5) four sheriffs, selected by the Minnesota Sheriffs Association, of which, one must  
2.10 work in Hennepin County, one must work in Ramsey County, one must work in Anoka,  
2.11 Carver, Dakota, Scott, or Washington county, and one must work in greater Minnesota;

2.12 (6) the United States attorney for the district of Minnesota;

2.13 (7) two county attorneys, selected by the Minnesota County Attorneys Association,  
2.14 one who must work in the seven-county metropolitan area and one who must work in  
2.15 greater Minnesota;

2.16 (8) four citizen members appointed by the commissioner of public safety in  
2.17 consultation with representatives from the councils created in sections 3.922, 3.9223,  
2.18 3.9225, and 3.9226; and

2.19 (9) a tribal peace officer, selected by the commissioner of public safety, in  
2.20 consultation with the Minnesota Indian Affairs Council.

2.21 The coordinating council shall adopt procedures to govern its conduct as necessary  
2.22 and shall select a chair from among its members. The chair shall serve a two-year term  
2.23 and the appointment of the chair shall alternate between a person who works in greater  
2.24 Minnesota and a person who works in the seven-county metropolitan area.

2.25 Subd. 3. **Coordinating council's duties.** The coordinating council shall develop an  
2.26 overall strategy to ameliorate the harm caused to the public by gang and drug crime within  
2.27 the state of Minnesota. Additionally, the coordinating council shall:

2.28 (1) subject to approval by the commissioner of public safety, develop an operating  
2.29 procedures and policies manual to investigate gang and drug crime in a multijurisdictional  
2.30 manner;

2.31 (2) identify and recommend a candidate or candidates for statewide coordinator to  
2.32 the commissioner of public safety;

2.33 (3) assist the Department of Public Safety in developing grant eligibility criteria and  
2.34 operating an objective and conflict-free grant review application process;

2.35 (4) make recommendations to the commissioner of public safety to terminate grant  
2.36 funding for multijurisdictional entities if an entity no longer operates in accordance with

3.1 subdivision 4, or no longer functions in a manner consistent with the best interests of  
3.2 the state or public;

3.3 (5) assist in developing a process to collect and share information to improve the  
3.4 investigation and prosecution of gang and drug offenses;

3.5 (6) develop and approve an operational budget for the coordinating council;

3.6 (7) develop policies that prohibit the improper use of personal characteristics such as  
3.7 race, color, national origin, gender, or religion to target individuals for law enforcement  
3.8 action, prosecution, or forfeiture action; and

3.9 (8) subject to approval by the commissioner of public safety, adopt narrowly  
3.10 tailored, objective criteria and identifying characteristics for use in determining whether  
3.11 individuals are or may be members of gangs involved in criminal activity. The council  
3.12 shall review and update the criteria and characteristics adopted under this clause every two  
3.13 years with the objective to ensure effectiveness and relevance to the accurate identification  
3.14 of subjects actively involved in criminal gang activity. As part of its review process, the  
3.15 council shall obtain input from members of communities that are impacted by criminal  
3.16 gang activity. Before adopting any changes under this clause, the council must submit its  
3.17 recommendations to the commissioner of public safety for approval.

3.18 Subd. 4. **Duties and authority of commissioner.** (a) The commissioner of public  
3.19 safety shall certify multijurisdictional entities, and their designated fiscal agents, that are  
3.20 established pursuant to this section to combat gang and drug crime and receive grant  
3.21 funding under subdivision 9. To certify an entity and its designated fiscal agent, the  
3.22 commissioner shall require that a multijurisdictional entity:

3.23 (1) be subject to the operational command and supervision of one of the participating  
3.24 agencies;

3.25 (2) be subject to a biennial operational and financial audit contracted out to an  
3.26 external organization not associated with the multijurisdictional entity and designed to  
3.27 ensure that the entity and its designated fiscal agent are in compliance with applicable  
3.28 legal requirements, proper law enforcement standards and practices, and effective  
3.29 financial controls;

3.30 (3) have adequate staffing and funding to support law enforcement, prosecutorial,  
3.31 and financial operations, including bookkeeping, evidence handling, and inventory  
3.32 recording; and

3.33 (4) be subject to any other conditions the commissioner deems necessary to carry  
3.34 out the purposes of this section.

3.35 The commissioner may use grant funds authorized under subdivision 9 to pay for  
3.36 costs incurred in conducting audits under clause (2).

4.1 (b) A multijurisdictional entity, and its designated fiscal agent, must be certified  
4.2 annually by the commissioner and may not operate under this section unless it is certified.  
4.3 If the commissioner revokes an entity's or fiscal agent's certification, the commissioner  
4.4 may order, for purposes relating to this section, any or all of the following:

4.5 (1) dissolution of the entity, its governing boards, or both;

4.6 (2) transfer of duties of the entity, its governing boards, or both, to the Department of  
4.7 Public Safety; and

4.8 (3) any other action deemed necessary by the commissioner.

