

A bill for an act

relating to state government; providing certain general criminal and sentencing provisions; regulating DWI and driving provisions; modifying certain crime victim provisions; modifying or establishing various provisions relating to public safety; regulating corrections, the courts, public defense, and emergency communications; providing penalties; amending Minnesota Statutes 2006, sections 3.732, subdivision 1; 3.736, subdivision 1; 13.87, subdivision 1; 15A.083, subdivision 4; 169A.275, by adding a subdivision; 169A.51, subdivision 7; 171.12, by adding a subdivision; 171.55; 241.018; 241.69, subdivisions 3, 4; 243.167, subdivision 1; 244.05, by adding a subdivision; 260C.193, subdivision 6; 270A.03, subdivision 5; 299A.641, subdivision 2; 299C.65, subdivisions 2, 5; 352D.02, subdivision 1; 383A.08, subdivisions 6, 7; 403.07, subdivision 4; 403.11, by adding subdivisions; 484.54, subdivision 2; 484.83; 504B.361, subdivision 1; 518.165, subdivisions 1, 2; 518A.35, subdivision 3; 518B.01, subdivisions 6a, 22; 563.01, by adding a subdivision; 590.05; 595.02, subdivision 1; 609.02, subdivision 16; 609.135, subdivision 8, by adding a subdivision; 609.21, subdivisions 1, 4a, 5, by adding subdivisions; 609.341, subdivision 11; 609.344, subdivision 1; 609.345, subdivision 1; 609.3451, subdivision 3; 609.3455, subdivision 4, by adding a subdivision; 609.505, subdivision 2; 609.748, subdivisions 1, 5; 611.14; 611.20, subdivision 6; 611.215, subdivisions 1, 1a; 611.23; 611.24; 611.25, subdivision 1; 611.26, subdivisions 2, 7; 611.27, subdivisions 3, 13, 15; 611.35; 611A.036, subdivisions 2, 7; 634.15, subdivisions 1, 2; 641.05; 641.265, subdivision 2; Laws 2001, First Special Session chapter 8, article 4, section 4; Laws 2003, First Special Session chapter 2, article 1, section 2; proposing coding for new law in Minnesota Statutes, chapters 171; 504B; 609; 611A; repealing Minnesota Statutes 2006, sections 169.796, subdivision 3; 260B.173; 480.175, subdivision 3; 609.21, subdivisions 2, 2a, 2b, 3, 4; 609.805; 611.20, subdivision 5; 626A.17, subdivision 3; Laws 2005, First Special Session chapter 6, article 3, section 91.

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

ARTICLE 1
GENERAL CRIME

Section 1. Minnesota Statutes 2006, section 518B.01, subdivision 22, is amended to read:

Subd. 22. **Domestic abuse no contact order.** (a) A domestic abuse no contact order is an order issued by a court against a defendant in a criminal proceeding for:

(1) domestic abuse;

(2) harassment or stalking charged under section 609.749 and committed against a family or household member;

(3) violation of an order for protection charged under subdivision 14; or

(4) violation of a prior domestic abuse no contact order charged under this subdivision.

It includes pretrial orders before final disposition of the case and probationary orders after sentencing.

(b) A person who knows of the existence of a domestic abuse no contact order issued against the person and violates the order is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor who knowingly violates this subdivision within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days' imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court as provided in section 518B.02. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(d) A person 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, if the person knowingly violates this subdivision within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency. Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

~~(d)~~ (e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a domestic abuse no contact order, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The person shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2006, section 609.02, subdivision 16, is amended to read:

Subd. 16. **Qualified domestic violence-related offense.** "Qualified domestic violence-related offense" includes a violation of or an attempt to violate the following offenses: sections 518B.01, subdivision 14 (violation of domestic abuse order for protection); 518B.01, subdivision 22 (violation of domestic abuse no contact order); 609.185 (first-degree murder); 609.19 (second-degree murder); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.2247 (domestic assault by strangulation); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.377 (malicious punishment of a child); 609.713 (terroristic threats); 609.748, subdivision 6 (violation of harassment restraining order); 609.749 (harassment/stalking); and 609.78, subdivision 2 (interference with an emergency call); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2006, section 609.341, subdivision 11, is amended to read:

Subd. 11. **Sexual contact.** (a) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a) to (e), and (h) to ~~(m)~~ (o), includes any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

- 4.1 (i) the intentional touching by the actor of the complainant's intimate parts, or
4.2 (ii) the touching by the complainant of the actor's, the complainant's, or another's
4.3 intimate parts effected by a person in a position of authority, or by coercion, or by
4.4 inducement if the complainant is under 13 years of age or mentally impaired, or
4.5 (iii) the touching by another of the complainant's intimate parts effected by coercion
4.6 or by a person in a position of authority, or
4.7 (iv) in any of the cases above, the touching of the clothing covering the immediate
4.8 area of the intimate parts.
- 4.9 (b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g)
4.10 and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts
4.11 committed with sexual or aggressive intent:
- 4.12 (i) the intentional touching by the actor of the complainant's intimate parts;
4.13 (ii) the touching by the complainant of the actor's, the complainant's, or another's
4.14 intimate parts;
4.15 (iii) the touching by another of the complainant's intimate parts; or
4.16 (iv) in any of the cases listed above, touching of the clothing covering the immediate
4.17 area of the intimate parts.
- 4.18 (c) "Sexual contact with a person under 13" means the intentional touching of the
4.19 complainant's bare genitals or anal opening by the actor's bare genitals or anal opening
4.20 with sexual or aggressive intent or the touching by the complainant's bare genitals or anal
4.21 opening of the actor's or another's bare genitals or anal opening with sexual or aggressive
4.22 intent.

4.23 **EFFECTIVE DATE.** This section is effective August 1, 2007, and applies to crimes
4.24 committed on or after that date.

4.25 Sec. 4. Minnesota Statutes 2006, section 609.344, subdivision 1, is amended to read:

4.26 Subdivision 1. **Crime defined.** A person who engages in sexual penetration with
4.27 another person is guilty of criminal sexual conduct in the third degree if any of the
4.28 following circumstances exists:

4.29 (a) the complainant is under 13 years of age and the actor is no more than 36 months
4.30 older than the complainant. Neither mistake as to the complainant's age nor consent to the
4.31 act by the complainant shall be a defense;

4.32 (b) the complainant is at least 13 but less than 16 years of age and the actor is more
4.33 than 24 months older than the complainant. In any such case, if the actor is no more
4.34 than 120 months older than the complainant, it shall be an affirmative defense, which
4.35 must be proved by a preponderance of the evidence, that the actor reasonably believes

the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense. If the actor in such a case is no more than 48 months but more than 24 months older than the complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(1) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense; ~~or~~

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual penetration occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2006, section 609.345, subdivision 1, is amended to read:

Subdivision 1. **Crime defined.** A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant. Consent by the complainant to the act is not a defense. In any such case, if the actor is no more than 120 months older than the complainant, it shall be an

affirmative defense which must be proved by a preponderance of the evidence that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense;

(c) the actor uses force or coercion to accomplish the sexual contact;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists. Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense; ~~or~~

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, the complainant is not married to the actor, and the sexual contact occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual contact occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2006, section 609.3451, subdivision 3, is amended to read:

Subd. 3. **Felony.** A person 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, if the person violates ~~subdivision 1, clause (2)~~ this section, after having been previously convicted of or adjudicated delinquent for violating ~~subdivision 1, clause (2)~~ this section; sections 609.342 to 609.345; section 609.3453; section 617.23, subdivision 2, clause (1); section 617.247; or a statute from another state in conformity ~~with subdivision 1, clause (2), or section 617.23, subdivision 2, clause (1)~~ with one of these statutes.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2006, section 609.3455, subdivision 4, is amended to read:

Subd. 4. **Mandatory life sentence; repeat offenders.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person to imprisonment for life if the person is convicted of violating section 609.342, 609.343, 609.344, 609.345, or 609.3453 and:

(1) the person has two previous sex offense convictions;

(2) the person has a previous sex offense conviction and:

(i) the factfinder determines that the present offense involved an aggravating factor that would provide grounds for an upward durational departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

(ii) the person received an upward durational departure from the sentencing guidelines for the previous sex offense conviction; or

(iii) the person was sentenced under this section or Minnesota Statutes 2004, section 609.108, for the previous sex offense conviction; or

(3) the person has two prior sex offense convictions, and the factfinder determines that the prior convictions and present offense involved at least three separate victims, and:

(i) the factfinder determines that the present offense involved an aggravating factor that would provide grounds for an upward durational departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

(ii) the person received an upward durational departure from the sentencing guidelines for one of the prior sex offense convictions; or

(iii) the person was sentenced under this section or Minnesota Statutes 2004, section 609.108, for one of the prior sex offense convictions.

(b) Notwithstanding paragraph (a), a court may not sentence a person to imprisonment for life for a violation of section 609.345, unless at least one of the person's previous or prior sex offense convictions that are being used as the basis for the sentence are for violations of section 609.342, 609.343, 609.344, or 609.3453, or any similar statute of the United States, this state, or any other state.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2006, section 609.3455, is amended by adding a subdivision to read:

Subd. 9. **Applicability.** The provisions of this section do not affect the applicability of Minnesota Statutes 2004, section 609.108, to crimes committed before August 1, 2005, or the validity of sentences imposed under Minnesota Statutes 2004, section 609.108.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 9. Minnesota Statutes 2006, section 609.505, subdivision 2, is amended to read:

Subd. 2. **Reporting police misconduct.** (a) Whoever informs, or causes information to be communicated to, a peace officer, whose responsibilities include investigating or reporting police misconduct, or other person working under the authority of a chief law enforcement officer, whose responsibilities include investigating or reporting police misconduct, that a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), has committed an act of police misconduct, knowing that the information is false, is guilty of a crime and may be sentenced as follows:

(1) up to the maximum provided for a misdemeanor if the false information does not allege a criminal act; or

(2) up to the maximum provided for a gross misdemeanor if the false information alleges a criminal act.

