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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **2107**

03/25/2015 Authored by Cornish and Hilstrom

The bill was read for the first time and referred to the Committee on Public Safety and Crime Prevention Policy and Finance

1.1 A bill for an act
1.2 relating to criminal justice; modifying the thresholds for certain controlled
1.3 substance crimes; creating new offenses specific to the possession of marijuana
1.4 plants; eliminating mandatory minimum sentences for lower level controlled
1.5 substance crimes while modifying the mandatory minimums for first and second
1.6 degree crimes; appropriating money; amending Minnesota Statutes 2014, sections
1.7 152.01, subdivisions 10, 16a, by adding a subdivision; 152.021, subdivisions 1, 2,
1.8 3, by adding a subdivision; 152.022, subdivisions 1, 2, 3, by adding a subdivision;
1.9 152.023, subdivisions 2, 3; 152.024, subdivision 3; 152.025, subdivisions 1, 2;
1.10 152.026; 152.18, subdivision 1; 244.10, subdivision 5a; 609.11, subdivision 8;
1.11 proposing coding for new law in Minnesota Statutes, chapter 241.

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

1.13 Section 1. Minnesota Statutes 2014, section 152.01, subdivision 10, is amended to read:

1.14 Subd. 10. **Narcotic drug.** "Narcotic drug" means any of the following, whether
1.15 produced directly or indirectly by extraction from substances of vegetable origin, or
1.16 independently by means of chemical synthesis, or by a combination of extraction and
1.17 chemical synthesis:

1.18 (1) cocaine, heroin, opium, coca leaves, opiates, and methamphetamine;

1.19 (2) a compound, manufacture, salt, derivative, or preparation of cocaine, heroin,
1.20 opium, coca leaves, opiates, or methamphetamine;

1.21 (3) a substance, and any compound, manufacture, salt, derivative, or preparation
1.22 thereof, which is chemically identical with any of the substances referred to in clauses
1.23 (1) and (2), except that the words "narcotic drug" as used in this chapter shall not include
1.24 decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine
1.25 or ecgonine.

2.1 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
2.2 committed on or after that date.

2.3 Sec. 2. Minnesota Statutes 2014, section 152.01, subdivision 16a, is amended to read:

2.4 Subd. 16a. **Subsequent controlled substance conviction.** ~~Notwithstanding section~~
2.5 ~~152.18, subdivision 1,~~ A "subsequent controlled substance conviction" means that before
2.6 commission of the offense for which the person is convicted under this chapter, the person
2.7 ~~received a disposition for a felony-level offense under section 152.18, subdivision 1,~~ was
2.8 convicted in Minnesota of a felony violation of this chapter or a felony-level section
2.9 152.021 or 152.022, including an attempt or conspiracy to violate this chapter, or was
2.10 convicted elsewhere for conduct that would have been a felony under this chapter if
2.11 committed in Minnesota. ~~An earlier disposition for a felony-level offense under section~~
2.12 ~~152.18, subdivision 1, or an earlier conviction is not relevant if~~ of a similar offense by the
2.13 United States or another state, provided that ten years have not elapsed since discharge
2.14 from sentence or stay of adjudication.

2.15 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
2.16 committed on or after that date.

2.17 Sec. 3. Minnesota Statutes 2014, section 152.01, is amended by adding a subdivision
2.18 to read:

2.19 Subd. 24. **Aggravating factors.** "Aggravating factors" include:

2.20 (1) the defendant, or an accomplice, knowingly possessed a firearm or other
2.21 dangerous weapon, as defined in section 609.02, subdivision 6, during the commission
2.22 of the offense;

2.23 (2) the defendant has a prior conviction for a crime of violence, as defined in
2.24 section 609.1095, subdivision 1, paragraph (d), other than a violation of a provision under
2.25 chapter 152, including an attempt or conspiracy, or was convicted of a similar offense by
2.26 the United States or another state;

2.27 (3) the offense was committed for the benefit of a criminal gang as described
2.28 in section 609.229;

2.29 (4) the offense involved separate acts of sale or possession of a controlled substance
2.30 in three or more counties;

2.31 (5) the offense involved the transfer of controlled substances across a state or
2.32 international border and into Minnesota;

2.33 (6) the offense involved at least three separate transactions in which controlled
2.34 substances were sold, transferred, or possessed with intent to sell or transfer;

3.1 (7) the circumstances of the offense reveal the defendant to have occupied a high
 3.2 position in the drug distribution hierarchy;

3.3 (8) the defendant used a position or status to facilitate the commission of the offense,
 3.4 including positions of trust, confidence, or fiduciary relationships;

3.5 (9) the offense involved the sale of a controlled substance to a minor or vulnerable
 3.6 adult;

3.7 (10) the defendant, or an accomplice, manufactured, possessed, or sold a controlled
 3.8 substance in a school zone; park zone; public housing zone; federal, state, or local
 3.9 correctional facility; or drug treatment facility; and

3.10 (11) the defendant or an accomplice possessed equipment, drug paraphernalia,
 3.11 documents, or monies evidencing that the offense involved the cultivation, manufacture,
 3.12 distribution, or possession of controlled substances in quantities substantially larger than
 3.13 the minimum threshold amount for the underlying offense.

