

CHAPTER 279—S.F.No. 525

An act relating to crimes; expanding the definition of drug free zones to include public housing property; increasing penalties for certain drug crimes committed in a drug free zone; expanding the juvenile code definition of "child in need of protection or services"; making it a prima facie case for adult court certification in the case of certain firearms violations committed by a juvenile; changing the name and duties of the drug abuse prevention resource council and the duties of the office of drug policy; authorizing grants for witness assistance services; requiring reporting of certain criminal convictions; imposing minimum fines in controlled substance cases; providing for consecutive mandatory minimum sentences for firearms and controlled substance violations; requiring chemical use assessments of convicted felony offenders; providing for the collection of restitution; increasing penalties for assaulting a school official; enhancing penalties for committing a crime for the benefit of a criminal gang; increasing penalties for a variety of weapons offenses; prohibiting soliciting a juvenile to commit a crime; requiring studies; appropriating money; amending Minnesota Statutes 1990, sections 152.01, by adding subdivisions; 152.021, subdivision 1; 152.022, subdivision 1; 152.023, subdivision 2; 152.024, subdivision 1; 152.029; 260.015, subdivision 2a; 260.125, subdivision 3; 299A.29, subdivisions 3, 5, and by adding subdivisions; 299A.30; 299A.31, subdivision 1; 299A.32; 299A.34, subdivision 2; 299A.35; 299A.36; 299C.065; 485.16; 609.05, subdivision 4, and by adding a subdivision; 609.101, by adding a subdivision; 609.11, by adding a subdivision; 609.115, by adding a subdivision; 609.135, subdivisions 1a and 2; 609.2231, by adding a subdivision; 609.52, subdivision 3; 609.66; 609.72, subdivision 1; 624.712, subdivision 5; 624.713, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes, sections 244.095; 299A.29, subdivisions 2 and 4; and 609.101, subdivision 3.

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

Section 1. Minnesota Statutes 1990, section 152.01, is amended by adding a subdivision to read:

Subd. 19. PUBLIC HOUSING ZONE. "Public housing zone" means any public housing project or development administered by a local housing agency, plus the area within 300 feet of the property's boundary, or one city block, whichever distance is greater.

Sec. 2. Minnesota Statutes 1990, section 152.01, is amended by adding a subdivision to read:

Subd. 20. UNLAWFULLY. "Unlawfully" means selling, possessing, or possessing with intent to sell a controlled substance in a manner not authorized by law.

Sec. 3. Minnesota Statutes 1990, section 152.021, subdivision 1, is amended to read:

Subdivision 1. **SALE CRIMES.** A person is guilty of controlled substance crime in the first degree if:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing cocaine base;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing a narcotic drug;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 200 or more dosage units; or

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols, or one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols in a school zone, a park zone, or a public housing zone.

Sec. 4. Minnesota Statutes 1990, section 152.022, subdivision 1, is amended to read:

Subdivision 1. **SALE CRIMES.** A person is guilty of controlled substance crime in the second degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight ~~of~~ of three grams or more containing cocaine base;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing a narcotic drug;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 50 or more dosage units;

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols;

(5) the person unlawfully sells any amount of a schedule I or II narcotic drug to a person under the age of 18, or conspires with or employs a person under the age of 18 to unlawfully sell the substance; or

(6) the person unlawfully sells any ~~amount of a schedule I or II narcotic drug~~ of the following in a school zone ~~or~~, a park zone, or a public housing zone:

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- (i) any amount of a schedule I or II narcotic drug;
- (ii) one or more mixtures containing methamphetamine or amphetamine; or
- (iii) one or more mixtures of a total weight of five kilograms or more containing marijuana or Tetrahydrocannabinols.

Sec. 5. Minnesota Statutes 1990, section 152.023, subdivision 2, is amended to read:

Subd. 2. **POSSESSION CRIMES.** A person is guilty of controlled substance crime in the third degree if:

(1) the person unlawfully possesses one or more mixtures of a total weight of three grams or more containing cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug;

(3) the person unlawfully possesses one or more mixtures containing a narcotic drug with the intent to sell it;

(4) the person unlawfully possesses one or more mixtures containing a narcotic drug, it is packaged in dosage units, and equals 50 more dosage units; ~~or~~

(5) the person unlawfully possesses any amount of a schedule I or II narcotic drug in a school zone ~~or~~, a park zone, or a public housing zone; ~~or~~

(6) the person unlawfully possesses one or more mixtures of a total weight of ten kilograms or more containing marijuana or Tetrahydrocannabinols; or

(7) the person unlawfully possesses one or more mixtures containing methamphetamine or amphetamine in a school zone, a park zone, or a public housing zone.

Sec. 6. Minnesota Statutes 1990, section 152.024, subdivision 1, is amended to read:

Subdivision 1. **SALE CRIMES.** A person is guilty of controlled substance crime in the fourth degree if:

(1) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule I, II, or III, except marijuana or Tetrahydrocannabinols;

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule IV or V to a person under the age of 18; ~~or~~

(3) the person conspires with or employs a person under the age of 18 to unlawfully sell a controlled substance classified in schedule IV or V; or

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(4) the person unlawfully sells any amount of marijuana or Tetrahydrocannabinols in a school zone, a park zone, or a public housing zone, except a small amount for no remuneration.