(b) The court shall order any person convicted of a violation of this subdivision to make full restitution of all reasonable expenses incurred in the investigation of the false allegation unless the court makes a specific written finding that restitution would be inappropriate under the circumstances. A restitution award may not exceed \$3,000.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.

Sec. 10. **[609.593] TAMPERING WITH GAS AND ELECTRICAL LINES.**

Whoever intentionally and without claim of right, takes, removes, breaks, or severs, a line or any part connected to a line that is used for supplying or transporting gas or electricity without the consent of one authorized to give consent and in a manner that creates a substantial risk of death or bodily harm or serious property damage is guilty of a felony and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2006, section 609.748, subdivision 1, is amended to read:

11.1 Subdivision 1. **Definition.** For the purposes of this section, the following terms have
11.2 the meanings given them in this subdivision.

11.3 (a) "Harassment" includes:

11.4 (1) a single incident of physical or sexual assault or repeated incidents of intrusive or
11.5 unwanted acts, words, or gestures that have a substantial adverse effect or are intended to
11.6 have a substantial adverse effect on the safety, security, or privacy of another, regardless
11.7 of the relationship between the actor and the intended target;

11.8 (2) targeted residential picketing; ~~and~~

11.9 (3) a pattern of attending public events after being notified that the actor's presence
11.10 at the event is harassing to another; and

11.11 (4) a single incident of posing as another person or persons through the use of the
11.12 Internet or a computer, computer program, computer network, or computer system,
11.13 without express authorization in order to harass or defame another person or persons.

11.14 (b) "Respondent" includes any adults or juveniles alleged to have engaged in
11.15 harassment or organizations alleged to have sponsored or promoted harassment.

11.16 (c) "Targeted residential picketing" includes the following acts when committed on
11.17 more than one occasion:

11.18 (1) marching, standing, or patrolling by one or more persons directed solely at a
11.19 particular residential building in a manner that adversely affects the safety, security, or
11.20 privacy of an occupant of the building; or

11.21 (2) marching, standing, or patrolling by one or more persons which prevents an
11.22 occupant of a residential building from gaining access to or exiting from the property on
11.23 which the residential building is located.

11.24 **EFFECTIVE DATE.** This section is effective August 1, 2007, and applies to crimes
11.25 committed on or after that date.

11.26 Sec. 12. Minnesota Statutes 2006, section 609.748, subdivision 5, is amended to read:

11.27 Subd. 5. **Restraining order.** (a) The court may grant a restraining order ordering
11.28 the respondent to cease or avoid the harassment of another person or to have no contact
11.29 with that person if all of the following occur:

11.30 (1) the petitioner has filed a petition under subdivision 3;

11.31 (2) the sheriff has served respondent with a copy of the temporary restraining order
11.32 obtained under subdivision 4, and with notice of the right to request a hearing, or service
11.33 has been made by publication under subdivision 3, paragraph (b); and

11.34 (3) the court finds at the hearing that there are reasonable grounds to believe that
11.35 the respondent has engaged in harassment.

12.1 Except as provided in paragraph (c), a restraining order may be issued only against the
12.2 respondent named in the petition; ~~except that~~ and if the respondent is an organization, the
12.3 order may be issued against and apply to all of the members of the organization. Relief
12.4 granted by the restraining order must be for a fixed period of not more than two years.
12.5 When a referee presides at the hearing on the petition, the restraining order becomes
12.6 effective upon the referee's signature.

12.7 (b) An order issued under this subdivision must be personally served upon the
12.8 respondent.

12.9 (c) If the harassment involves communication through the use of the Internet or
12.10 a computer, computer program, computer network, or computer system, a restraining
12.11 order may also be issued against private computer networks, including Internet service
12.12 providers or computer bulletin board systems, that are publishing harassing information.
12.13 A restraining order issued under this paragraph may direct the respondent or a private
12.14 computer network to remove or correct the harassing information. A restraining order
12.15 issued under this paragraph may be served by mail upon any private computer network
12.16 affected.

12.17 **EFFECTIVE DATE.** This section is effective August 1, 2007, and applies to crimes
12.18 committed on or after that date.

12.19 Sec. 13. **REPEALER.**

12.20 Minnesota Statutes 2006, section 609.805, is repealed.

12.21 **EFFECTIVE DATE.** This section is effective July 1, 2007.

12.22 **ARTICLE 2**

12.23 **DWI AND DRIVING RELATED PROVISIONS**

12.24 Section 1. Minnesota Statutes 2006, section 169A.275, is amended by adding a
12.25 subdivision to read:

12.26 Subd. 7. **Exception.** (a) A judge is not required to sentence a person as provided
12.27 in this section if the judge requires the person as a condition of probation to drive only
12.28 motor vehicles equipped with an ignition interlock device meeting the standards described
12.29 in section 171.306.

12.30 (b) This subdivision expires July 1, 2009.

12.31 **EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to crimes
12.32 committed on or after that date.

13.1 Sec. 2. Minnesota Statutes 2006, section 169A.51, subdivision 7, is amended to read:

13.2 Subd. 7. **Requirements for conducting tests; liability.** (a) Only a physician,
13.3 medical technician, emergency medical technician-paramedic, registered nurse, medical
13.4 technologist, medical laboratory technician, phlebotomist, or laboratory assistant acting
13.5 at the request of a peace officer may withdraw blood for the purpose of determining the
13.6 presence of alcohol, a controlled substance or its metabolite, or a hazardous substance.
13.7 This limitation does not apply to the taking of a breath or urine sample.

13.8 (b) The person tested has the right to have someone of the person's own choosing
13.9 administer a chemical test or tests in addition to any administered at the direction of a
13.10 peace officer; provided, that the additional test sample on behalf of the person is obtained
13.11 at the place where the person is in custody, after the test administered at the direction of a
13.12 peace officer, and at no expense to the state. The failure or inability to obtain an additional
13.13 test or tests by a person does not preclude the admission in evidence of the test taken at
13.14 the direction of a peace officer unless the additional test was prevented or denied by the
13.15 peace officer.

13.16 (c) The physician, medical technician, emergency medical technician-paramedic,
13.17 medical technologist, medical laboratory technician, laboratory assistant, phlebotomist,
13.18 or registered nurse drawing blood at the request of a peace officer for the purpose of
13.19 determining the concentration of alcohol, a controlled substance or its metabolite, or a
13.20 hazardous substance is in no manner liable in any civil or criminal action except for
13.21 negligence in drawing the blood. The person administering a breath test must be fully
13.22 trained in the administration of breath tests pursuant to training given by the commissioner
13.23 of public safety.

13.24 **EFFECTIVE DATE.** This section is effective the day following final enactment
13.25 and applies to crimes committed on or after that date.

13.26 Sec. 3. Minnesota Statutes 2006, section 171.12, is amended by adding a subdivision
13.27 to read:

13.28 Subd. 9. **Driving record disclosure to law enforcement.** The commissioner
13.29 shall also furnish driving records, without charge, to chiefs of police, county sheriffs,
13.30 prosecuting attorneys, and other law enforcement agencies with the power to arrest.

13.31 **EFFECTIVE DATE.** This section is effective July 1, 2007.

13.32 Sec. 4. **[171.306] IGNITION INTERLOCK DEVICE PILOT PROJECT.**

14.1 Subdivision 1. **Pilot project established; reports.** The commissioner shall
14.2 conduct a two-year ignition interlock device pilot project as provided in this section. The
14.3 commissioner shall select one metropolitan county and one rural county to participate
14.4 in the pilot project. The pilot project must begin on July 1, 2007, and continue until
14.5 June 30, 2009. The commissioner shall submit two preliminary reports by February 1,
14.6 2008, and by December 1, 2008, and a final report by September 1, 2009, to the chairs
14.7 and ranking minority members of the senate and house of representatives committees
14.8 having jurisdiction over criminal justice policy and funding. The reports must evaluate the
14.9 successes and failures of the pilot project, provide information on participation rates, and
14.10 make recommendations on continuing the project.

14.11 Subd. 2. **Performance standards; certification.** The commissioner shall determine
14.12 appropriate performance standards and a certification process for ignition interlock
14.13 devices for the pilot project. Only devices certified by the commissioner as meeting the
14.14 performance standards may be used in the pilot project.

14.15 Subd. 3. **Pilot project components.** (a) Under the pilot project, the commissioner
14.16 shall issue a driver's license to an individual whose driver's license has been revoked
14.17 under chapter 169A for a repeat impaired driving incident if the person qualifies under this
14.18 section and agrees to all of the conditions of the project.

14.19 (b) The commissioner must flag the person's driver's license record to indicate the
14.20 person's participation in the program. The license must authorize the person to drive only
14.21 vehicles having functioning ignition interlock devices conforming with the requirements
14.22 of subdivision 2.

14.23 (c) Notwithstanding any statute or rule to the contrary, the commissioner has
14.24 authority to and shall determine the appropriate period for which a person participating in
14.25 the ignition interlock pilot program shall be subject to this program, and when the person
14.26 is eligible to be issued:

14.27 (1) a limited driver's license subject to the ignition interlock restriction;
14.28 (2) full driving privileges subject to the ignition interlock restriction; and
14.29 (3) a driver's license without an ignition interlock restriction.

14.30 (d) A person participating in this pilot project shall agree to participate in any
14.31 treatment recommended by a chemical use assessment.