3.14 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 3.15 committed on or after that date.

3.16 Sec. 4. Minnesota Statutes 2014, section 152.021, subdivision 1, is amended to read:

3.17 Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime in
 3.18 the first degree if:

3.19 (1) on one or more occasions within a 90-day period the person unlawfully sells one
 3.20 or more mixtures of a total weight of ~~ten~~ 25 grams or more containing ~~cocaine, heroin,~~
 3.21 ~~or methamphetamine~~ a narcotic drug other than heroin;

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

3.24 ~~(2)~~ (3) on one or more occasions within a 90-day period the person unlawfully sells
 3.25 one or more mixtures of a total weight of ~~50~~ ten grams or more containing a narcotic drug
 3.26 other than ~~cocaine, heroin, or methamphetamine~~ and an aggravating factor is present;

3.27 ~~(3)~~ (4) on one or more occasions within a 90-day period the person unlawfully sells
 3.28 one or more mixtures of a total weight of 50 grams or more containing amphetamine,
 3.29 phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units,
 3.30 equaling 200 or more dosage units; ~~or~~

3.31 ~~(4)~~ (5) on one or more occasions within a 90-day period the person unlawfully sells
 3.32 one or more mixtures of a total weight of ~~50~~ 25 kilograms or more containing marijuana or
 3.33 Tetrahydrocannabinols, ~~or one or more mixtures of a total weight of 25 kilograms or more~~
 3.34 ~~containing marijuana or Tetrahydrocannabinols in a school zone, a park zone, a public~~
 3.35 ~~housing zone, or a drug treatment facility;~~ or

4.1 (6) on one or more occasions within a 90-day period the person unlawfully sells one
 4.2 or more mixtures of a total weight of ten kilograms or more containing marijuana or
 4.3 Tetrahydrocannabinols and an aggravating factor is present.

4.4 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 4.5 committed on or after that date.

4.6 Sec. 5. Minnesota Statutes 2014, section 152.021, subdivision 2, is amended to read:

4.7 Subd. 2. **Possession crimes.** (a) A person is guilty of a controlled substance crime
 4.8 in the first degree if:

4.9 (1) the person unlawfully possesses one or more mixtures of a total weight of 25
 4.10 50 grams or more containing cocaine, heroin, or methamphetamine a narcotic drug
 4.11 other than heroin;

4.12 (2) the person unlawfully possesses one or more mixtures of a total weight of 25
 4.13 grams or more containing heroin;

4.14 ~~(2)~~ (3) the person unlawfully possesses one or more mixtures of a total weight
 4.15 of ~~500~~ 25 grams or more containing a narcotic drug other than cocaine, heroin, or
 4.16 methamphetamine and an aggravating factor is present;

4.17 ~~(3)~~ (4) the person unlawfully possesses one or more mixtures of a total weight of
 4.18 500 grams or more containing amphetamine, phencyclidine, or hallucinogen or, if the
 4.19 controlled substance is packaged in dosage units, equaling 500 or more dosage units; or

4.20 ~~(4)~~ (5) the person unlawfully possesses one or more mixtures of a total weight
 4.21 of ~~100~~ 50 kilograms or more, or 500 or more plants, containing marijuana or
 4.22 Tetrahydrocannabinols; or

4.23 (6) the person unlawfully possesses one or more mixtures of a total weight of 25
 4.24 kilograms or more, or 100 or more plants, containing marijuana or Tetrahydrocannabinols
 4.25 and an aggravating factor is present.

4.26 (b) For the purposes of this subdivision, the weight of fluid used in a water pipe may
 4.27 not be considered in measuring the weight of a mixture except in cases where the mixture
 4.28 contains four or more fluid ounces of fluid.

4.29 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 4.30 committed on or after that date.

4.31 Sec. 6. Minnesota Statutes 2014, section 152.021, subdivision 3, is amended to read:

5.1 Subd. 3. **Penalty.** (a) A person convicted under subdivisions 1 to 2a, paragraph (a),
5.2 may be sentenced to imprisonment for not more than 30 years or to payment of a fine of
5.3 not more than \$1,000,000, or both.

5.4 (b) ~~If the conviction is a subsequent controlled substance conviction, a person~~
5.5 ~~convicted under subdivisions 1 to 2a, paragraph (a), shall be committed to the~~
5.6 ~~commissioner of corrections for not less than four years nor more than 40 years and, in~~
5.7 ~~addition, may be sentenced to payment of a fine of not more than \$1,000,000.~~

5.8 (e) In a prosecution under subdivision 1 involving sales by the same person in two or
5.9 more counties within a 90-day period, the person may be prosecuted for all of the sales in
5.10 any county in which one of the sales occurred.

5.11 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
5.12 committed on or after that date.