Sec. 7. Minnesota Statutes 1990, section 152.029, is amended to read:

152.029 PUBLIC INFORMATION: SCHOOL ZONES ~~AND~~, PARK ZONES, AND PUBLIC HOUSING ZONES.

The attorney general shall disseminate information to the public relating to the penalties for committing controlled substance crimes in park zones ~~and~~, school zones, and public housing zones. The attorney general shall draft a plain language version of sections 152.022; and 152.023; and ~~244.095~~ relevant provisions of the sentencing guidelines, that describes in a clear and coherent manner using words with common and everyday meanings the ~~contents~~ content of those ~~sections~~ provisions. The attorney general shall publicize and disseminate the plain language version as widely as practicable, including distributing the version to school boards ~~and~~, local governments, and administrators and occupants of public housing.

Sec. 8. Minnesota Statutes 1990, section 260.015, subdivision 2a, is amended to read:

Subd. 2a. **CHILD IN NEED OF PROTECTION OR SERVICES.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse, or (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 24, (iii) resides with or would reside with a perpetrator of domestic child abuse, or (iv) is a victim of emotional maltreatment as defined in subdivision 5a;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than

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appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) has committed a delinquent act before becoming ten years old;

(11) is a runaway;

(12) is an habitual truant; or

(13) is one whose custodial parent's parental rights to another child have been involuntarily terminated within the past five years.

Sec. 9. Minnesota Statutes 1990, section 260.125, subdivision 3, is amended to read:

Subd. 3. **PRIMA FACIE CASE.** A prima facie case that the public safety is not served or that the child is not suitable for treatment shall have been established if the child was at least 16 years of age at the time of the alleged offense and:

(1) is alleged by delinquency petition to have committed an aggravated felony against the person and (a) in committing the offense, the child acted with particular cruelty or disregard for the life or safety of another; or (b) the offense involved a high degree of sophistication or planning by the juvenile; or (c) the juvenile, at the time of the offense, used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm; or

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(2) is alleged by delinquency petition to have committed murder in the first degree; or

(3) is alleged by delinquency petition (a) to have committed the delinquent act of escape from confinement to a state juvenile correctional facility or a local juvenile correctional facility and (b) to have committed an offense as part of, or subsequent to, escape from custody that would be a felony listed in section 609.11, subdivision 9, if committed by an adult; or

(4) has been found by the court, pursuant to an admission in court or after trial, to have committed an offense within the preceding 24 months which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed murder in the second or third degree, manslaughter in the first degree, criminal sexual conduct in the first degree or assault in the first degree; or

(5) has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed manslaughter in the second degree, kidnapping, criminal sexual conduct in the second degree, arson in the first degree, aggravated robbery, or assault in the second degree; or

(6) has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months, one or both of which would be the felony of burglary of a dwelling if committed by an adult, and the child is alleged by the delinquency petition to have committed another burglary of a dwelling. For purposes of this subdivision, "dwelling" means a building which is, in whole or in part, usually occupied by one or more persons living there at night; or

(7) has previously been found by the court, pursuant to an admission in court or after trial, to have committed three offenses, none in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed any felony other than those described in clause (2), (4), or (5); or

(8) is alleged by delinquency petition to have committed an aggravated felony against the person, other than a violation of section 609.713, in furtherance of criminal activity by an organized gang; or

(9) has previously been found by the court, pursuant to an admission in court or after trial, to have committed an offense which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed a felony-level violation of chapter 152 involving the unlawful sale or possession of a schedule I or II controlled substance, while in a park zone or a school zone as defined in section 152.01, subdivisions 12a and 14a. This clause does not apply to a juvenile alleged to have unlawfully possessed a controlled substance in a private residence located within the school zone or park zone; or

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(10) is alleged by delinquency petition to have committed a violation of section 624.713, subdivision 1, clause (a), and has been previously found by the court, pursuant to an admission in court or after trial, to have committed a violation of section 624.713, subdivision 1, clause (a).

For the purposes of this subdivision, "aggravated felony against the person" means a violation of any of the following provisions: section 609.185; 609.19; 609.195; 609.20, subdivision 1 or 2; 609.221; 609.222; 609.223; 609.245; 609.25; 609.342; 609.343; 609.344, subdivision 1, clause (c) or (d); 609.345, subdivision 1, clause (c) or (d); 609.561; 609.582, subdivision 1, clause (b) or (c); or 609.713.

For the purposes of this subdivision, an "organized gang" means an association of five or more persons, with an established hierarchy, formed to encourage members of the association to perpetrate crimes or to provide support to members of the association who do commit crimes.

Sec. 10. Minnesota Statutes 1990, section 299A.29, is amended by adding a subdivision to read:

Subd. 1a. CHEMICAL ABUSE. "Chemical abuse" means the use of a controlled substance or the abuse of alcoholic beverages.

Sec. 11. Minnesota Statutes 1990, section 299A.29, subdivision 3, is amended to read:

Subd. 3. DRUG CONTROLLED SUBSTANCE. "Drug" means a "Controlled substance" as defined has the meaning given in section 152.01, subdivision 4.