14.32 (e) The commissioner shall determine guidelines for participation in the project.
14.33 A person participating in the project shall sign a written agreement accepting these
14.34 guidelines and agreeing to comply with them.

14.35 (f) It is a misdemeanor for a person who is licensed under this section for driving a
14.36 vehicle equipped with an ignition interlock device:

15.1 (1) to start or attempt to start, or to operate or attempt to operate, the vehicle while
15.2 the person has any amount of alcohol in the person's body; or

15.3 (2) to drive, operate or be in physical control of a motor vehicle other than a vehicle
15.4 properly equipped with an ignition interlock device.

15.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

15.6 Sec. 5. Minnesota Statutes 2006, section 171.55, is amended to read:

15.7 **171.55 OUT-OF-STATE CONVICTIONS GIVEN EFFECT.**

15.8 The commissioner shall give the same effect for driver licensing purposes to conduct
15.9 reported from a licensing authority or court in another state or province or territory
15.10 of Canada that the commissioner would give to conduct reported from a court or other
15.11 agency of this state, whether or not the other state or province or territory of Canada is a
15.12 party to the Driver License Compact in section 171.50. The conduct to be given effect by
15.13 the commissioner includes a report of conviction for an offense enumerated in section
15.14 171.50, article IV, or an offense described in sections 171.17 and 171.18.

15.15 **EFFECTIVE DATE.** This section is effective August 1, 2007, and applies to crimes
15.16 committed on or after that date.

15.17 Sec. 6. Minnesota Statutes 2006, section 609.21, subdivision 1, is amended to read:

15.18 Subdivision 1. **Criminal vehicular ~~homicide~~ operation; crime described.** A
15.19 person is guilty of criminal vehicular ~~homicide resulting in death and may be sentenced to~~
15.20 ~~imprisonment for not more than ten years or to payment of a fine of not more than \$20,000,~~
15.21 ~~or both~~ operation and may be sentenced as provided in subdivision 1a, if the person causes
15.22 injury to or the death of a human being not constituting murder or manslaughter another
15.23 as a result of operating a motor vehicle:

15.24 (1) in a grossly negligent manner;

15.25 (2) in a negligent manner while under the influence of:

15.26 (i) alcohol;

15.27 (ii) a controlled substance; or

15.28 (iii) any combination of those elements;

15.29 (3) while having an alcohol concentration of 0.08 or more;

15.30 (4) while having an alcohol concentration of 0.08 or more, as measured within
15.31 two hours of the time of driving;

15.32 (5) in a negligent manner while knowingly under the influence of a hazardous
15.33 substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body; ~~or~~

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or

(8) where the driver had actual knowledge that the motor vehicle was defectively maintained and the injury or death was caused by the defective maintenance.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2006, section 609.21, is amended by adding a subdivision to read:

Subd. 1a. **Criminal penalties.** (a) A person who violates subdivision 1 and causes the death of a human being not constituting murder or manslaughter or the death of an unborn child may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) A person who violates subdivision 1 and causes great bodily harm to another not constituting attempted murder or assault or great bodily harm to an unborn child who is subsequently born alive 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.

(c) A person who violates subdivision 1 and causes substantial bodily harm to another may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$10,000, or both.

(d) A person who violates subdivision 1 and causes bodily harm to another may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2006, section 609.21, is amended by adding a subdivision to read:

Subd. 1b. **Conviction not bar to punishment for other crimes.** A prosecution for or a conviction of a crime under this section relating to causing death or injury to an unborn child is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

17.1 **EFFECTIVE DATE.** This section is effective August 1, 2007, and applies to crimes
17.2 committed on or after that date.

17.3 Sec. 9. Minnesota Statutes 2006, section 609.21, subdivision 4a, is amended to read:

17.4 Subd. 4a. **Affirmative defense.** It shall be an affirmative defense to a charge under
17.5 subdivision 1, clause (6); ~~2, clause (6); 2a, clause (6); 2b, clause (6); 3, clause (6); or 4,~~
17.6 ~~clause (6),~~ that the defendant used the controlled substance according to the terms of a
17.7 prescription issued for the defendant in accordance with sections 152.11 and 152.12.

17.8 **EFFECTIVE DATE.** This section is effective August 1, 2007, and applies to crimes
17.9 committed on or after that date.

17.10 Sec. 10. Minnesota Statutes 2006, section 609.21, subdivision 5, is amended to read:

17.11 Subd. 5. **Definitions.** For purposes of this section, the terms defined in this
17.12 subdivision have the meanings given them.

17.13 (a) "Motor vehicle" has the meaning given in section 609.52, subdivision 1, and
17.14 includes attached trailers.

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

17.16 (c) "Hazardous substance" means any chemical or chemical compound that is listed
17.17 as a hazardous substance in rules adopted under chapter 182.

17.18 **EFFECTIVE DATE.** This section is effective August 1, 2007, and applies to crimes
17.19 committed on or after that date.

17.20 Sec. 11. Minnesota Statutes 2006, section 634.15, subdivision 1, is amended to read:

17.21 Subdivision 1. **Certificates of analysis; blood sample reports; chain of custody.**

17.22 (a) In any hearing or trial of a criminal offense or petty misdemeanor or proceeding
17.23 pursuant to section 169A.53, subdivision 3, the following documents shall be admissible
17.24 in evidence:

17.25 ~~(a)~~ (1) a report of the facts and results of any laboratory analysis or examination if it
17.26 is prepared and attested by the person performing the laboratory analysis or examination
17.27 in any laboratory operated by the Bureau of Criminal Apprehension or authorized by the
17.28 bureau to conduct an analysis or examination, or in any laboratory of the Federal Bureau
17.29 of Investigation, the federal Postal Inspection Service, the federal Bureau of Alcohol,
17.30 Tobacco and Firearms, or the federal Drug Enforcement Administration;

17.31 ~~(b)~~ (2) a report of a blood sample withdrawn under the implied consent law if:

17.32 (i) the report was prepared by the person who administered the test;

18.1 (ii) the person who withdrew the blood sample was competent to administer the test
18.2 under section 169A.51, subdivision 7; and

18.3 (iii) the report was prepared consistent with any applicable rules promulgated by the
18.4 commissioner of public safety; and

18.5 ~~(e)~~ (3) a verified chain of custody of a specimen while under the control of a
18.6 laboratory described in clause ~~(a)~~ (1).

18.7 (b) A report described in paragraph (a), clause ~~(a)~~ (1), purported to be signed by the
18.8 person performing the analysis or examination in a laboratory named in that clause, or a
18.9 blood sample report described in paragraph (a), clause ~~(b)~~ (2), purported to be signed by
18.10 the person who withdrew the blood sample shall be admissible as evidence without proof
18.11 of the seal, signature or official character of the person whose name is signed to it. The
18.12 signature in paragraph (a), clause ~~(a)~~ (1) or ~~(b)~~ (2), can be written or in electronic format.

18.13 (c) At least 20 days before trial, the prosecutor shall submit to the accused person or
18.14 the accused person's attorney notice of the contents of a report described in paragraph (a)
18.15 and of the requirements of subdivision 2.

18.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.

18.17 Sec. 12. Minnesota Statutes 2006, section 634.15, subdivision 2, is amended to read:

18.18 Subd. 2. **Testimony at trial.** (a) Except in civil proceedings, including proceedings
18.19 under section 169A.53, an accused person or the accused person's attorney may request,
18.20 by notifying the prosecuting attorney at least ten days before the trial, that the following
18.21 persons testify in person at the trial on behalf of the state:

18.22 ~~(a)~~ (1) a person who performed the laboratory analysis or examination for the report
18.23 described in subdivision 1, paragraph (a), clause ~~(a)~~ (1); or

18.24 ~~(b)~~ (2) a person who prepared the blood sample report described in subdivision
18.25 1, paragraph (a), clause ~~(b)~~ (2).

18.26 If a petitioner in a proceeding under section 169A.53 subpoenas a person described
18.27 in paragraph ~~(a)~~ clause (1) or ~~(b)~~ (2) to testify at the proceeding, the petitioner is not
18.28 required to pay the person witness fees under section 357.22 in excess of \$100.

18.29 (b) If the accused person or the accused person's attorney does not comply with
18.30 the ten-day requirement described in paragraph (a), the prosecutor is not required to
18.31 produce the person who performed the analysis or examination or prepared the report.
18.32 In this case, the accused person's right to confront that witness is waived and the report
18.33 shall be admitted into evidence.

18.34 **EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 13. **REVISOR'S INSTRUCTION.**

(a) In Minnesota Statutes, sections 171.3215, subdivision 2a; and 609.135, subdivision 2, the revisor of statutes shall change the references in column A to the references in column B.

<u>Column A</u>	<u>Column B</u>
<u>609.21, subdivision 1</u>	<u>609.21, subdivision 1a, paragraph (a)</u>
<u>609.21, subdivision 2</u>	<u>609.21, subdivision 1a, paragraph (b)</u>
<u>609.21, subdivision 2a</u>	<u>609.21, subdivision 1a, paragraph (c)</u>
<u>609.21, subdivision 2b</u>	<u>609.21, subdivision 1a, paragraph (d)</u>
<u>609.21, subdivision 4</u>	<u>609.21, subdivision 1a, paragraph (b)</u>

(b) In Minnesota Statutes, section 609.035, subdivision 1, the revisor of statutes shall replace the reference to Minnesota Statutes, section 609.21, subdivisions 3 and 4, with a reference to Minnesota Statutes, section 609.21, subdivision 1b.

(c) In Minnesota Statutes, section 609.266, the revisor of statutes shall replace the reference to Minnesota Statutes, section 609.21, subdivisions 3 and 4, with a reference to Minnesota Statutes, section 609.21, subdivision 1a, paragraphs (a) and (b).