5.13 Sec. 7. Minnesota Statutes 2014, section 152.021, is amended by adding a subdivision
5.14 to read:

5.15 Subd. 4. **Aggravated controlled substance crime in the first degree.** (a) A person
5.16 is guilty of aggravated controlled substance crime in the first degree if the person violates
5.17 subdivision 1, 2, or 2a, under any of the following circumstances:

5.18 (1) the violation is a subsequent controlled substance conviction;

5.19 (2) the person possessed or sold a mixture containing more than 100 grams
5.20 or more than 500 dosage units of a controlled substance other than marijuana or
5.21 Tetrahydrocannabinols;

5.22 (3) the person possessed or sold more than 100 kilograms of a mixture, or 1,000 or
5.23 more plants, containing marijuana or Tetrahydrocannabinols;

5.24 (4) the person violated subdivision 1, clause (3) or (6), and two or more aggravating
5.25 factors are present; or

5.26 (5) the person violated subdivision 2, clause (3) or (6), and two or more aggravating
5.27 factors are present.

5.28 When determining the number of aggravating factors present, an aggravating factor
5.29 considered under subdivision 1, clause (3) or (6), or subdivision 2, clause (3) or (6), may
5.30 be considered also for purposes of clauses (4) and (5).

5.31 (b) A person convicted of violating paragraph (a) shall be committed to the
5.32 commissioner of corrections for not less than the presumptive sentence under the
5.33 sentencing guidelines, nor more than 40 years and, in addition, may be sentenced to
5.34 payment of a fine of not more than \$1,000,000. The court may not, on its own motion

6.1 or motion of the prosecutor or defendant, sentence the defendant without regard to the
 6.2 mandatory minimum sentence established in this subdivision.

6.3 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 6.4 committed on or after that date.

6.5 Sec. 8. Minnesota Statutes 2014, section 152.022, subdivision 1, is amended to read:

6.6 Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime
 6.7 in the second degree if:

6.8 (1) on one or more occasions within a 90-day period the person unlawfully sells one
 6.9 or more mixtures of a total weight of ~~three~~ ten grams or more containing ~~cocaine, heroin,~~
 6.10 ~~or methamphetamine~~ a narcotic drug other than heroin;

6.11 (2) on one or more occasions within a 90-day period, the person unlawfully sells one
 6.12 or more mixtures of a total weight of three grams or more containing heroin;

6.13 ~~(2)~~ (3) on one or more occasions within a 90-day period the person unlawfully sells
 6.14 one or more mixtures of a total weight of ~~ten~~ three grams or more containing a narcotic
 6.15 drug other than ~~cocaine, heroin, or methamphetamine~~ and an aggravating factor is present;

6.16 ~~(3)~~ (4) on one or more occasions within a 90-day period the person unlawfully sells
 6.17 one or more mixtures of a total weight of ten grams or more containing amphetamine,
 6.18 phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units,
 6.19 equaling 50 or more dosage units;

6.20 ~~(4)~~ (5) on one or more occasions within a 90-day period the person unlawfully sells
 6.21 one or more mixtures of a total weight of ~~25~~ ten kilograms or more containing marijuana
 6.22 or Tetrahydrocannabinols;

6.23 (6) on one or more occasions within a 90-day period the person unlawfully sells one
 6.24 or more mixtures of a total weight of five kilograms or more containing marijuana or
 6.25 Tetrahydrocannabinols and an aggravating factor is present;

6.26 ~~(5)~~ (7) the person unlawfully sells any amount of a Schedule I or II narcotic drug
 6.27 to a person under the age of 18, or conspires with or employs a person under the age
 6.28 of 18 to unlawfully sell the substance; or

6.29 ~~(6)~~ (8) the person unlawfully sells any of the following in a school zone, a park zone,
 6.30 a public housing zone, or a drug treatment facility:

6.31 (i) any amount of a Schedule I or II narcotic drug, lysergic acid diethylamide (LSD),
 6.32 3,4-methylenedioxy amphetamine, or 3,4-methylenedioxymethamphetamine;

6.33 (ii) one or more mixtures containing methamphetamine or amphetamine; or

6.34 (iii) one or more mixtures of a total weight of five kilograms or more containing
 6.35 marijuana or Tetrahydrocannabinols.

7.1 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 7.2 committed on or after that date.

7.3 Sec. 9. Minnesota Statutes 2014, section 152.022, subdivision 2, is amended to read:

7.4 Subd. 2. **Possession crimes.** (a) A person is guilty of controlled substance crime
 7.5 in the second degree if:

7.6 (1) the person unlawfully possesses one or more mixtures of a total weight of ~~six~~
 7.7 25 grams or more containing cocaine, heroin, or methamphetamine a narcotic drug
 7.8 other than heroin;

7.9 (2) the person unlawfully possesses one or more mixtures of a total weight of six
 7.10 grams or more containing heroin;

7.11 ~~(2)~~ (3) the person unlawfully possesses one or more mixtures of a total weight
 7.12 of ~~50~~ six grams or more containing a narcotic drug other than ~~cocaine, heroin, or~~
 7.13 ~~methamphetamine~~ and an aggravating factor is present;