Sec. 12. Minnesota Statutes 1990, section 299A.29, is amended by adding a subdivision to read:

Subd. 4a. PREVENTION ACTIVITY. "Prevention activity" means an activity carried on by a government agency that is designed to reduce chemical abuse and dependency, including education, prevention, treatment, and rehabilitation programs.

Sec. 13. Minnesota Statutes 1990, section 299A.29, subdivision 5, is amended to read:

Subd. 5. SUPPLY REDUCTION ACTIVITY. "Supply reduction activity" means an activity carried on by a drug program government agency that is designed to reduce the supply or use of drugs controlled substances, including law enforcement, eradication, and prosecutorial activities.

Sec. 14. Minnesota Statutes 1990, section 299A.30, is amended to read:

299A.30 OFFICE OF DRUG POLICY.

New language is indicated by underline, deletions by strikeout.

Subdivision 1. **OFFICE; ASSISTANT COMMISSIONER.** The office of drug policy is an office in the department of public safety headed by an assistant commissioner appointed by the commissioner to serve in the unclassified service. The assistant commissioner may appoint other employees in the unclassified service. The assistant commissioner shall coordinate the prevention and supply reduction activities of drug program state and local agencies and serve as provide one professional staff member to assist on a full-time basis the drug work of the chemical abuse prevention resource council.

Subd. 2. **DUTIES.** (a) The assistant commissioner shall gather and make available information on ~~demand reduction~~ prevention and supply reduction activities throughout the state, foster cooperation among drug program involved state and local agencies, and assist agencies and public officials in training and other programs designed to improve the effectiveness of ~~demand reduction~~ prevention and supply reduction activities.

(b) The assistant commissioner shall coordinate the distribution of funds received by the state of Minnesota through the federal Anti-Drug Abuse Act. The assistant commissioner may obtain technical assistance from the state planning agency to perform this function. The assistant commissioner shall recommend to the commissioner recipients of grants under sections 299A.33 and 299A.34, after consultation with the ~~drug~~ chemical abuse prevention resource council.

(c) The assistant commissioner shall:

(1) after consultation with all ~~drug program state agencies operating in the state involved in prevention or supply reduction activities,~~ develop a state drug chemical abuse and dependency strategy encompassing the efforts of those agencies and taking into account all money available for demand reduction prevention and supply reduction activities, from any source;

(2) submit the strategy to the governor and the legislature by January 15 of each year, along with a summary of ~~demand reduction~~ prevention and supply reduction activities during the preceding calendar year;

(3) assist appropriate professional and occupational organizations, including organizations of law enforcement officers, prosecutors, and educators, in developing and operating informational and training programs to improve the effectiveness of ~~demand reduction~~ prevention and supply reduction activities; ~~and~~

(4) provide information, including information on drug trends, and assistance to drug program state and local agencies, both directly and by functioning as a clearinghouse for information from other ~~drug program~~ agencies;

(5) facilitate cooperation among drug program agencies; and

(6) coordinate the administration of prevention, criminal justice, and treatment grants.

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Sec. 15. Minnesota Statutes 1990, section 299A.31, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT; MEMBERSHIP.** A ~~drug~~ chemical abuse prevention resource council consisting of 18 members is established. The commissioners of public safety, education, health, human services, and the state planning agency, and the attorney general shall each appoint one member from among their employees. The speaker of the house of representatives and the subcommittee on committees of the senate shall each appoint a legislative member. The governor shall appoint an additional ten members who ~~shall demonstrate knowledge in the area of drug abuse prevention,~~ shall represent the demographic and geographic composition of the state and, to the extent possible, shall represent the following groups: ~~parents; educators; clergy; local government; racial and ethnic minority communities; professional providers of drug abuse prevention services; volunteers in private, nonprofit drug prevention programs; and the business community;~~ public health; education including preschool, elementary, and higher education; social services; financial aid services; chemical dependency treatment; law enforcement; prosecution; defense; the judiciary; corrections; treatment research professionals; drug abuse prevention professionals; the business sector; religious leaders; representatives of racial and ethnic minority communities; and other community representatives. The members shall designate one of the governor's appointees as chair of the council. Compensation and removal of members are governed by section 15.059.

Sec. 16. Minnesota Statutes 1990, section 299A.32, is amended to read:

299A.32 RESPONSIBILITIES OF COUNCIL.

Subdivision 1. **PURPOSE OF COUNCIL.** The general purpose of the council is to ~~foster the coordination and development of a statewide drug serve as an advisory body to the governor and the legislature on all aspects of alcohol and drug abuse prevention policy.~~

Subd. 2. **SPECIFIC DUTIES AND RESPONSIBILITIES.** In furtherance of the general purpose specified in subdivision 1, the council ~~has the following duties and responsibilities shall:~~

(1) ~~it shall develop a coordinated, statewide drug abuse prevention policy assist state agencies in the coordination of drug policies and programs and in the provision of services to other units of government, communities, and citizens;~~

(2) ~~it shall develop a mission statement that defines the roles and relationships of agencies operating within the continuum of chemical health care promote among state agencies policies to achieve uniformity in state and federal grant programs and to streamline those programs;~~

(3) ~~it shall develop guidelines for drug abuse prevention program development and operation based on its research and program evaluation activities oversee comprehensive data collection and research and evaluation of alcohol and drug program activities;~~