(d) In Minnesota Statutes, section 169A.03, subdivisions 20 and 21, and Minnesota Statutes, section 169A.24, subdivision 1, the revisor of statutes shall strike the references to Minnesota Statutes, section 609.21, subdivision 2, clauses (2) to (6); subdivision 2a, clauses (2) to (6); subdivision 2b, clauses (2) to (6); subdivision 3, clauses (2) to (6); and subdivision 4, clauses (2) to (6).

EFFECTIVE DATE. This section is effective August 1, 2007.

Sec. 14. **REPEALER.**

Subdivision 1. **Verify auto insurance.** Minnesota Statutes 2006, section 169.796, subdivision 3, is repealed.

Subd. 2. **Suspension of mailed demands.** Laws 2005, First Special Session chapter 6, article 3, section 91, is repealed.

Subd. 3. **Criminal vehicular operation.** Minnesota Statutes 2006, section 609.21, subdivisions 2, 2a, 2b, 3, and 4, are repealed.

EFFECTIVE DATE. Subdivisions 1 and 2 are effective the day following final enactment. Subdivision 3 is effective August 1, 2007.

ARTICLE 3
CRIME VICTIMS

Section 1. [504B.206] RIGHT OF VICTIMS OF DOMESTIC ABUSE TO
TERMINATE LEASE.

Subdivision 1. **Right to terminate; procedure.** A tenant to a residential lease who is a victim of domestic abuse and fears imminent domestic abuse against the tenant or the tenant's children by remaining in the leased premises may terminate a lease agreement without penalty or liability, except as provided by this section, by providing written notice to the landlord stating that the tenant fears imminent domestic abuse and indicating the specific date the tenant intends to vacate the premises. The written notice must be delivered by mail, fax, or in person, and be accompanied by one of the following:

- (1) an order for protection under chapter 518B; or
- (2) a no contact order, currently in effect, issued under section 518B.01, subdivision 22, or chapter 609.

Subd. 2. **Confidentiality of information.** Information provided to the landlord by the victim documenting domestic abuse pursuant to subdivision 1 shall be treated by the landlord as confidential. The information may not be entered into any shared database or provided to any entity except when required for use in an eviction proceeding, upon the consent of the victim, or as otherwise required by law.

Subd. 3. **Liability for rent; termination of tenancy.** (a) A tenant terminating a lease pursuant to subdivision 1 is responsible for one month's rent following the vacation of the premises and is relieved of any contractual obligation for payment of rent or any other charges for the remaining term of the lease.

(b) This section does not affect a tenant's liability for delinquent, unpaid rent or other sums owed to the landlord before the lease was terminated by the tenant under this section. The return or retention of the security deposit is subject to the provisions of section 504B.178.

(c) The tenancy terminates, including the right of possession of the premises, when the tenant surrenders the keys to the premises to the landlord. The one month's rent is due and payable on or before the date the tenant vacates the premises, as indicated in their written notice pursuant to subdivision 1. For purposes of this section, the provisions of section 504B.178 commence upon the first day of the month following either:

- (1) the date the tenant vacates the premises; or
- (2) the date the tenant pays the one month's rent, whichever occurs first.

21.1 (d) The provisions of this subdivision do not apply until written notice meeting the
21.2 requirements of subdivision 1 is delivered to the landlord.

21.3 Subd. 4. **Multiple tenants.** Notwithstanding the release of a tenant from a lease
21.4 agreement under this section, if there are any remaining tenants residing in the premises
21.5 the tenancy shall continue for those remaining tenants. A perpetrator who has been
21.6 excluded from the premises under court order remains liable under the lease with any
21.7 other tenant of the premises for rent or damage to the premises.

21.8 Subd. 5. **Waiver prohibited.** A residential tenant may not waive, and a landlord
21.9 may not require the residential tenant to waive, the resident tenant's rights under this
21.10 section.

21.11 Subd. 6. **Definition.** For purposes of this section, "domestic abuse" has the meaning
21.12 given in section 518B.01, subdivision 2.

21.13 **EFFECTIVE DATE.** This section is effective July 1, 2007.

21.14 Sec. 2. Minnesota Statutes 2006, section 518B.01, subdivision 6a, is amended to read:

21.15 Subd. 6a. **Subsequent orders and extensions.** (a) Upon application, notice to
21.16 all parties, and hearing, the court may extend the relief granted in an existing order for
21.17 protection or, if a petitioner's order for protection is no longer in effect when an application
21.18 for subsequent relief is made, grant a new order. The court may extend the terms of an
21.19 existing order or, if an order is no longer in effect, grant a new order upon a showing that:

21.20 (1) the respondent has violated a prior or existing order for protection;

21.21 (2) the petitioner is reasonably in fear of physical harm from the respondent;

21.22 (3) the respondent has engaged in acts of harassment or stalking within the meaning
21.23 of section 609.749, subdivision 2; or

21.24 (4) the respondent is incarcerated and about to be released, or has recently been
21.25 released from incarceration.

21.26 A petitioner does not need to show that physical harm is imminent to obtain an
21.27 extension or a subsequent order under this subdivision.

21.28 (b) If the court extends relief in an existing order for protection or grants a new
21.29 order, the court may order the respondent to provide the following information to the
21.30 court for purposes of service of process: the respondent's home address, the respondent's
21.31 employment address, and the names and locations of the respondent's parents, siblings,
21.32 children, or other close relatives.

21.33 **EFFECTIVE DATE.** This section is effective July 1, 2007.

22.1 Sec. 3. Minnesota Statutes 2006, section 595.02, subdivision 1, is amended to read:

22.2 Subdivision 1. **Competency of witnesses.** Every person of sufficient understanding,
22.3 including a party, may testify in any action or proceeding, civil or criminal, in court or
22.4 before any person who has authority to receive evidence, except as provided in this
22.5 subdivision:

22.6 (a) A husband cannot be examined for or against his wife without her consent, nor a
22.7 wife for or against her husband without his consent, nor can either, during the marriage or
22.8 afterwards, without the consent of the other, be examined as to any communication made
22.9 by one to the other during the marriage. This exception does not apply to a civil action or
22.10 proceeding by one against the other, nor to a criminal action or proceeding for a crime
22.11 committed by one against the other or against a child of either or against a child under the
22.12 care of either spouse, nor to a criminal action or proceeding in which one is charged with
22.13 homicide or an attempt to commit homicide and the date of the marriage of the defendant
22.14 is subsequent to the date of the offense, nor to an action or proceeding for nonsupport,
22.15 neglect, dependency, or termination of parental rights.

22.16 (b) An attorney cannot, without the consent of the attorney's client, be examined as
22.17 to any communication made by the client to the attorney or the attorney's advice given
22.18 thereon in the course of professional duty; nor can any employee of the attorney be
22.19 examined as to the communication or advice, without the client's consent.

22.20 (c) A member of the clergy or other minister of any religion shall not, without the
22.21 consent of the party making the confession, be allowed to disclose a confession made to
22.22 the member of the clergy or other minister in a professional character, in the course of
22.23 discipline enjoined by the rules or practice of the religious body to which the member of
22.24 the clergy or other minister belongs; nor shall a member of the clergy or other minister of
22.25 any religion be examined as to any communication made to the member of the clergy or
22.26 other minister by any person seeking religious or spiritual advice, aid, or comfort or advice
22.27 given thereon in the course of the member of the clergy's or other minister's professional
22.28 character, without the consent of the person.

22.29 (d) A licensed physician or surgeon, dentist, or chiropractor shall not, without the
22.30 consent of the patient, be allowed to disclose any information or any opinion based thereon
22.31 which the professional acquired in attending the patient in a professional capacity, and
22.32 which was necessary to enable the professional to act in that capacity; after the decease
22.33 of the patient, in an action to recover insurance benefits, where the insurance has been
22.34 in existence two years or more, the beneficiaries shall be deemed to be the personal
22.35 representatives of the deceased person for the purpose of waiving this privilege, and no

23.1 oral or written waiver of the privilege shall have any binding force or effect except when
23.2 made upon the trial or examination where the evidence is offered or received.

23.3 (e) A public officer shall not be allowed to disclose communications made to the
23.4 officer in official confidence when the public interest would suffer by the disclosure.

23.5 (f) Persons of unsound mind and persons intoxicated at the time of their production
23.6 for examination are not competent witnesses if they lack capacity to remember or to relate
23.7 truthfully facts respecting which they are examined.

23.8 (g) A registered nurse, psychologist, consulting psychologist, or licensed social
23.9 worker engaged in a psychological or social assessment or treatment of an individual
23.10 at the individual's request shall not, without the consent of the professional's client, be
23.11 allowed to disclose any information or opinion based thereon which the professional has
23.12 acquired in attending the client in a professional capacity, and which was necessary to
23.13 enable the professional to act in that capacity. Nothing in this clause exempts licensed
23.14 social workers from compliance with the provisions of sections 626.556 and 626.557.

23.15 (h) An interpreter for a person disabled in communication shall not, without the
23.16 consent of the person, be allowed to disclose any communication if the communication
23.17 would, if the interpreter were not present, be privileged. For purposes of this section, a
23.18 "person disabled in communication" means a person who, because of a hearing, speech
23.19 or other communication disorder, or because of the inability to speak or comprehend the
23.20 English language, is unable to understand the proceedings in which the person is required
23.21 to participate. The presence of an interpreter as an aid to communication does not destroy
23.22 an otherwise existing privilege.