7.14 ~~(3)~~ (4) the person unlawfully possesses one or more mixtures of a total weight of
 7.15 50 grams or more containing amphetamine, phencyclidine, or hallucinogen or, if the
 7.16 controlled substance is packaged in dosage units, equaling 100 or more dosage units; ~~or~~

7.17 ~~(4)~~ (5) the person unlawfully possesses one or more mixtures of a total
 7.18 weight of ~~50~~ 25 kilograms or more, or 100 or more plants, containing marijuana or
 7.19 Tetrahydrocannabinols; or

7.20 (6) the person unlawfully possesses one or more mixtures of a total weight of ten
 7.21 kilograms or more, or 50 or more plants, containing marijuana or Tetrahydrocannabinols,
 7.22 and an aggravating factor is present.

7.23 (b) For the purposes of this subdivision, the weight of fluid used in a water pipe may
 7.24 not be considered in measuring the weight of a mixture except in cases where the mixture
 7.25 contains four or more fluid ounces of fluid.

7.26 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 7.27 committed on or after that date.

7.28 Sec. 10. Minnesota Statutes 2014, section 152.022, subdivision 3, is amended to read:

7.29 Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced
 7.30 to imprisonment for not more than 25 years or to payment of a fine of not more than
 7.31 \$500,000, or both.

7.32 (b) ~~If the conviction is a subsequent controlled substance conviction, a person~~
 7.33 ~~convicted under subdivision 1 or 2 shall be committed to the commissioner of corrections~~

8.1 ~~for not less than three years nor more than 40 years and, in addition, may be sentenced to~~
8.2 ~~payment of a fine of not more than \$500,000.~~

8.3 (e) In a prosecution under subdivision 1 involving sales by the same person in two or
8.4 more counties within a 90-day period, the person may be prosecuted for all of the sales in
8.5 any county in which one of the sales occurred.

8.6 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
8.7 committed on or after that date.

8.8 Sec. 11. Minnesota Statutes 2014, section 152.022, is amended by adding a subdivision
8.9 to read:

8.10 Subd. 4. **Aggravated controlled substance crime in the second degree.** (a) A
8.11 person is guilty of aggravated controlled substance crime in the second degree if the
8.12 person violates subdivision 1 or 2 under any of the following circumstances:

8.13 (1) the violation is a subsequent controlled substance conviction;

8.14 (2) the person violated subdivision 1, clause (3) or (6), and two or more aggravating
8.15 factors are present; or

8.16 (3) the person violated subdivision 2, clause (3) or (6), and two or more aggravating
8.17 factors are present.

8.18 When determining the number of aggravating factors present, an aggravating factor
8.19 considered under subdivision 1, clause (3) or (6), or subdivision 2, clause (3) or (6), may
8.20 be considered also for purposes of clauses (2) and (3).

8.21 (b) A person convicted of violating paragraph (a) shall be committed to the
8.22 commissioner of corrections for not less than the presumptive sentence under the
8.23 sentencing guidelines, nor more than 40 years and, in addition, may be sentenced to
8.24 payment of a fine of not more than \$500,000. The court may not, on its own motion
8.25 or motion of the prosecutor or defendant, sentence the defendant without regard to the
8.26 mandatory minimum sentence established in this subdivision.

8.27 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
8.28 committed on or after that date.

8.29 Sec. 12. Minnesota Statutes 2014, section 152.023, subdivision 2, is amended to read:

8.30 Subd. 2. **Possession crimes.** (a) A person is guilty of controlled substance crime in
8.31 the third degree if:

9.1 (1) on one or more occasions within a 90-day period the person unlawfully possesses
 9.2 one or more mixtures of a total weight of three grams or more containing ~~ecocaine, heroin,~~
 9.3 ~~or methamphetamine~~ a narcotic drug;

9.4 (2) ~~on one or more occasions within a 90-day period the person unlawfully possesses~~
 9.5 ~~one or more mixtures of a total weight of ten grams or more containing a narcotic drug~~
 9.6 ~~other than ecocaine, heroin, or methamphetamine~~;

9.7 (3) on one or more occasions within a 90-day period the person unlawfully possesses
 9.8 one or more mixtures containing a narcotic drug, it is packaged in dosage units, and
 9.9 equals 50 or more dosage units;

9.10 (4) (3) on one or more occasions within a 90-day period the person unlawfully
 9.11 possesses any amount of a schedule I or II narcotic drug or five or more dosage
 9.12 units of lysergic acid diethylamide (LSD), 3,4-methylenedioxy amphetamine, or
 9.13 3,4-methylenedioxymethamphetamine in a school zone, a park zone, a public housing
 9.14 zone, or a drug treatment facility;

9.15 (5) (4) on one or more occasions within a 90-day period the person unlawfully
 9.16 possesses one or more mixtures of a total weight of ten kilograms or more, or 50 or more
 9.17 plants, containing marijuana or Tetrahydrocannabinols; or

9.18 (6) (5) the person unlawfully possesses one or more mixtures containing
 9.19 methamphetamine or amphetamine in a school zone, a park zone, a public housing zone,
 9.20 or a drug treatment facility.