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(4) it shall assist local governments and groups in planning, organizing, and establishing comprehensive, community-based drug abuse prevention programs and services;

(5) it shall coordinate and provide technical assistance to organizations and individuals seeking public or private funding for drug abuse prevention programs; and to government and private agencies seeking to grant funds for these purposes;

(6) it shall assist providers of drug abuse prevention services in implementing, monitoring, and evaluating new and existing programs and services;

(7) it shall provide information on and analysis of the relative public and private costs of drug abuse prevention, enforcement, intervention, and treatment efforts; and

(8) it shall advise the assistant commissioner of the office of drug policy in awarding grants and in other duties: seek the advice and counsel of appropriate interest groups and advise the assistant commissioner of the office of drug policy;

(5) seek additional private funding for community-based programs and research and evaluation;

(6) evaluate whether law enforcement narcotics task forces should be reduced in number and increased in geographic size, and whether new sources of funding are available for the task forces;

(7) continue to promote clarity of roles among federal, state, and local law enforcement activities; and

(8) establish criteria to evaluate law enforcement drug programs.

Subd. 2a. GRANT PROGRAMS. The council shall review and approve state agency plans regarding the use of federal funds for programs to reduce chemical abuse or reduce the supply of controlled substances. The appropriate state agencies would have responsibility for management of state and federal drug grant programs.

Subd. 3. ANNUAL REPORT. ~~On or before~~ By February 1, 1991, and each year thereafter, the council shall submit a written report to the governor and the legislature describing its activities during the preceding year, describing efforts that have been made to enhance and improve utilization of existing resources and to identify deficits in prevention efforts, and recommending appropriate changes, including any legislative changes that it considers necessary or advisable in the area of drug chemical abuse prevention policy, programs, ~~or~~ and services.

Sec. 17. Minnesota Statutes 1990, section 299A.34, subdivision 2, is amended to read:

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Subd. 2. **SELECTION AND MONITORING.** The ~~drug~~ chemical abuse prevention resource council shall assist in the selection and monitoring of grant recipients.

Sec. 18. Minnesota Statutes 1990, section 299A.35, is amended to read:

299A.35 COMMUNITY CRIME REDUCTION PROGRAMS; GRANTS.

Subdivision 1. **PROGRAMS.** The commissioner shall, in consultation with the ~~drug~~ chemical abuse prevention resource council, administer a grant program to fund community-based programs that are designed to enhance the community's sense of personal security and to assist the community in its crime control efforts. Examples of qualifying programs include, but are not limited to, the following:

(1) programs to provide security systems for residential buildings serving low-income persons; elderly persons, and persons who have physical or mental disabilities;

(2) community-based programs designed to discourage young people from involvement in unlawful drug or street gang activities;

(3) neighborhood block clubs and innovative community-based crime watch programs; and

(4) other community-based crime prevention programs that are innovative and encourage substantial involvement by members of the community served by the program.

Subd. 2. **GRANT PROCEDURE.** A local unit of government or a non-profit community-based entity may apply for a grant by submitting an application with the commissioner. The applicant shall specify the following in its application:

(1) a description of each program for which funding is sought;

(2) the amount of funding to be provided to the program;

(3) the geographical area to be served by the program; and

(4) statistical information as to the number of arrests in the geographical area for violent crimes and for crimes involving schedule I and II controlled substances. "Violent crime" includes a violation of or an attempt or conspiracy to violate any of the following laws: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; ~~and~~ or any provision of chapter 152 that is punishable by a maximum term of imprisonment greater than ten years.

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The commissioner shall give priority to funding programs in the geographical areas that have the highest crime rates, as measured by the data supplied under clause (4), and that demonstrate substantial involvement by members of the community served by the program. The maximum amount that may be awarded to an applicant is \$50,000.

Subd. 3. **REPORT.** An applicant that receives a grant under this section shall provide the commissioner with a summary of how the grant funds were spent and the extent to which the objectives of the program were achieved. The commissioner shall submit a written report ~~with~~ to the legislature, by February 1 each year, based on the information provided by applicants under this subdivision.

Sec. 19. Minnesota Statutes 1990, section 299A.36, is amended to read:

299A.36 OTHER DUTIES.

The assistant commissioner assigned to the office of drug policy, in consultation with the ~~drug~~ chemical abuse prevention resource council, shall:

- (1) provide information and assistance upon request to school preassessment teams established under section 126.034 and school and community advisory teams established under section 126.035;
- (2) provide information and assistance upon request to the state board of pharmacy with respect to the board's enforcement of chapter 152;
- (3) cooperate with and provide information and assistance upon request to the alcohol and other drug abuse section in the department of human services;
- (4) assist in coordinating the policy of the office with that of the narcotic enforcement unit in the bureau of criminal apprehension; and
- (5) coordinate the activities of the regional drug task forces, provide assistance and information to them upon request, and assist in the formation of task forces in areas of the state in which no task force operates.

Sec. 20. Minnesota Statutes 1990, section 299C.065, is amended to read:

299C.065 UNDERCOVER BUY FUND; WITNESS ASSISTANCE SERVICES.