23.23 (i) Licensed chemical dependency counselors shall not disclose information or
23.24 an opinion based on the information which they acquire from persons consulting them
23.25 in their professional capacities, and which was necessary to enable them to act in that
23.26 capacity, except that they may do so:

23.27 (1) when informed consent has been obtained in writing, except in those
23.28 circumstances in which not to do so would violate the law or would result in clear and
23.29 imminent danger to the client or others;

23.30 (2) when the communications reveal the contemplation or ongoing commission
23.31 of a crime; or

23.32 (3) when the consulting person waives the privilege by bringing suit or filing charges
23.33 against the licensed professional whom that person consulted.

23.34 (j) A parent or the parent's minor child may not be examined as to any communication
23.35 made in confidence by the minor to the minor's parent. A communication is confidential if
23.36 made out of the presence of persons not members of the child's immediate family living

in the same household. This exception may be waived by express consent to disclosure by a parent entitled to claim the privilege or by the child who made the communication or by failure of the child or parent to object when the contents of a communication are demanded. This exception does not apply to a civil action or proceeding by one spouse against the other or by a parent or child against the other, nor to a proceeding to commit either the child or parent to whom the communication was made or to place the person or property or either under the control of another because of an alleged mental or physical condition, nor to a criminal action or proceeding in which the parent is charged with a crime committed against the person or property of the communicating child, the parent's spouse, or a child of either the parent or the parent's spouse, or in which a child is charged with a crime or act of delinquency committed against the person or property of a parent or a child of a parent, nor to an action or proceeding for termination of parental rights, nor any other action or proceeding on a petition alleging child abuse, child neglect, abandonment or nonsupport by a parent.

(k) Sexual assault counselors may not be ~~compelled to testify about~~ allowed to disclose any opinion or information received from or about the victim without the consent of the victim. However, a counselor may be compelled to identify or disclose information in investigations or proceedings related to neglect or termination of parental rights if the court determines good cause exists. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from compliance with the provisions of sections 626.556 and 626.557.

"Sexual assault counselor" for the purpose of this section means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or assistance to victims of sexual assault.

(l) A person cannot be examined as to any communication or document, including worknotes, made or used in the course of or because of mediation pursuant to an agreement to mediate. This does not apply to the parties in the dispute in an application to a court by a party to have a mediated settlement agreement set aside or reformed. A communication or document otherwise not privileged does not become privileged because of this paragraph. This paragraph is not intended to limit the privilege accorded to communication during mediation by the common law.

(m) A child under ten years of age is a competent witness unless the court finds that the child lacks the capacity to remember or to relate truthfully facts respecting which the

25.1 child is examined. A child describing any act or event may use language appropriate for
25.2 a child of that age.

25.3 (n) A communication assistant for a telecommunications relay system for
25.4 communication-impaired persons shall not, without the consent of the person making the
25.5 communication, be allowed to disclose communications made to the communication
25.6 assistant for the purpose of relaying.

25.7 **EFFECTIVE DATE.** This section is effective July 1, 2007.

25.8 Sec. 4. Minnesota Statutes 2006, section 609.748, subdivision 5, is amended to read:

25.9 Subd. 5. **Restraining order.** (a) The court may grant a restraining order ordering
25.10 the respondent to cease or avoid the harassment of another person or to have no contact
25.11 with that person if all of the following occur:

25.12 (1) the petitioner has filed a petition under subdivision 3;

25.13 (2) the sheriff has served respondent with a copy of the temporary restraining order
25.14 obtained under subdivision 4, and with notice of the right to request a hearing, or service
25.15 has been made by publication under subdivision 3, paragraph (b); and

25.16 (3) the court finds at the hearing that there are reasonable grounds to believe that
25.17 the respondent has engaged in harassment.

25.18 A restraining order may be issued only against the respondent named in the petition;
25.19 except that if the respondent is an organization, the order may be issued against and apply
25.20 to all of the members of the organization. Relief granted by the restraining order must be
25.21 for a fixed period of not more than two years. When a referee presides at the hearing on
25.22 the petition, the restraining order becomes effective upon the referee's signature.

25.23 If the petitioner has had one or more restraining orders in effect against the
25.24 respondent, the court may order the respondent to provide the following information to the
25.25 court for purposes of service of process: the respondent's home address, the respondent's
25.26 employment address, and the names and locations of the respondent's parents, siblings,
25.27 children, or other close relatives.

25.28 (b) An order issued under this subdivision must be personally served upon the
25.29 respondent. If personal service cannot be made, the court may order service by alternate
25.30 means, or by publication, which publication must be made as in other actions. The
25.31 application for alternate service must include the last known location of the respondent;
25.32 the petitioner's most recent contacts with the respondent; the last known location of the
25.33 respondent's employment; the names and locations of the respondent's parents, siblings,
25.34 children, and other close relatives; the names and locations of other persons who are likely

26.1 to know the respondent's whereabouts; and a description of efforts to locate those persons.
26.2 The court shall consider the length of time the respondent's location has been unknown,
26.3 the likelihood that the respondent's location will become known, the nature of the relief
26.4 sought, and the nature of efforts made to locate the respondent. The court shall order
26.5 service by first class mail, forwarding address requested, to any addresses where there is a
26.6 reasonable possibility that mail or information will be forwarded or communicated to the
26.7 respondent. The court may also order publication, within or without the state, but only if it
26.8 might reasonably succeed in notifying the respondent of the proceeding. Service shall be
26.9 deemed complete 14 days after mailing or 14 days after court-ordered publication.

26.10 **EFFECTIVE DATE.** This section is effective July 1, 2007.

26.11 Sec. 5. Minnesota Statutes 2006, section 611A.036, subdivision 2, is amended to read:

26.12 Subd. 2. **Victim's spouse or next of kin.** An employer must allow a victim of a
26.13 ~~heinous~~ violent crime, as well as the victim's spouse or next of kin, reasonable time off
26.14 from work to attend criminal proceedings related to the victim's case.

26.15 **EFFECTIVE DATE.** This section is effective July 1, 2007.

26.16 Sec. 6. Minnesota Statutes 2006, section 611A.036, subdivision 7, is amended to read:

26.17 Subd. 7. **Definition.** As used in this section, ~~"heinous crime"~~ "violent crime" means
26.18 a violation or attempt to violate any of the following: section 609.185; 609.19; 609.195;
26.19 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.2241; 609.2242;
26.20 609.2245; 609.2247; 609.228; 609.23; 609.231; 609.2325; 609.233; 609.235; 609.24;
26.21 609.245; 609.25; 609.255; 609.265; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665;
26.22 609.267; 609.2671; 609.2672; 609.268; 609.282; 609.342; 609.343; 609.344; 609.345;
26.23 609.3451; 609.3453; 609.352; 609.377; 609.378; 609.561, subdivision 1; 609.582,
26.24 subdivision 1, paragraph (a) or (c); or 609.66, subdivision 1e, paragraph (b).

26.25 ~~(1) a violation or attempted violation of section 609.185 or 609.19;~~

26.26 ~~(2) a violation of section 609.195 or 609.221; or~~

26.27 ~~(3) a violation of section 609.342, 609.343, or 609.344, if the offense was committed~~
26.28 ~~with force or violence or if the complainant was a minor at the time of the offense.~~

26.29 **EFFECTIVE DATE.** This section is effective July 1, 2007.

26.30 Sec. 7. **[611A.26] POLYGRAPH EXAMINATIONS; CRIMINAL SEXUAL**
26.31 **CONDUCT COMPLAINTS; LIMITATIONS.**

27.1 Subdivision 1. **Polygraph prohibition.** No law enforcement agency or prosecutor
27.2 shall require that a complainant of a criminal sexual conduct offense submit to a polygraph
27.3 examination as part of or a condition to proceeding with the investigation, charging,
27.4 or prosecution of such offense.

27.5 Subd. 2. **Law enforcement inquiry.** A law enforcement agency or prosecutor may
27.6 not ask that a complainant of a criminal sexual conduct offense submit to a polygraph
27.7 examination as part of the investigation, charging, or prosecution of such offense unless
27.8 the complainant has been referred to, and had the opportunity to exercise the option of
27.9 consulting with a sexual assault counselor as defined in section 595.02, subdivision 1,
27.10 paragraph (k).

27.11 Subd. 3. **Informed consent requirement.** At the request of the complainant, a law
27.12 enforcement agency may conduct a polygraph examination of the complainant only with
27.13 the complainant's written, informed consent as provided in subdivision 3.

27.14 Subd. 4. **Informed consent.** To consent to a polygraph, a complainant must be
27.15 informed in writing that:

27.16 (1) the taking of the polygraph examination is voluntary and solely at the victim's
27.17 request;

27.18 (2) a law enforcement agency or prosecutor may not ask or require that the
27.19 complainant submit to a polygraph examination;

27.20 (3) the results of the examination are not admissible in court; and

27.21 (4) the complainant's refusal to take a polygraph examination may not be used
27.22 as a basis by the law enforcement agency or prosecutor not to investigate, charge, or
27.23 prosecute the offender.

27.24 Subd. 5. **Polygraph refusal.** A complainant's refusal to submit to a polygraph
27.25 examination shall not prevent the investigation, charging, or prosecution of the offense.

27.26 Subd. 6. **Definitions.** For the purposes of this section, the following terms have
27.27 the meanings given.

27.28 (a) "Criminal sexual conduct" means a violation of section 609.342, 609.343,
27.29 609.344, 609.345, or 609.3451.

27.30 (b) "Complainant" means a person reporting to have been subjected to criminal
27.31 sexual conduct.

27.32 (c) "Polygraph examination" means any mechanical or electrical instrument or
27.33 device of any type used or allegedly used to examine, test, or question individuals for
27.34 the purpose of determining truthfulness.

27.35 **EFFECTIVE DATE.** This section is effective July 1, 2008.