9.21 (b) For the purposes of this subdivision, the weight of fluid used in a water pipe may
 9.22 not be considered in measuring the weight of a mixture except in cases where the mixture
 9.23 contains four or more fluid ounces of fluid.

9.24 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 9.25 committed on or after that date.

9.26 Sec. 13. Minnesota Statutes 2014, section 152.023, subdivision 3, is amended to read:

9.27 Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced
 9.28 to imprisonment for not more than 20 years or to payment of a fine of not more than
 9.29 \$250,000, or both.

9.30 (b) If the conviction is a subsequent controlled substance conviction, a person
 9.31 convicted under subdivision 1 or 2 ~~shall be committed to the commissioner of corrections~~
 9.32 ~~for not less than two years nor~~ may be sentenced to imprisonment for not more than
 9.33 30 years and, in addition, may be sentenced or to payment of a fine of not more than
 9.34 \$250,000, or both.

10.1 (c) In a prosecution under subdivision 1 or 2 involving sales or acts of possession
 10.2 by the same person in two or more counties within a 90-day period, the person may be
 10.3 prosecuted in any county in which one of the sales or acts of possession occurred.

10.4 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 10.5 committed on or after that date.

10.6 Sec. 14. Minnesota Statutes 2014, section 152.024, subdivision 3, is amended to read:

10.7 Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced
 10.8 to imprisonment for not more than 15 years or to payment of a fine of not more than
 10.9 \$100,000, or both.

10.10 (b) If the conviction is a subsequent controlled substance conviction, a person
 10.11 convicted under subdivision 1 or 2 ~~shall be committed to the commissioner of corrections~~
 10.12 ~~or to a local correctional authority for not less than one year nor~~ may be sentenced to
 10.13 imprisonment for not more than 30 years and, in addition, may be sentenced or to payment
 10.14 of a fine of not more than \$100,000, or both.

10.15 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 10.16 committed on or after that date.

10.17 Sec. 15. Minnesota Statutes 2014, section 152.025, subdivision 1, is amended to read:

10.18 Subdivision 1. **Sale crimes.** (a) A person is guilty of a controlled substance crime in
 10.19 the fifth degree and if convicted may be sentenced to imprisonment for not more than five
 10.20 years or to payment of a fine of not more than \$10,000, or both if:

10.21 (1) the person unlawfully sells one or more mixtures containing marijuana or
 10.22 tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

10.23 (2) the person unlawfully sells one or more mixtures containing a controlled
 10.24 substance classified in Schedule IV.

10.25 (b) ~~Except as provided in paragraph (c),~~ If a person is guilty of a controlled
 10.26 substance crime in the fifth degree and the conviction is a subsequent controlled substance
 10.27 conviction, the person convicted ~~shall be committed to the commissioner of corrections~~
 10.28 ~~or to a local correctional authority for not less than six months nor~~ may be sentenced
 10.29 to imprisonment for not more than ten years and, in addition, may be sentenced or to
 10.30 payment of a fine of not more than \$20,000, or both, if:

10.31 (1) the person unlawfully sells one or more mixtures containing marijuana or
 10.32 tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

11.1 (2) the person unlawfully sells one or more mixtures containing a controlled
11.2 substance classified in Schedule IV.

11.3 ~~(e) Prior to the time of sentencing, the prosecutor may file a motion to have the~~
11.4 ~~person sentenced without regard to the mandatory minimum sentence established by~~
11.5 ~~paragraph (b). The motion must be accompanied by a statement on the record of the~~
11.6 ~~reasons for it. When presented with the motion, or on its own motion, the court may~~
11.7 ~~sentence the person without regard to the mandatory minimum sentence if the court finds,~~
11.8 ~~on the record, substantial and compelling reasons to do so.~~

11.9 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
11.10 committed on or after that date.

11.11 Sec. 16. Minnesota Statutes 2014, section 152.025, subdivision 2, is amended to read:

11.12 Subd. 2. **Possession and other crimes.** (a) A person is guilty of controlled
11.13 substance crime in the fifth degree and if convicted may be sentenced to imprisonment for
11.14 not more than five years or to payment of a fine of not more than \$10,000, or both if:

11.15 (1) the person unlawfully possesses one or more mixtures containing a controlled
11.16 substance classified in Schedule I, II, III, or IV, except a small amount of marijuana; or

11.17 (2) the person procures, attempts to procure, possesses, or has control over a
11.18 controlled substance by any of the following means:

11.19 (i) fraud, deceit, misrepresentation, or subterfuge;

11.20 (ii) using a false name or giving false credit; or

11.21 (iii) falsely assuming the title of, or falsely representing any person to be, a
11.22 manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice
11.23 medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of
11.24 obtaining a controlled substance.