Subdivision 1. The commissioner of public safety shall make grants to local officials for the following purposes:

- (1) the cooperative investigation of cross jurisdictional criminal activity relating to the possession and sale of controlled substances;:
- (2) receiving or selling stolen goods;:
- (3) participating in gambling activities in violation of section 609.76;:

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(4) violations of section 609.322, 609.323, or any other state or federal law prohibiting the recruitment, transportation, or use of juveniles for purposes of prostitution; and

(5) witness assistance services in cases involving criminal gang activity in violation of section 30, or domestic assault, as defined in section 611A.0315.

Subd. 2. A county sheriff or the chief administrative officer of a municipal police department may apply to the commissioner of public safety for a grant for any of the purposes described in subdivision 1, on forms and pursuant to procedures developed by the superintendent. The application shall describe the type of intended criminal investigation, an estimate of the amount of money required, and any other information the superintendent deems necessary.

Subd. 3. A report shall be made to the commissioner at the conclusion of an investigation pursuant to this section stating: (1) the number of persons arrested, (2) the nature of charges filed against them, (3) the nature and value of controlled substances or contraband purchased or seized, (4) the amount of money paid to informants during the investigation, and (5) a separate accounting of the amount of money spent for expenses, other than "buy money", of bureau and local law enforcement personnel during the investigation. The commissioner shall prepare and submit to the legislature by January 1 of each year a report of investigations pursuant to this section.

Subd. 3a. The head of a law enforcement agency that receives a grant under this section for witness assistance services shall file a report with the commissioner at the conclusion of the case detailing the specific purposes for which the money was spent. The commissioner shall prepare and submit to the legislature by January 1 of each year a summary report of witness assistance services provided under this section.

Subd. 4. An application to the commissioner for money is a confidential record. Information within investigative files that identifies or could reasonably be used to ascertain the identity of assisted witnesses, sources, or undercover investigators is a confidential record. A report at the conclusion of an investigation is a public record, except that information in a report pertaining to the identity or location of an assisted witness is private data.

Sec. 21. Minnesota Statutes 1990, section 485.16, is amended to read:

485.16 RECORD ALL ACTIONS FILED.

Subdivision 1. RECORDS KEPT. The court administrators of the district courts of the several counties shall keep a record of all actions and proceedings, civil and criminal, filed in the court, and shall furnish to the state appellate courts any information concerning the actions as is prescribed by rule of civil procedure.

Subd. 2. CRIMINAL DISPOSITIONS REPORTED. The court administra-

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tor of the district court shall report to the supreme court within 30 days after a judge pronounces sentence following a felony conviction. The report must include the sentence pronounced, whether imposition was stayed, and other information requested by the supreme court.

Sec. 22. Minnesota Statutes 1990, section 609.05, subdivision 4, is amended to read:

Subd. 4. A person liable under this section may be charged with and convicted of the crime although the person who directly committed it has not been convicted, or has been convicted of some other degree of the crime or of some other crime based on the same act, or if the person is a juvenile who has not been found delinquent for the act.

Sec. 23. Minnesota Statutes 1990, section 609.05, is amended by adding a subdivision to read:

Subd. 5. For purposes of this section, a crime also includes an act committed by a juvenile that would be a crime if committed by an adult.

Sec. 24. Minnesota Statutes 1990, section 609.101, is amended by adding a subdivision to read:

Subd. 3. CONTROLLED SUBSTANCE OFFENSES; MINIMUM FINES.

(a) Notwithstanding any other law, when a court sentences a person convicted of:

(1) a first degree controlled substance crime under section 152.021, it must impose a fine of not less than \$2,500 nor more than the maximum fine authorized by law;

(2) a second degree controlled substance crime under section 152.022, it must impose a fine of not less than \$1,000 nor more than the maximum fine authorized by law;

(3) a third degree controlled substance crime under section 152.023, it must impose a fine of not less than \$750 nor more than the maximum fine authorized by law;

(4) a fourth degree controlled substance crime under section 152.024, it must impose a fine of not less than \$500 nor more than the maximum fine authorized by law; and

(5) a fifth degree controlled substance violation under section 152.025, it must impose a fine of not less than \$300 nor more than the maximum fine authorized by law.

(b) The court may not waive payment of the fine or authorize payment of it in installments unless the court makes written findings on the record that the convicted person is indigent or that the fine would create undue hardship for the convicted person or that person's immediate family.

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(c) The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any term of imprisonment or restitution imposed or ordered by the court.

(d) The court shall collect the fine mandated by this subdivision and forward 70 percent of it to a local drug abuse prevention program existing or being implemented in the county in which the crime was committed. The court shall forward the remaining 30 percent to the state treasurer to be credited to the general fund. If more than one drug abuse prevention program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the community in which the crime was committed, the funding needs of the program, the number of peace officers in each community certified to teach the program, and the number of children served by the program in each community. If no drug abuse prevention program serves communities in that county, the court shall forward 100 percent of the fine proceeds to the state treasurer to be credited to the general fund.

(e) The minimum fines required by this subdivision shall be collected as are other fines. Fine proceeds received by a local drug abuse prevention program must be used to support that program, and may be used for salaries of peace officers certified to teach the program. The drug abuse resistance education program must report receipt and use of money generated under this subdivision as prescribed by the drug abuse resistance education advisory council.