ARTICLE 4

COURTS AND PUBLIC DEFENDERS

Section 1. Minnesota Statutes 2006, section 3.732, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** As used in this section and section 3.736 the terms defined in this section have the meanings given them.

(1) "State" includes each of the departments, boards, agencies, commissions, courts, and officers in the executive, legislative, and judicial branches of the state of Minnesota and includes but is not limited to the Housing Finance Agency, the Minnesota Office of Higher Education, the Higher Education Facilities Authority, the Health Technology Advisory Committee, the Armory Building Commission, the Zoological Board, the Iron Range Resources and Rehabilitation Board, the State Agricultural Society, the University of Minnesota, the Minnesota State Colleges and Universities, state hospitals, and state penal institutions. It does not include a city, town, county, school district, or other local governmental body corporate and politic.

(2) "Employee of the state" means all present or former officers, members, directors, or employees of the state, members of the Minnesota National Guard, members of a bomb disposal unit approved by the commissioner of public safety and employed by a municipality defined in section 466.01 when engaged in the disposal or neutralization of bombs or other similar hazardous explosives, as defined in section 299C.063, outside the jurisdiction of the municipality but within the state, or persons acting on behalf of the state in an official capacity, temporarily or permanently, with or without compensation. It does not include either an independent contractor except, for purposes of this section and section 3.736 only, a guardian ad litem acting under court appointment, or members of the Minnesota National Guard while engaged in training or duty under United States Code, title 10, or title 32, section 316, 502, 503, 504, or 505, as amended through December 31, 1983. Notwithstanding sections 43A.02 and 611.263, for purposes of this section and section 3.736 only, "employee of the state" includes a district public defender or assistant district public defender in the Second or Fourth Judicial District and a member of the Health Technology Advisory Committee.

(3) "Scope of office or employment" means that the employee was acting on behalf of the state in the performance of duties or tasks lawfully assigned by competent authority.

(4) "Judicial branch" has the meaning given in section 43A.02, subdivision 25.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 2. Minnesota Statutes 2006, section 3.736, subdivision 1, is amended to read:

Subdivision 1. **General rule.** The state will pay compensation for injury to or loss of property or personal injury or death caused by an act or omission of an employee of the state while acting within the scope of office or employment or a peace officer who is not acting on behalf of a private employer and who is acting in good faith under section 629.40, subdivision 4, under circumstances where the state, if a private person, would be liable to the claimant, whether arising out of a governmental or proprietary function. Nothing in this section waives the defense of judicial, quasi-judicial, or legislative immunity except to the extent provided in subdivision 8.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 3. Minnesota Statutes 2006, section 15A.083, subdivision 4, is amended to read:

Subd. 4. **Ranges for other judicial positions.** Salaries or salary ranges are provided for the following positions in the judicial branch of government. The appointing authority of any position for which a salary range has been provided shall fix the individual salary within the prescribed range, considering the qualifications and overall performance of the employee. ~~The Supreme Court shall set the salary of the state court administrator and the salaries of district court administrators. The salary of the state court administrator or a district court administrator may not exceed the salary of a district court judge.~~ If district court administrators die, the amounts of their unpaid salaries for the months in which their deaths occur must be paid to their estates. The salary of the state public defender shall be fixed by the State Board of Public Defense but must not exceed the salary of a district court judge.

Salary or Range
Effective
July 1, 1994
Board on Judicial
Standards executive
director
\$44,000-60,000

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 4. Minnesota Statutes 2006, section 260C.193, subdivision 6, is amended to read:

Subd. 6. **Termination of jurisdiction.** The court may dismiss the petition or otherwise terminate its jurisdiction on its own motion or on the motion or petition of any interested party at any time. Unless terminated by the court, and except as otherwise provided in this subdivision, the jurisdiction of the court shall continue until the individual becomes 19 years of age if the court determines it is in the best interest of the individual

to do so. ~~Court jurisdiction under section 260C.007, subdivision 6, clause (14), may not continue past the child's 18th birthday.~~

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 5. Minnesota Statutes 2006, section 270A.03, subdivision 5, is amended to read:

Subd. 5. **Debt.** "Debt" means a legal obligation of a natural person to pay a fixed and certain amount of money, which equals or exceeds \$25 and which is due and payable to a claimant agency. The term includes criminal fines imposed under section 609.10 or 609.125, fines imposed for petty misdemeanors as defined in section 609.02, subdivision 4a, and restitution. ~~The term also includes the co-payment for the appointment of a district public defender imposed under section 611.17, paragraph (c).~~ A debt may arise under a contractual or statutory obligation, a court order, or other legal obligation, but need not have been reduced to judgment.

A debt includes any legal obligation of a current recipient of assistance which is based on overpayment of an assistance grant where that payment is based on a client waiver or an administrative or judicial finding of an intentional program violation; or where the debt is owed to a program wherein the debtor is not a client at the time notification is provided to initiate recovery under this chapter and the debtor is not a current recipient of food support, transitional child care, or transitional medical assistance.

A debt does not include any legal obligation to pay a claimant agency for medical care, including hospitalization if the income of the debtor at the time when the medical care was rendered does not exceed the following amount:

- (1) for an unmarried debtor, an income of \$8,800 or less;
- (2) for a debtor with one dependent, an income of \$11,270 or less;
- (3) for a debtor with two dependents, an income of \$13,330 or less;
- (4) for a debtor with three dependents, an income of \$15,120 or less;
- (5) for a debtor with four dependents, an income of \$15,950 or less; and
- (6) for a debtor with five or more dependents, an income of \$16,630 or less.

The income amounts in this subdivision shall be adjusted for inflation for debts incurred in calendar years 2001 and thereafter. The dollar amount of each income level that applied to debts incurred in the prior year shall be increased in the same manner as provided in section 1(f) of the Internal Revenue Code of 1986, as amended through December 31, 2000, except that for the purposes of this subdivision the percentage increase shall be determined from the year starting September 1, 1999, and ending August 31, 2000, as the base year for adjusting for inflation for debts incurred after December 31, 2000.

31.1 Debt also includes an agreement to pay a MinnesotaCare premium, regardless of the
31.2 dollar amount of the premium authorized under section 256L.15, subdivision 1a.

31.3 **EFFECTIVE DATE.** This section is effective July 1, 2007.

31.4 Sec. 6. Minnesota Statutes 2006, section 352D.02, subdivision 1, is amended to read:

31.5 Subdivision 1. **Coverage.** (a) Employees enumerated in paragraph (c), clauses (2),
31.6 (3), (4), and (6) to (14), if they are in the unclassified service of the state or Metropolitan
31.7 Council and are eligible for coverage under the general state employees retirement plan
31.8 under chapter 352, are participants in the unclassified plan under this chapter unless the
31.9 employee gives notice to the executive director of the Minnesota State Retirement System
31.10 within one year following the commencement of employment in the unclassified service
31.11 that the employee desires coverage under the general state employees retirement plan.
31.12 For the purposes of this chapter, an employee who does not file notice with the executive
31.13 director is deemed to have exercised the option to participate in the unclassified plan.

31.14 (b) Persons referenced in paragraph (c), clause (5), are participants in the unclassified
31.15 program under this chapter unless the person was eligible to elect different coverage under
31.16 section 3A.07 and elected retirement coverage by the applicable alternative retirement
31.17 plan. Persons referenced in paragraph (c), clause (15), are participants in the unclassified
31.18 program under this chapter for judicial employment in excess of the service credit limit in
31.19 section 490.121, subdivision 22.

31.20 (c) Enumerated employees and referenced persons are:

31.21 (1) the governor, the lieutenant governor, the secretary of state, the state auditor,
31.22 and the attorney general;

31.23 (2) an employee in the Office of the Governor, Lieutenant Governor, Secretary
31.24 of State, State Auditor, Attorney General;

31.25 (3) an employee of the State Board of Investment;

31.26 (4) the head of a department, division, or agency created by statute in the unclassified
31.27 service, an acting department head subsequently appointed to the position, or an employee
31.28 enumerated in section 15A.0815 or 15A.083, subdivision 4;

31.29 (5) a member of the legislature;

31.30 (6) a full-time unclassified employee of the legislature or a commission or agency of
31.31 the legislature who is appointed without a limit on the duration of the employment or a
31.32 temporary legislative employee having shares in the supplemental retirement fund as a
31.33 result of former employment covered by this chapter, whether or not eligible for coverage
31.34 under the Minnesota State Retirement System;

(7) a person who is employed in a position established under section 43A.08, subdivision 1, clause (3), or in a position authorized under a statute creating or establishing a department or agency of the state, which is at the deputy or assistant head of department or agency or director level;

(8) the regional administrator, or executive director of the Metropolitan Council, general counsel, division directors, operations managers, and other positions as designated by the council, all of which may not exceed 27 positions at the council and the chair;

(9) the executive director, associate executive director, and not to exceed nine positions of the Minnesota Office of Higher Education in the unclassified service, as designated by the Minnesota Office of Higher Education before January 1, 1992, or subsequently redesignated with the approval of the board of directors of the Minnesota State Retirement System, unless the person has elected coverage by the individual retirement account plan under chapter 354B;

(10) the clerk of the appellate courts appointed under article VI, section 2, of the Constitution of the state of Minnesota, the state court administrator and judicial district administrators;

(11) the chief executive officers of correctional facilities operated by the Department of Corrections and of hospitals and nursing homes operated by the Department of Human Services;

(12) an employee whose principal employment is at the state ceremonial house;

(13) an employee of the Minnesota Educational Computing Corporation;

(14) an employee of the State Lottery who is covered by the managerial plan established under section 43A.18, subdivision 3; and

(15) a judge who has exceeded the service credit limit in section 490.121, subdivision 22.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 7. Minnesota Statutes 2006, section 484.54, subdivision 2, is amended to read:

Subd. 2. **Expense payments.** A judge shall be paid travel and subsistence expenses for travel from the judge's place of residence to and from the judge's permanent chambers only for a period of two years ~~after July 1, 1977, or the date the judge initially assumes office, whichever is later~~ as provided by Judicial Council policy.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 8. Minnesota Statutes 2006, section 484.83, is amended to read:

484.83 REINSTATEMENT OF FORFEITED SUMS.

Subdivision 1. **Abandonment of fees.** All sums deposited with the court administrator to cover fees shall be deemed abandoned if the fees are not disbursed or the services covered by the fees are not performed and the person entitled to refund of the fees does not file a written demand for a refund with the court administrator within six months from the date of trial, dismissal, or striking of the cause as to jury fees and from the date of deposit as to other fees.