11.25 ~~(b) Except as provided in paragraph (c),~~ If a person is guilty of a controlled
11.26 substance crime in the fifth degree and the conviction is a subsequent controlled substance
11.27 conviction, the person convicted ~~shall be committed to the commissioner of corrections~~
11.28 ~~or to a local correctional authority for not less than six months nor~~ may be sentenced
11.29 to imprisonment for not more than ten years and, in addition, may be sentenced or to
11.30 payment of a fine of not more than \$20,000, or both, if:

11.31 (1) the person unlawfully possesses one or more mixtures containing a controlled
11.32 substance classified in Schedule I, II, III, or IV, except a small amount of marijuana; or

11.33 (2) the person procures, attempts to procure, possesses, or has control over a
11.34 controlled substance by any of the following means:

11.35 (i) fraud, deceit, misrepresentation, or subterfuge;

12.1 (ii) using a false name or giving false credit; or
 12.2 (iii) falsely assuming the title of, or falsely representing any person to be, a
 12.3 manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice
 12.4 medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of
 12.5 obtaining a controlled substance.

12.6 ~~(e) Prior to the time of sentencing, the prosecutor may file a motion to have the~~
 12.7 ~~person sentenced without regard to the mandatory minimum sentence established by~~
 12.8 ~~paragraph (b). The motion must be accompanied by a statement on the record of the~~
 12.9 ~~reasons for it. When presented with the motion, or on its own motion, the court may~~
 12.10 ~~sentence the person without regard to the mandatory minimum sentence if the court finds,~~
 12.11 ~~on the record, substantial and compelling reasons to do so.~~

12.12 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 12.13 committed on or after that date.

12.14 Sec. 17. Minnesota Statutes 2014, section 152.026, is amended to read:

12.15 **152.026 MANDATORY SENTENCES.**

12.16 A defendant convicted and sentenced to a mandatory sentence under ~~sections~~
 12.17 section 152.021 to 152.025 and 152.0262 or 152.022 is not eligible for probation, parole,
 12.18 discharge, or supervised release until that person has served the full term of imprisonment
 12.19 as provided by law, notwithstanding sections 242.19, 243.05, 609.12, and 609.135. "Term
 12.20 of imprisonment" has the meaning given in section 244.01, subdivision 8.

12.21 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 12.22 committed on or after that date.

12.23 Sec. 18. Minnesota Statutes 2014, section 152.18, subdivision 1, is amended to read:

12.24 Subdivision 1. **Deferring prosecution for certain first time drug offenders.** (a)
 12.25 If any person who has not previously participated in or completed a diversion program
 12.26 authorized under section 401.065 or who has not previously been placed on probation
 12.27 without a judgment of guilty and thereafter been discharged from probation under
 12.28 this section is found guilty of a violation of section 152.024, subdivision 2, 152.025,
 12.29 subdivision 2, or 152.027, subdivision 2, 3, 4, or 6, paragraph (d), for possession of a
 12.30 controlled substance, after trial or upon a plea of guilty, and the court determines that the
 12.31 ~~violation does not qualify as a subsequent controlled substance conviction under section~~
 12.32 152.01, subdivision 16a person does not have a prior controlled substance conviction, the
 12.33 court may, without entering a judgment of guilty and with the consent of the person, defer

13.1 further proceedings and place the person on probation upon such reasonable conditions
13.2 as it may require and for a period, not to exceed the maximum sentence provided for the
13.3 violation. The court may give the person the opportunity to attend and participate in an
13.4 appropriate program of education regarding the nature and effects of alcohol and drug
13.5 abuse as a stipulation of probation. Upon violation of a condition of the probation, the
13.6 court may enter an adjudication of guilt and proceed as otherwise provided. The court
13.7 may, in its discretion, dismiss the proceedings against the person and discharge the
13.8 person from probation before the expiration of the maximum period prescribed for the
13.9 person's probation. If during the period of probation the person does not violate any of the
13.10 conditions of the probation, then upon expiration of the period the court shall discharge the
13.11 person and dismiss the proceedings against that person. Discharge and dismissal under this
13.12 subdivision shall be without court adjudication of guilt, but a not public record of it shall
13.13 be retained by the Bureau of Criminal Apprehension for the purpose of use by the courts
13.14 in determining the merits of subsequent proceedings against the person. The not public
13.15 record may also be opened only upon court order for purposes of a criminal investigation,
13.16 prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections
13.17 authorities, the bureau shall notify the requesting party of the existence of the not public
13.18 record and the right to seek a court order to open it pursuant to this section. The court shall
13.19 forward a record of any discharge and dismissal under this subdivision to the bureau which
13.20 shall make and maintain the not public record of it as provided under this subdivision. The
13.21 discharge or dismissal shall not be deemed a conviction for purposes of disqualifications
13.22 or disabilities imposed by law upon conviction of a crime or for any other purpose.