(f) As used in this subdivision, "drug abuse prevention program" and "program" include:

(1) the drug abuse resistance education program described in sections 299A.33 and 299A.331; and

(2) any similar drug abuse education and prevention program that includes the following components:

(A) instruction for students enrolled in kindergarten through grade six that is designed to teach students to recognize and resist pressures to experiment with controlled substances and alcohol;

(B) provisions for parental involvement;

(C) classroom instruction by uniformed law enforcement personnel;

(D) the use of positive student leaders to influence younger students not to use drugs; and

(E) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations.

Sec. 25. Minnesota Statutes 1990, section 609.11, is amended by adding a subdivision to read:

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Subd. 5a. DRUG OFFENSES. Notwithstanding section 609.035, whenever a defendant is subject to a mandatory minimum term of imprisonment for a felony violation of chapter 152 and is also subject to this section, the minimum term of imprisonment imposed under this section shall be consecutive to that imposed under chapter 152.

Sec. 26. Minnesota Statutes 1990, section 609.115, is amended by adding a subdivision to read:

Subd. 8. CHEMICAL USE ASSESSMENT REQUIRED. (a) If a person is convicted of a felony, the probation officer shall determine in the report prepared under subdivision 1 whether or not alcohol or drug use was a contributing factor to the commission of the offense. If so, the report shall contain the results of a chemical use assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the defendant to undergo the chemical use assessment if so indicated.

(b) The chemical use assessment report must include a recommended level of care for the defendant in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3. The assessment must be conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An assessor providing a chemical use assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the probation officer may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3.

Sec. 27. Minnesota Statutes 1990, section 609.135, subdivision 1a, is amended to read:

Subd. 1a. FAILURE TO PAY RESTITUTION. If the court orders payment of restitution as a condition of probation and if the defendant fails to pay the restitution in accordance with the payment schedule or structure established by the court or the probation officer, the defendant's probation officer may, on the officer's own motion or at the request of the victim, ask the court to hold a hearing to determine whether or not the conditions of probation should be changed or probation should be revoked. The defendant's probation officer shall ask for the hearing if the restitution ordered has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (f), before the defendant's term of probation expires.

Sec. 28. Minnesota Statutes 1990, section 609.135, subdivision 2, is amended to read:

Subd. 2. (†) (a) If the conviction is for a felony the stay shall be for not

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more than three years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

~~(2)~~ (b) If the conviction is for a gross misdemeanor the stay shall be for not more than two years.

~~(3)~~ (c) If the conviction is for a misdemeanor under section 169.121, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(4) (d) If the conviction is for a misdemeanor not specified in ~~clause (3)~~ paragraph (c), the stay shall be for not more than one year.

(5) (e) The defendant shall be discharged when the stay expires, unless the stay has been revoked or extended under paragraph (f), or the defendant has already been discharged.

(f) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (e), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution that the defendant owes.

Sec. 29. Minnesota Statutes 1990, section 609.2231, is amended by adding a subdivision to read:

Subd. 5. SCHOOL OFFICIAL. Whoever assaults a school official while the official is engaged in the performance of the official's duties, and inflicts demonstrable bodily harm, is guilty of a gross misdemeanor. As used in this subdivision, "school official" includes teachers, school administrators, and other employees of a public or private school.

Sec. 30. [609.229] CRIME COMMITTED FOR BENEFIT OF A GANG.

Subdivision 1. DEFINITION. As used in this section, "criminal gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, that:

(1) has, as one of its primary activities, the commission of one or more of the offenses listed in section 609.11, subdivision 9;

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(2) has a common name or common identifying sign or symbol; and

(3) includes members who individually or collectively engage in or have engaged in a pattern of criminal activity.

Subd. 2. CRIMES. A person who commits a crime for the benefit of, at the direction of, or in association with a criminal gang, with the intent to promote, further, or assist in criminal conduct by gang members is guilty of a crime and may be sentenced as provided in subdivision 3.

Subd. 3. PENALTY. (a) If the crime committed in violation of subdivision 2 is a felony, the statutory maximum for the crime is three years longer than the statutory maximum for the underlying crime.

(b) If the crime committed in violation of subdivision 2 is a misdemeanor, the person is guilty of a gross misdemeanor.

(c) If the crime committed in violation of subdivision 2 is a gross misdemeanor, the person is guilty of a felony and may be sentenced to a term of imprisonment of not more than one year and a day or to payment of a fine of not more than \$5,000, or both.

Sec. 31. [609.494] SOLICITATION OF JUVENILES.

Subdivision 1. CRIME. A person is guilty of a crime and may be sentenced as provided in subdivision 2 if the person solicits a minor to commit a criminal act.

Subd. 2. SENTENCE. (a) A person who violates subdivision 1 is guilty of a misdemeanor if the intended criminal act is a misdemeanor, and is guilty of a gross misdemeanor if the intended criminal act is a gross misdemeanor.

(b) A person who violates subdivision 1 is guilty of a felony if the intended criminal act is a felony, and may be sentenced to imprisonment for not more than one-half the statutory maximum term for the intended criminal act or to payment of a fine of not more than one-half the maximum fine for the intended criminal act, or both.