Subd. 2. **Bail forfeitures.** Any bail not forfeited by court order shall be deemed abandoned and forfeited if the person entitled to a refund does not file a written demand for a refund with the court administrator within six months from the date when the person became entitled to the refund.

Subd. 3. **Reinstated forfeited sums.** A district court judge may order any sums forfeited to be reinstated and the commissioner of finance shall then refund accordingly. The commissioner of finance shall reimburse the court administrator if the court administrator refunds the deposit upon a judge's order and obtains a receipt to be used as a voucher.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 9. Minnesota Statutes 2006, section 504B.361, subdivision 1, is amended to read:

Subdivision 1. **Summons and writ.** (a) The state court administrator shall develop a uniform form for the summons and writ of recovery of premises and order to vacate ~~may be substantially in the forms in paragraphs (b) and (c).~~

~~(b)~~

~~FORM OF SUMMONS~~

[illegible]

~~Whereas, _____, of _____, has filed with the undersigned, a judge of county _____, a complaint against _____, of _____, a copy of which is attached: You are hereby summoned to appear before the undersigned on the _____ day of _____, year _____, at _____ o'clock ...m., at _____, to answer and defend against the complaint and to further be dealt with according to law.~~

~~Dated at, this day of, year~~

Judge of court.

34.1 (e)
34.2 ~~FORM OF WRIT OF RECOVERY OF PREMISES AND ORDER TO VACATE~~
34.3 ~~State of Minnesota }
34.4 } ss:
34.5 County of _____}~~

34.6 ~~The State of Minnesota, to the Sheriff of the County:~~
34.7 ~~Whereas, _____, the plaintiff, of _____, in an eviction action, at a court held~~
34.8 ~~at _____, in the county of _____, on the _____ day of _____, year~~
34.9 ~~_____, before _____, a judge of the county, recovered a judgment against _____,~~
34.10 ~~the _____, to have recovery of the following premises (describe here the property~~
34.11 ~~as in the complaint): _____~~
34.12 ~~Therefore, you are commanded that, taking with you the force of the county, if~~
34.13 ~~necessary, you cause _____ to be immediately removed from the premises, and the~~
34.14 ~~plaintiff to recover the premises. You are also commanded that from the personal property~~
34.15 ~~of _____ within the county that you seize and sell, the plaintiff be paid _____.~~
34.16 ~~dollars, as the costs assessed against the defendant, together with 25 cents for this writ.~~
34.17 ~~You are ordered to return this writ within 30 days.~~
34.18 ~~Dated at _____, this _____ day of _____, year _____~~
34.19 ~~_____;~~
34.20 ~~Judge of _____ court.~~

34.21 **EFFECTIVE DATE.** This section is effective July 1, 2007.

34.22 Sec. 10. Minnesota Statutes 2006, section 518.165, subdivision 1, is amended to read:
34.23 Subdivision 1. **Permissive appointment of guardian ad litem.** In all proceedings
34.24 for child custody or for dissolution or legal separation where custody or parenting time
34.25 with a minor child is in issue, the court may appoint a guardian ad litem from a panel
34.26 established by the court to represent the interests of the child. The guardian ad litem shall
34.27 advise the court with respect to custody, ~~support,~~ and parenting time.

34.28 **EFFECTIVE DATE.** This section is effective July 1, 2007.

34.29 Sec. 11. Minnesota Statutes 2006, section 518.165, subdivision 2, is amended to read:
34.30 Subd. 2. **Required appointment of guardian ad litem.** In all proceedings for child
34.31 custody or for marriage dissolution or legal separation in which custody or parenting time
34.32 with a minor child is an issue, if the court has reason to believe that the minor child is a
34.33 victim of domestic child abuse or neglect, as those terms are defined in sections 260C.007

and 626.556, respectively, the court shall appoint a guardian ad litem. The guardian ad litem shall represent the interests of the child and advise the court with respect to custody, ~~support~~, and parenting time. If the child is represented by a guardian ad litem in any other pending proceeding, the court may appoint that guardian to represent the child in the custody or parenting time proceeding. No guardian ad litem need be appointed if the alleged domestic child abuse or neglect is before the court on a juvenile dependency and neglect petition. Nothing in this subdivision requires the court to appoint a guardian ad litem in any proceeding for child custody, marriage dissolution, or legal separation in which an allegation of domestic child abuse or neglect has not been made.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 12. Minnesota Statutes 2006, section 518A.35, subdivision 3, is amended to read:

Subd. 3. **Income cap on determining basic support.** (a) The basic support obligation for parents with a combined parental income for determining child support in excess of the income limit currently in effect under subdivision 2 must be the same dollar amount as provided for the parties with a combined parental income for determining child support equal to the income in effect under subdivision 2.

(b) A court may order a basic support obligation in a child support order in an amount that exceeds the income limit in subdivision 2 if it finds that a child has a disability or other substantial, demonstrated need for the additional support for those reasons set forth in section 518A.43 and that the additional support will directly benefit the child.

~~(c) The dollar amount for the cap in subdivision 2 must be adjusted on July 1 of every even-numbered year to reflect cost-of-living changes. The Supreme Court must select the index for the adjustment from the indices listed in section 518A.75, subdivision 1. The state court administrator must make the changes in the dollar amounts required by this paragraph available to courts and the public on or before April 30 of the year in which the amount is to change.~~

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 13. Minnesota Statutes 2006, section 563.01, is amended by adding a subdivision to read:

Subd. 7a. **Copy costs.** The court administrator shall provide a person who is proceeding in forma pauperis with copies of the person's court file without charge.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 14. Minnesota Statutes 2006, section 590.05, is amended to read:

590.05 INDIGENT PETITIONERS.

A person financially unable to obtain counsel who desires to pursue the remedy provided in section 590.01 may apply for representation by the state public defender. The state public defender shall represent such person under the applicable provisions of sections 611.14 to 611.27, if the person has not already had a direct appeal of the conviction. ~~If, however, the person pled guilty and received a presumptive sentence or a downward departure in sentence, and the state public defender reviewed the person's case and determined that there was no basis for an appeal of the conviction or of the sentence, then the state public defender may decline to represent the person in a postconviction remedy case.~~ The state public defender may represent, without charge, all other persons pursuing a postconviction remedy under section 590.01, who are financially unable to obtain counsel.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 15. Minnesota Statutes 2006, section 609.135, subdivision 8, is amended to read:

Subd. 8. **Fine and surcharge collection.** A defendant's obligation to pay court-ordered fines, surcharges, court costs, restitution, and fees shall survive for a period of six years from the date of the expiration of the defendant's stayed sentence for the offense for which the fines, surcharges, court costs, restitution, and fees were imposed, or six years from the imposition or due date of the fines, surcharges, court costs, restitution, and fees, whichever is later. Nothing in this subdivision extends the period of a defendant's stay of sentence imposition or execution.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 16. Minnesota Statutes 2006, section 611.14, is amended to read:

611.14 RIGHT TO REPRESENTATION BY PUBLIC DEFENDER.

The following persons who are financially unable to obtain counsel are entitled to be represented by a public defender:

(1) a person charged with a felony, gross misdemeanor, or misdemeanor including a person charged under sections 629.01 to 629.29;

(2) a person appealing from a conviction of a felony or gross misdemeanor, or a person convicted of a felony or gross misdemeanor, who is pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction, ~~but if the person pled guilty and received a presumptive sentence or a downward departure in sentence,~~

~~and the state public defender reviewed the person's case and determined that there was no basis for an appeal of the conviction or of the sentence, then the state public defender may decline to represent the person in a postconviction remedy case;~~

(3) a person who is entitled to be represented by counsel under section 609.14, subdivision 2; or

(4) a minor ten years of age or older who is entitled to be represented by counsel under section 260B.163, subdivision 4, or 260C.163, subdivision 3.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 17. Minnesota Statutes 2006, section 611.20, subdivision 6, is amended to read:

Subd. 6. **Reimbursement schedule guidelines.** In determining a defendant's reimbursement schedule, the court may derive a specific dollar amount per month by multiplying the defendant's net income by the percent indicated by the following guidelines:

Net Income Per Month of Defendant	Number of Dependents Not Including Defendant				
	4 or more	3	2	1	0
\$200 and Below	Percentage based on the ability of the defendant to pay as determined by the court.				
\$200 - 350	8%	9.5%	11%	12.5%	14%
\$351 - 500	9%	11%	12.5%	14%	15%
\$501 - 650	10%	12%	14%	15%	17%
\$651 - 800	11%	13.5%	15.5%	17%	19%
\$801 and above	12%	14.5%	17%	19%	20%

~~"Net income" shall have the meaning given it in section 518.551, subdivision 5.~~

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 18. Minnesota Statutes 2006, section 611.215, subdivision 1, is amended to read:

Subdivision 1. **Structure; membership.** (a) The State Board of Public Defense is a part of, but is not subject to the administrative control of, the judicial branch of government. The State Board of Public Defense shall consist of seven members including:

(1) four attorneys admitted to the practice of law, well acquainted with the defense of persons accused of crime, but not employed as prosecutors, appointed by the Supreme Court; and

(2) three public members appointed by the governor.