13.23 (b) For purposes of this subdivision: (1) "not public" has the meaning given in
13.24 section 13.02, subdivision 8a; and (2) a "prior controlled substance conviction" means
13.25 a conviction in Minnesota of a felony violation of this chapter or a felony-level attempt
13.26 or conspiracy to violate this chapter, or a conviction for a similar offense by the United
13.27 States or another state that would have been a felony under this chapter if committed
13.28 in Minnesota. A prior controlled substance conviction is not relevant if ten years have
13.29 elapsed since discharge from sentence.

13.30 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
13.31 committed on or after that date.

13.32 **Sec. 19. [241.90] COMMUNITY JUSTICE REINVESTMENT ACCOUNT.**

13.33 The community justice reinvestment account is an account in the state treasury.
13.34 Money in the account must be used as directed by the legislature for specified purposes
13.35 related to reinvesting savings from reforms in the criminal justice system towards

14.1 targeted treatment, education, and reentry programs, enhanced community supervision,
14.2 and specialty courts.

14.3 Sec. 20. Minnesota Statutes 2014, section 244.10, subdivision 5a, is amended to read:

14.4 Subd. 5a. **Aggravating factors.** (a) As used in this section, "aggravating factors"
14.5 include, but are not limited to, situations where:

14.6 (1) the victim was particularly vulnerable due to age, infirmity, or reduced physical
14.7 or mental capacity, which was known or should have been known to the offender;

14.8 (2) the victim was treated with particular cruelty for which the offender should
14.9 be held responsible;

14.10 (3) the current conviction is for a criminal sexual conduct offense or an offense
14.11 in which the victim was otherwise injured and there is a prior felony conviction for a
14.12 criminal sexual conduct offense or an offense in which the victim was otherwise injured;

14.13 (4) the offense was a major economic offense, identified as an illegal act or series
14.14 of illegal acts committed by other than physical means and by concealment or guile to
14.15 obtain money or property, to avoid payment or loss of money or property, or to obtain
14.16 business or professional advantage. The presence of two or more of the circumstances
14.17 listed below are aggravating factors with respect to the offense:

14.18 (i) the offense involved multiple victims or multiple incidents per victim;

14.19 (ii) the offense involved an attempted or actual monetary loss substantially greater
14.20 than the usual offense or substantially greater than the minimum loss specified in the
14.21 statutes;

14.22 (iii) the offense involved a high degree of sophistication or planning or occurred
14.23 over a lengthy period of time;

14.24 (iv) the offender used the offender's position or status to facilitate the commission of
14.25 the offense, including positions of trust, confidence, or fiduciary relationships; or

14.26 (v) the offender had been involved in other conduct similar to the current offense
14.27 as evidenced by the findings of civil or administrative law proceedings or the imposition
14.28 of professional sanctions;

14.29 (5) the offense was a major controlled substance offense, identified as an offense or
14.30 series of offenses related to trafficking in controlled substances under circumstances more
14.31 onerous than the usual offense. The presence of two or more of the circumstances listed
14.32 below are aggravating factors with respect to the offense:

14.33 (i) the person or an accomplice knowingly possessed a firearm or other dangerous
14.34 weapon during the commission of the offense;

- 15.1 (ii) the person has a prior conviction for a crime of violence, as defined in section
 15.2 609.1095, subdivision 1, paragraph (d), other than a violation of a provision under chapter
 15.3 152, including an attempt or conspiracy, or was convicted of a similar offense by the
 15.4 United States or another state;
- 15.5 (iii) the offense was committed for the benefit of a criminal gang as described in
 15.6 section 609.229;
- 15.7 (iv) the offense involved the sale or possession of a controlled substance in three or
 15.8 more counties;
- 15.9 (v) the offense involved the transfer of controlled substances across a state or
 15.10 international border and into Minnesota;
- 15.11 ~~(i)~~ (vi) the offense involved at least three separate transactions in which controlled
 15.12 substances were sold, transferred, or possessed with intent to do so sell or transfer;
- 15.13 ~~(ii) the offense involved an attempted or actual sale or transfer of controlled~~
 15.14 ~~substances in quantities substantially larger than for personal use;~~
- 15.15 ~~(iii) the offense involved the manufacture of controlled substances for use by~~
 15.16 ~~other parties;~~
- 15.17 ~~(iv) the offender knowingly possessed a firearm during the commission of the offense;~~
- 15.18 ~~(v)~~ (vii) the circumstances of the offense reveal the offender to have occupied a high
 15.19 position in the drug distribution hierarchy;
- 15.20 ~~(vi) the offense involved a high degree of sophistication or planning or occurred~~
 15.21 ~~over a lengthy period of time or involved a broad geographic area of disbursement; or~~
- 15.22 ~~(vii)~~ (viii) the offender used the offender's position or status to facilitate the
 15.23 commission of the offense, including positions of trust, confidence, or fiduciary
 15.24 relationships; or
- 15.25 (ix) the defendant or an accomplice possessed equipment, drug paraphernalia,
 15.26 documents, or monies evidencing that the offense involved the cultivation, manufacture,
 15.27 distribution, or possession of controlled substances in quantities substantially larger than
 15.28 the minimum threshold amount for the underlying offense;
- 15.29 (6) the offender committed, for hire, a crime against the person;
- 15.30 (7) the offender is sentenced according to section 609.3455, subdivision 3a;
- 15.31 (8) the offender is a dangerous offender who committed a third violent crime, as
 15.32 described in section 609.1095, subdivision 2;
- 15.33 (9) the offender is a career offender as described in section 609.1095, subdivision 4;
- 15.34 (10) the offender committed the crime as part of a group of three or more persons
 15.35 who all actively participated in the crime;