Sec. 32. Minnesota Statutes 1990, section 609.52, subdivision 3, is amended to read:

Subd. 3. SENTENCE. Whoever commits theft may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both, if the property is a firearm, or the value of the property or services stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause (3), (4), (15), or (16); or

(2) to imprisonment for not more than ten years or to payment of a fine of

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not more than \$20,000, or both, if the value of the property or services stolen exceeds \$2,500, or if the property stolen was an article representing a trade secret, an explosive or incendiary device, or a controlled substance listed in schedule I or II pursuant to section 152.02 with the exception of marijuana; or

(3) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(a) the value of the property or services stolen is more than \$500 but not more than \$2,500; or

(b) the property stolen was a controlled substance listed in schedule III, IV, or V pursuant to section 152.02; or

(c) the value of the property or services stolen is more than \$200 but not more than \$500 and the person has been convicted within the preceding five years for an offense under this section, section 256.98; 268.18, subdivision 3; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(d) the value of the property or services stolen is not more than \$500, and any of the following circumstances exist:

(i) the property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or

(ii) the property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

(iii) the property is taken from a burning building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

(iv) the property consists of public funds belonging to the state or to any political subdivision or agency thereof; or

(v) ~~the property is a firearm; or~~

(~~vi~~) the property stolen is a motor vehicle; or

(4) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the property or services stolen is more than \$200 but not more than \$500; or

(5) in all other cases where the value of the property or services stolen is

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\$200 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3), (4), and (13), the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Sec. 33. Minnesota Statutes 1990, section 609.66, is amended to read:

609.66 DANGEROUS WEAPONS.

Subdivision 1. **MISDEMEANOR AND GROSS MISDEMEANOR CRIMES.** (a) Whoever does any of the following is guilty of a ~~misdemeanor crime~~ and may be sentenced as provided in paragraph (b):

- (1) recklessly handles or uses a gun or other dangerous weapon or explosive so as to endanger the safety of another; or
- (2) intentionally points a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or
- (3) manufactures or sells for any unlawful purpose any weapon known as a slungshot or sand club; or
- (4) manufactures, transfers, or possesses metal knuckles or a switch blade knife opening automatically; or
- (5) possesses any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or
- (6) outside of a municipality and without the parent's or guardian's consent, furnishes a child under 14 years of age, or as a parent or guardian permits the child to handle or use, outside of the parent's or guardian's presence, a firearm or airgun of any kind, or any ammunition or explosive.

Possession of written evidence of prior consent signed by the minor's parent or guardian is a complete defense to a charge under clause (6).

(b) A person convicted under paragraph (a) may be sentenced as follows:

- (1) if the act was committed in a public housing zone, as defined in section 152.01, subdivision 19, a school zone, as defined in section 152.01, subdivision 14a, or a park zone, as defined in section 152.01, subdivision 12a, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both; or

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(2) otherwise, including where the act was committed on residential premises within a zone described in clause (1) if the offender was at the time an owner, tenant, or invitee for a lawful purpose with respect to those residential premises, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both.

Subd. 1a. **FELONY CRIMES.** (a) Whoever does any of the following is guilty of a felony and may be sentenced ~~to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both~~ as provided in paragraph (b):

(1) sells or has in possession any device designed to silence or muffle the discharge of a firearm; or

(2) in any municipality of this state, furnishes a minor under 18 years of age with a firearm, airgun, ammunition, or explosive without the written consent of the minor's parent or guardian or of the police department of the municipality; or

(3) intentionally discharges a firearm under circumstances that endanger the safety of another.

(b) A person convicted under paragraph (a) may be sentenced as follows:

(1) if the act was committed in a public housing zone, as defined in section 152.01, subdivision 19, a school zone, as defined in section 152.01, subdivision 14a, or a park zone, as defined in section 152.01, subdivision 12a, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both; or

(2) otherwise, to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

Subd. 1b. **FELONY; FURNISHING TO MINORS.** Whoever, in any municipality of this state, furnishes a minor under 18 years of age with a firearm, airgun, ammunition, or explosive without the prior consent of the minor's parent or guardian or of the police department of the municipality is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both. Possession of written evidence of prior consent signed by the minor's parent or guardian is a complete defense to a charge under this subdivision.

Subd. 1c. **FELONY; FURNISHING A DANGEROUS WEAPON.** Whoever recklessly furnishes a person with a dangerous weapon in conscious disregard of a known substantial risk that the object will be possessed or used in furtherance of a felony crime of violence is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 2. **EXCEPTIONS.** Nothing in this section prohibits the possession

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of the articles mentioned by museums or collectors of art or for other lawful purposes of public exhibition.

Sec. 34. Minnesota Statutes 1990, section 609.72, subdivision 1, is amended to read:

Subdivision 1. Whoever does any of the following in a public or private place, knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a misdemeanor:

(1) Engages in brawling or fighting; or

(2) Disturbs an assembly or meeting, not unlawful in its character; or

(3) Engages in offensive, obscene, ~~or abusive language or in~~ boisterous ~~and~~, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, or resentment in others.

A person does not violate this section if the person's disorderly conduct was caused by an epileptic seizure.