4.9 Notwithstanding any action taken by the commissioner, any outstanding obligations or  
4.10 liabilities of the entity remain with the entity and the parties of the agreement and do  
4.11 not transfer.

4.12 (c) An agreement entered into pursuant to section 471.59 and this section shall  
4.13 provide that the parties to the agreement are subject to the provisions in this subdivision  
4.14 and shall provide for the disposition of property and allocation of obligations upon  
4.15 voluntary or mandated dissolution of the entity or upon termination of the agreement.

4.16 (d) Except as provided in section 5, a multijurisdictional entity that is operating on  
4.17 the effective date of this section pursuant to section 299A.641 shall have until December  
4.18 31, 2010, to be certified under this section.

4.19 Subd. 5. **Statewide coordinator.** The commissioner of public safety shall appoint a  
4.20 statewide coordinator. The coordinator serving in the unclassified service shall:

4.21 (1) coordinate and monitor all multijurisdictional gang and drug enforcement  
4.22 activities;

4.23 (2) facilitate local efforts and ensure statewide coordination with efforts to combat  
4.24 gang and drug crime;

4.25 (3) facilitate training for personnel;

4.26 (4) monitor compliance with investigative protocols; and

4.27 (5) review audits conducted under subdivision 4, take corrective actions based on  
4.28 audit results, and submit a summary report of the audits and any corrective actions to the  
4.29 commissioner of public safety.

4.30 Subd. 6. **Participating officers; employment status.** All participating law  
4.31 enforcement officers must be licensed peace officers as defined in section 626.84,  
4.32 subdivision 1, or qualified federal law enforcement officers as defined in section 626.8453.  
4.33 Participating officers remain employees of the same entity that employed them before  
4.34 joining any multijurisdictional entity established under this section. Participating officers  
4.35 are not employees of the state. Participating officers shall be subject to annual performance  
4.36 reviews conducted by the entity's operational supervisor.

5.1 Subd. 7. **Jurisdiction and powers.** Law enforcement officers participating in any  
5.2 multijurisdictional entity established under this section have statewide jurisdiction to  
5.3 conduct criminal investigations and have the same powers of arrest as those possessed by  
5.4 a sheriff.

5.5 Subd. 8. **Evidence handling.** A multijurisdictional entity established pursuant  
5.6 to this section shall process all seized cash, physical assets, and evidence through the  
5.7 standard evidence handling procedures established by the participating agencies.

5.8 Subd. 9. **Grants authorized.** The commissioner of public safety may make grants  
5.9 to state and local units of government to combat gang and drug crime. When awarding  
5.10 grants, the commissioner shall consider awarding grants under this section to fund  
5.11 community-based gang intervention and prevention efforts for youth.

5.12 Subd. 10. **Coordinating council is permanent.** Notwithstanding section 15.059,  
5.13 this section does not expire.

5.14 Subd. 11. **Governing board; prosecutor's role.** (a) A multijurisdictional entity  
5.15 established under this section shall create a governing board consisting of the chief law  
5.16 enforcement officer, or designee, from each participating agency, a prosecutor from one of  
5.17 the participating agencies, and up to three additional members selected by the governing  
5.18 board. A governing board shall have no less than six members.

5.19 (b) The prosecutor on the governing board shall have the following responsibilities:

5.20 (1) to recommend to the governing board the nature and frequency of training for  
5.21 officers assigned to a multijurisdictional entity in order to increase successful prosecutions;

5.22 (2) to advise on the lawful handling and processing of seized property and evidence  
5.23 and forfeited property and money; and

5.24 (3) to ensure that seizures and forfeitures are reported in accordance with section  
5.25 609.5315, subdivision 6.

5.26 Subd. 12. **Funding.** Participating agencies may accept lawful grants or contributions  
5.27 from any federal source or legal business or entity.

5.28 Subd. 13. **Role of attorney general.** The attorney general or a designee shall  
5.29 generally advise on any matters that the coordinating council deems appropriate.

5.30 Subd. 14. **Attorney general; community liaison.** (a) The attorney general or  
5.31 a designee shall serve as a liaison between the coordinating council and the councils  
5.32 created in sections 3.922, 3.9223, 3.9225, and 3.9226. The attorney general or designee  
5.33 will be responsible for:

5.34 (1) informing the councils of the plans, activities, and decisions and hearing their  
5.35 reactions to those plans, activities, and decisions; and

6.1 (2) providing the coordinating council with the position of the councils on the  
6.2 coordinating council's plan, activities, and decisions.