16.1 (11) the offender intentionally selected the victim or the property against which the
 16.2 offense was committed, in whole or in part, because of the victim's, the property owner's,
 16.3 or another's actual or perceived race, color, religion, sex, sexual orientation, disability,
 16.4 age, or national origin;

16.5 (12) the offender used another's identity without authorization to commit a crime:
 16.6 ~~This aggravating factor may not be used when the use of another's identity is an element~~
 16.7 ~~of the offense;~~

16.8 (13) the offense was committed in the presence of a child; and

16.9 (14) the offense was committed in a location in which the victim had an expectation
 16.10 of privacy.

16.11 (b) Notwithstanding section 609.04 or 609.035, or other law to the contrary, when a
 16.12 court sentences an offender for a felony conviction, the court may order an aggravated
 16.13 sentence beyond the range specified in the sentencing guidelines grid based on any
 16.14 aggravating factor arising from the same course of conduct.

16.15 (c) Nothing in this section limits a court from ordering an aggravated sentence based
 16.16 on an aggravating factor not described in paragraph (a).

16.17 (d) A court may not use an aggravating factor under this subdivision as a basis of
 16.18 ordering an aggravated sentence if the aggravating factor is an element of the underlying
 16.19 offense being sentenced.

16.20 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 16.21 committed on or after that date.

16.22 Sec. 21. Minnesota Statutes 2014, section 609.11, subdivision 8, is amended to read:

16.23 Subd. 8. **Motion by prosecutor.** (a) Except as otherwise provided in paragraph (b),
 16.24 prior to the time of sentencing, the prosecutor may file a motion to have the defendant
 16.25 sentenced without regard to the mandatory minimum sentences established by this section.
 16.26 The motion shall be accompanied by a statement on the record of the reasons for it. When
 16.27 presented with the motion, or on its own motion, the court may sentence the defendant
 16.28 without regard to the mandatory minimum sentences established by this section if the
 16.29 court finds substantial and compelling reasons to do so. A sentence imposed under this
 16.30 subdivision is a departure from the Sentencing Guidelines.

16.31 (b) The court may not, on its own motion or the prosecutor's motion, sentence a
 16.32 defendant without regard to the mandatory minimum sentences established by this section
 16.33 if the defendant previously has been convicted of an offense listed in subdivision 9 in
 16.34 which the defendant used or possessed a firearm or other dangerous weapon.

17.1 (c) The court may not, on its own motion or the prosecutor's motion, sentence a
17.2 defendant without regard to the mandatory minimum sentences established by subdivision
17.3 5, if the defendant was convicted of a crime under chapter 152.

17.4 Sec. 22. **APPROPRIATION.**

17.5 (a) \$..... for the fiscal year ending June 30, 2016, and \$..... for the fiscal year
17.6 ending June 30, 2017, are appropriated from the general fund to the commissioner of
17.7 corrections. The commissioner shall deposit the money from the appropriation into the
17.8 community justice reinvestment account described in Minnesota Statutes, section 241.90.
17.9 The commissioner may retain up to 50 percent of the money in the account to add chemical
17.10 dependency treatment beds in state prisons to serve offenders with an anticipated release
17.11 date within five years, to enhance probation and supervised release services for controlled
17.12 substance offenders in communities served by the department, and to enhance other
17.13 controlled substance offender programs, including education programs, focused on reentry.
17.14 The commissioner shall transfer the remaining money in the account to the commissioner
17.15 of public safety. The commissioner of public safety, through the Office of Justice
17.16 Programs, shall use this money to establish a grant program for local units of government
17.17 or nonprofit organizations for chemical dependency and mental health treatment programs,
17.18 programs that improve supervision and reduce recidivism of controlled substance
17.19 offenders on probation or supervised release or participating in drug courts, and to fund
17.20 local participation in new drug court initiatives approved by the Judicial Council.

17.21 (b) By January 15, 2018, the commissioners of corrections and public safety
17.22 shall report to the chairs and ranking minority members of the senate and house of
17.23 representatives committees and divisions having jurisdiction over criminal justice funding
17.24 on how the appropriated money was distributed.

17.25 (c) By January 15, 2017, and January 15 of each subsequent odd-numbered year, the
17.26 commissioner of management and budget shall determine the savings to the state realized
17.27 in the preceding fiscal biennium due to this act and add that amount to the base budget of
17.28 the Department of Corrections in the governor's proposed budget for the next biennium. If
17.29 the legislature appropriates this amount for the next biennium, the money must be used by
17.30 the commissioner as provided in paragraph (a).