Sec. 35. Minnesota Statutes 1990, section 624.712, subdivision 5, is amended to read:

Subd. 5. "Crime of violence" includes murder in the first, second, and third degrees, manslaughter in the first and second degrees, aiding suicide, aiding attempted suicide, felony violations of assault in the first, second, third, and fourth degrees, terroristic threats, use of drugs to injure or to facilitate crime, simple robbery, aggravated robbery, kidnapping, false imprisonment, criminal sexual conduct in the first, second, third, and fourth degrees, felonious theft, arson in the first and second degrees, riot, burglary in the first, second, third, and fourth degrees, reckless use of a gun or dangerous weapon, intentionally pointing a gun at or towards a human being, setting a spring gun, and unlawfully owning, possessing, or operating a machine gun, and an attempt to commit any of these offenses, as each of those offenses is defined in chapter 609. "Crime of violence" also includes felony violations of chapter 152.

Sec. 36. Minnesota Statutes 1990, section 624.713, subdivision 2, is amended to read:

Subd. 2. A person named in subdivision 1, clause (a) or (b), who possesses a pistol is guilty of a felony. A person named in any other clause of subdivision 1 who possesses a pistol is guilty of a gross misdemeanor.

Sec. 37. **SENTENCING GUIDELINES COMMISSION STUDY.**

The sentencing guidelines commission shall study sentencing practices under Minnesota Statutes, section 152.023, subdivision 2, clause (1). In its study, the commission shall review: (1) the proportionality of the statutory pen-

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alties for and severity level ranking of this crime relative to other controlled substance crimes; (2) the characteristics of offenders sentenced for committing this crime relative to other controlled substance offenders; (3) the sentencing practices of the courts with respect to presumptive sentences, sentencing departures, and conditions of stayed sentences for this crime; and (4) the harm to the community resulting from the commission of this crime relative to other controlled substance crimes. The commission may also include any other sentencing policy issues it deems relevant to this study. The commission shall report its findings to the judiciary committees of the house of representatives and senate by February 15, 1992, and shall recommend any changes to the statute or applicable sentencing guidelines it believes are necessary or appropriate.

Sec. 38. CHEMICAL USE ASSESSMENT FUNDING.

The commissioner of human services, in consultation with the commissioner of corrections and the state court administrator, shall appoint a task force of officials of state and local agencies and the judicial branch. The task force shall calculate the additional cost of providing the chemical use assessments of convicted felons required by section 26, and shall report to the legislature by January 1, 1992, its recommendations for funding those assessments.

Sec. 39. DRUG-IMPAIRED DRIVER STUDY.

The commissioner of public safety shall study expanding Minnesota's implied consent law to provide for immediate revocation of the driver's license of a driver who tests positive for the presence of a controlled substance. The commissioner shall report to the judiciary committees in the senate and house of representatives by June 1, 1992. If the commissioner determines that this expansion is feasible, the commissioner shall make specific recommendations concerning the following:

(1) the controlled substances that should be included;

(2) for each controlled substance, the threshold amount that should trigger license revocation, with due consideration of the length of time after use that each controlled substance remains detectable, the level of impairment caused by the controlled substance at different levels, and the state of current testing technology for the controlled substance;

(3) the most feasible method of testing drivers for controlled substances, including a recommendation for training of law enforcement and hospital personnel who will be responsible for conducting the testing; and

(4) an estimate of the cost to the state and local governments.

Sec. 40. APPROPRIATION.

\$145,000 is appropriated from the general fund to the drug abuse resistance education advisory council to be used to administer the drug abuse resistance education programs. This appropriation is available until June 30, 1993.

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Sec. 41. REPEALERS.

(a) Minnesota Statutes 1990, sections 244.095; and 299A.29, subdivisions 2 and 4, are repealed.

(b) Minnesota Statutes 1990, section 609.101, subdivision 3, is repealed effective July 1, 1993.

Sec. 42. EFFECTIVE DATE.

Sections 1 to 6, 9, 22, 23, 25, and 29 to 36, are effective August 1, 1991, and apply to offenses committed on or after that date. Sections 7, 8, 10 to 20, 37 to 39, and 41 are effective August 1, 1991. Sections 21, 27, and 28 are effective August 1, 1991, and apply to convictions occurring on or after that date. Section 24 is effective July 1, 1991, and applies to crimes committed on or after that date. Section 26 is effective July 1, 1992, and applies to crimes committed on or after that date.

Presented to the governor May 29, 1991

Became law without the governor's signature June 3, 1991

CHAPTER 280—S.F.No. 1440

An act relating to motor vehicles; providing for certain indemnities in lease agreements; proposing coding for new law in Minnesota Statutes, chapter 168.

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

Section 1. [168.2702] MOTOR VEHICLE LEASES: INDEMNITY AGREEMENTS.

Notwithstanding other law to the contrary, a provision in a motor vehicle lease agreement that indemnifies the lessor against any claims or liabilities arising out of the use, operation, or maintenance of the vehicle by the lessee includes the right to indemnity for traffic violations, penalties, and punitive damages caused by the lessee and is enforceable in accordance with its terms. This section does not relieve the lessor of any liability, penalty, or damages arising out of its own acts or omissions.

Presented to the governor May 29, 1991

Signed by the governor June 1, 1991, 3:25 p.m.

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