6.3 (b) In no event is the coordinating council required to disclose the names of  
6.4 individuals identified by it to the councils referenced in this subdivision.

6.5 (c) Nothing in this subdivision changes the data classification of any data held by  
6.6 the coordinating council.

6.7 Subd. 15. **Required reports.** By February 1 of each year, the commissioner  
6.8 of public safety shall submit the following reports to the chairs and ranking minority  
6.9 members of the senate and house of representatives committees and divisions having  
6.10 jurisdiction over criminal justice policy and funding:

6.11 (1) a report containing a summary of all audits conducted on multijurisdictional  
6.12 entities under subdivision 4;

6.13 (2) a report on the results of audits conducted on data submitted to the criminal gang  
6.14 investigative data system under section 299C.091; and

6.15 (3) a report on the activities and goals of the coordinating council.

6.16 Sec. 2. Minnesota Statutes 2008, section 299C.091, subdivision 4, is amended to read:

6.17 Subd. 4. **Audit of data submitted to system; reports.** (a) At least once every three  
6.18 years, the bureau shall conduct ~~periodic~~ random audits of data under subdivision 2 that  
6.19 documents inclusion of an individual in, and removal of an individual from, the criminal  
6.20 gang investigative data system for the purpose of determining the validity, completeness,  
6.21 and accuracy of data submitted to the system. The bureau has access to the documenting  
6.22 data for purposes of conducting an audit. By October 1 of each year, the bureau shall  
6.23 submit a report on the results of the audits to the commissioner of public safety.

6.24 (b) If any audit requirements under federal rule or statute overlap with requirements  
6.25 in paragraph (a), the audit required by paragraph (a) may be done in conjunction with the  
6.26 federal audit to the extent they overlap. Nothing in this paragraph shall be construed to  
6.27 eliminate any audit requirements specified in this subdivision.

6.28 Sec. 3. Minnesota Statutes 2008, section 299C.40, subdivision 2, is amended to read:

6.29 Subd. 2. **Purpose.** CIBRS is a statewide system containing data from law  
6.30 enforcement agencies. Data in CIBRS must be made available to law enforcement  
6.31 agencies ~~in order~~ to:

6.32 (1) prepare a case against a person, whether known or unknown, for the commission  
6.33 of a crime or other offense for which the agency has investigative authority;

6.34 (2) serve process in a criminal case;

- 7.1 (3) inform law enforcement officers of possible safety issues before service of  
7.2 process;  
7.3 (4) enforce no contact orders;  
7.4 (5) locate missing persons; or  
7.5 ~~for purposes of~~ (6) conduct background investigations required by section 626.87.

7.6 Sec. 4. Minnesota Statutes 2008, section 609.531, subdivision 1, is amended to read:

7.7 Subdivision 1. **Definitions.** For the purpose of sections 609.531 to 609.5318, the  
7.8 following terms have the meanings given them.

7.9 (a) "Conveyance device" means a device used for transportation and includes, but  
7.10 is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any  
7.11 equipment attached to it. The term "conveyance device" does not include property which  
7.12 is, in fact, itself stolen or taken in violation of the law.

7.13 (b) "Weapon used" means a dangerous weapon as defined under section 609.02,  
7.14 subdivision 6, that the actor used or had in possession in furtherance of a crime.

7.15 (c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

7.16 (d) "Contraband" means property which is illegal to possess under Minnesota law.

7.17 (e) "Appropriate agency" means the Bureau of Criminal Apprehension, the  
7.18 Department of Commerce Division of Insurance Fraud Prevention, the Minnesota  
7.19 Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's  
7.20 department, the Three Rivers Park District park rangers, the Department of Natural  
7.21 Resources Division of Enforcement, the University of Minnesota Police Department, the  
7.22 Department of Corrections Fugitive Apprehension Unit, ~~or~~ a city, metropolitan transit,  
7.23 or airport police department; or a multijurisdictional entity established under section  
7.24 299A.642 or 299A.681.

7.25 (f) "Designated offense" includes:

7.26 (1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;

7.27 (2) for driver's license or identification card transactions: any violation of section  
7.28 171.22; and

7.29 (3) for all other purposes: a felony violation of, or a felony-level attempt or  
7.30 conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21;  
7.31 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.282;  
7.32 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1,  
7.33 clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345,  
7.34 subdivision 1, clauses (a) to (e), and (h) to (j); 609.352; 609.42; 609.425; 609.466;  
7.35 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561;

8.1 609.562; 609.563; 609.582; 609.59; 609.595; 609.611; 609.631; 609.66, subdivision 1e;  
8.2 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88;  
8.3 609.89; 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation  
8.4 of section 609.891 or 624.7181; or any violation of section 609.324.

8.5 (g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

8.6 Sec. 5. **MULTIJURISDICTIONAL GANG AND DRUG STRIKE FORCES.**

8.7 A joint powers entity established pursuant to Minnesota Statutes, section 299A.641,  
8.8 before the effective date of this section that included as parties to the joint powers  
8.9 agreement two counties with a population over 500,000 each is dissolved and any  
8.10 governing or advisory board established by the terms of the agreement is also dissolved.  
8.11 All current and future obligations and liabilities of the joint powers entity remain with the  
8.12 parties to the agreement and do not transfer to the state.

8.13 For purposes of this section, "population" means the most recent population estimate  
8.14 made by the state demographer under Minnesota Statutes, section 4A.02.

8.15 **EFFECTIVE DATE.** This section is effective July 1, 2011.

8.16 Sec. 6. **WORK GROUP.**

8.17 (a) The superintendent of the Bureau of Criminal Apprehension shall convene  
8.18 a work group of stakeholders and interested parties to: (1) discuss issues and laws  
8.19 pertaining to criminal intelligence databases; and (2) make recommendations on proposed  
8.20 legislative changes for the classification, storage, dissemination, and use of criminal  
8.21 investigative data, including data from other states, and for guidelines governing usage  
8.22 and collection of criminal investigative data held by law enforcement agencies. The work  
8.23 group shall be chaired by a representative from the Bureau of Criminal Apprehension  
8.24 and a representative from the Minnesota Coalition on Government Information. The  
8.25 work group must include one representative from each of the following organizations:  
8.26 the Minnesota Sheriffs' Association; the Minnesota Chiefs of Police Association; the  
8.27 Minnesota Police and Peace Officers Association; the American Civil Liberties Union  
8.28 – Minnesota; the Minnesota Newspaper Association; the National Association for the  
8.29 Advancement of Colored People; the councils created in Minnesota Statutes, sections  
8.30 3.922, 3.9223, 3.9225, and 3.9226; the Board of Public Defense; the Minnesota County  
8.31 Attorneys Association; and the Minnesota City Attorneys Association; and a citizen  
8.32 member who is knowledgeable in data privacy issues. The work group must be balanced  
8.33 between law enforcement and nonlaw enforcement representatives. The work group shall  
8.34 not exceed 20 members, including chairs. In its discussions, the work group shall balance



9.1 public safety and privacy interests, state policy according to Minnesota Statutes, section  
9.2 260B.002, oversight, minimization of discretion, and regulation of the collection of these  
9.3 data, including the individualized criteria for inclusion in a computerized gang database.

9.4 (b) By February 1, 2011, the work group shall submit an executive summary  
9.5 document to the chairs and ranking minority members of the committees of the senate and  
9.6 house of representatives with jurisdiction over criminal justice and data practices issues.  
9.7 The document must summarize the work group meetings and outline proposed legislative  
9.8 changes to implement recommendations on which there is agreement. The Department of  
9.9 Public Safety shall provide administrative support to the work group.

9.10 Sec. 7. **REVISOR INSTRUCTION.**

9.11 The revisor of statutes shall replace references to Minnesota Statutes, section  
9.12 299A.641, in statutes and rules with a reference to Minnesota Statutes, section 299A.642,  
9.13 and shall make any other changes to statutory cross-references as necessitated by this bill.

9.14 Sec. 8. **REPEALER.**

9.15 Minnesota Statutes 2008, section 299A.641, is repealed.

9.16 **EFFECTIVE DATE.** This section is effective December 31, 2010."

9.17 Delete the title and insert:

9.18 "A bill for an act  
9.19 relating to public safety; establishing a certification process for multijurisdictional  
9.20 gang and drug task forces; establishing a Violent Crime Coordinating Council;  
9.21 modifying criminal gang investigative data system audit requirements;  
9.22 delineating uses of data in the comprehensive incident-based reporting system;  
9.23 providing for application of forfeiture requirements; establishing a work  
9.24 group; amending Minnesota Statutes 2008, sections 299C.091, subdivision 4;  
9.25 299C.40, subdivision 2; 609.531, subdivision 1; proposing coding for new  
9.26 law in Minnesota Statutes, chapter 299A; repealing Minnesota Statutes 2008,  
9.27 section 299A.641."

10.1 We request the adoption of this report and repassage of the bill.

10.2 Senate Conferees:

10.3 .....  
10.4 Mee Moua D. Scott Dibble

10.5 .....  
10.6 Patricia Torres Ray Satveer Chaudhary

10.7 .....  
10.8 Paul Koering

10.9 House Conferees:

10.10 .....  
10.11 Michael Paymar Debra Hilstrom

10.12 .....  
10.13 John Lesch Bobby Joe Champion

10.14 .....  
10.15 Mary Liz Holberg