~~After the expiration of the terms of persons appointed to the board before March 1, 1991,~~ The appointing authorities may not appoint a person who is a judge to be a member of the State Board of Public Defense, other than as a member of the ad hoc Board of Public Defense.

(b) All members shall demonstrate an interest in maintaining a high quality, independent defense system for those who are unable to obtain adequate representation. Appointments to the board shall include qualified women and members of minority groups. At least three members of the board shall be from judicial districts other than the First, Second, Fourth, and Tenth Judicial Districts. The terms, compensation, and removal of members shall be as provided in section 15.0575. The chair shall be elected by the members from among the membership for a term of two years.

(c) In addition, the State Board of Public Defense shall consist of a nine-member ad hoc board when considering the appointment of district public defenders under section 611.26, subdivision 2. The terms of chief district public defenders currently serving shall terminate in accordance with the staggered term schedule set forth in section 611.26, subdivision 2.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 19. Minnesota Statutes 2006, section 611.215, subdivision 1a, is amended to read:

Subd. 1a. **Chief administrator.** The State Board of Public Defense, with the advice of the state public defender, shall appoint a chief administrator who must be chosen solely on the basis of training, experience, and other qualifications, and who will serve at the pleasure of the ~~state public defender~~ State Board of Public Defense. The chief administrator need not be licensed to practice law. The chief administrator shall attend all meetings of the board, but may not vote, and shall:

(1) enforce all resolutions, rules, regulations, or orders of the board;

(2) present to the board and the state public defender plans, studies, and reports prepared for the board's and the state public defender's purposes and recommend to the board and the state public defender for adoption measures necessary to enforce or carry out the powers and duties of the board and the state public defender, or to efficiently administer the affairs of the board and the state public defender;

(3) keep the board fully advised as to its financial condition, and prepare and submit to the board its annual budget and other financial information as it may request;

(4) recommend to the board the adoption of rules and regulations necessary for the efficient operation of the board and its functions; and

(5) perform other duties prescribed by the board and the state public defender.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 20. Minnesota Statutes 2006, section 611.23, is amended to read:

**611.23 OFFICE OF STATE PUBLIC DEFENDER; APPOINTMENT;
SALARY.**

The state public defender is responsible to the State Board of Public Defense. The state public defender shall supervise the operation, activities, policies, and procedures of the statewide public defender system. When requested by a district public defender or appointed counsel, the state public defender may assist the district public defender, appointed counsel, or an organization designated in section 611.216 in the performance of duties, including trial representation in matters involving legal conflicts of interest or other special circumstances, and assistance with legal research and brief preparation.

The state public defender shall be appointed by the State Board of Public Defense for a term of four years, except as otherwise provided in this section, and until a successor is appointed and qualified. The state public defender shall be a full-time qualified attorney, licensed to practice law in this state, serve in the unclassified service of the state, and be removed only for cause by the appointing authority. Vacancies in the office shall be filled by the appointing authority for the unexpired term. The salary of the state public defender shall be fixed by the State Board of Public Defense but must not exceed the salary of a district court judge. Terms of the state public defender shall commence on July 1. The state public defender shall devote full time to the performance of duties and shall not engage in the general practice of law.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 21. Minnesota Statutes 2006, section 611.24, is amended to read:

**611.24 CHIEF APPELLATE PUBLIC DEFENDER; ORGANIZATION OF
OFFICE; ASSISTANTS.**

~~The state public defender shall supervise the operation, activities, policies and procedures of the state public defender system. The state public defender shall employ or retain assistant state public defenders, a chief administrator, a deputy state~~ (a) Beginning January 1, 2007, and for every four years after that date, the State Board of Public Defense shall appoint a chief appellate public defender in charge of appellate services, who shall employ or retain assistant state public defenders and other personnel as may be necessary to discharge the functions of the office. The chief appellate public defender shall serve a four-year term and may be removed only for cause upon the order of the State Board of

Public Defense. The chief appellate public defender shall be a full-time qualified attorney, licensed to practice law in this state, and serve in the unclassified service of the state. Vacancies in the office shall be filled by the appointing authority for the unexpired term.

(b) An assistant state public defender shall be a qualified attorney, licensed to practice law in this state, serve in the unclassified service of the state if employed, and serve at the pleasure of the appointing authority at a salary or retainer fee not to exceed reasonable compensation for comparable services performed for other governmental agencies or departments. Retained or part-time employed assistant state public defenders may engage in the general practice of law. The compensation of the chief appellate public defender and the compensation of each assistant state public defender shall be set by the State Board of Public Defense. The chief appellate public defender shall devote full time to the performance of duties and shall not engage in the general practice of law.

(c) The incumbent deputy state public defender as of December 31, 2006, shall be appointed as the chief appellate public defender for the four-year term beginning on January 1, 2007.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 22. Minnesota Statutes 2006, section 611.25, subdivision 1, is amended to read:

Subdivision 1. **Representation.** (a) The ~~state~~ chief appellate public defender shall represent, without charge:

(1) a defendant or other person appealing from a conviction of a felony or gross misdemeanor;

(2) a person convicted of a felony or gross misdemeanor who is pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction; ~~but if the person pled guilty and received a presumptive sentence or a downward departure in sentence, and the state public defender reviewed the person's case and determined that there was no basis for an appeal of the conviction or of the sentence, then the state public defender may decline to represent the person in a postconviction remedy case; and~~

(3) a child who is appealing from a delinquency adjudication or from an extended jurisdiction juvenile conviction.

(b) The ~~state~~ chief appellate public defender may represent, without charge, all other persons pursuing a postconviction remedy under section 590.01, who are financially unable to obtain counsel.

~~(c) The state public defender shall represent any other person, who is financially unable to obtain counsel, when directed to do so by the Supreme Court or the Court of Appeals, except that~~ The ~~state~~ chief appellate public defender shall not represent a person

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in any action or proceeding in which a party is seeking a monetary judgment, recovery or award. ~~When requested by a district public defender or appointed counsel, the state public defender may assist the district public defender, appointed counsel, or an organization designated in section 611.216 in the performance of duties, including trial representation in matters involving legal conflicts of interest or other special circumstances, and assistance with legal research and brief preparation. When the state public defender is directed by a court to represent a defendant or other person, the state public defender may assign the representation to any district public defender.~~

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 23. Minnesota Statutes 2006, section 611.26, subdivision 2, is amended to read:

Subd. 2. **Appointment; terms.** The state Board of Public Defense shall appoint a chief district public defender for each judicial district. When appointing a chief district public defender, the state Board of Public Defense membership shall be increased to include two residents of the district appointed by the chief judge of the district to reflect the characteristics of the population served by the public defender in that district. The additional members shall serve only in the capacity of selecting the district public defender. The ad hoc state Board of Public Defense shall appoint a chief district public defender only after requesting and giving reasonable time to receive any recommendations from the public, the local bar association, and the judges of the district. Each chief district public defender shall be a qualified attorney licensed to practice law in this state. The chief district public defender shall be appointed for a term of four years, beginning January 1, pursuant to the following staggered term schedule: (1) in ~~2000~~ 2008, the second and eighth districts; (2) in ~~2001~~ 2009, the first, third, fourth, and tenth districts; (3) in ~~2002~~ 2010, the fifth and ninth districts; and (4) in ~~1999~~ 2011, the sixth and seventh districts. The chief district public defenders shall serve for four-year terms and may be removed for cause upon the order of the state Board of Public Defense. Vacancies in the office shall be filled by the appointing authority for the unexpired term. The chief district public defenders shall devote full time to the performance of duties and shall not engage in the general practice of law.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 24. Minnesota Statutes 2006, section 611.26, subdivision 7, is amended to read:

42.1 Subd. 7. **Other employment.** ~~Chief district public defenders and~~ Assistant district
42.2 public defenders may engage in the general practice of law where not employed on a
42.3 full-time basis.

42.4 **EFFECTIVE DATE.** This section is effective July 1, 2007.

42.5 Sec. 25. Minnesota Statutes 2006, section 611.27, subdivision 3, is amended to read:

42.6 Subd. 3. **Transcript use.** If the ~~state~~ chief appellate public defender or a district
42.7 public defender deems it necessary to make a motion for a new trial, to take an appeal,
42.8 or other postconviction proceedings in order to properly represent a defendant or other
42.9 person whom that public defender had been directed to represent, that public defender
42.10 may use the transcripts of the testimony and other proceedings filed with the court
42.11 administrator of the district court as provided by section 243.49.

42.12 **EFFECTIVE DATE.** This section is effective July 1, 2007.

42.13 Sec. 26. Minnesota Statutes 2006, section 611.27, subdivision 13, is amended to read:

42.14 Subd. 13. **Public defense services; correctional facility inmates.** All billings for
42.15 services rendered and ordered under subdivision 7 shall require the approval of the chief
42.16 district public defender before being forwarded on a monthly basis to the state public
42.17 defender. In cases where adequate representation cannot be provided by the district public
42.18 defender and where counsel has been appointed under a court order, the state public
42.19 defender shall forward to the commissioner of finance all billings for services rendered
42.20 under the court order. The commissioner shall pay for services from ~~county criminal~~
42.21 ~~justice aid retained by the commissioner of revenue for that purpose under section~~
42.22 ~~477A.0121, subdivision 4, or from~~ county program aid retained by the commissioner of
42.23 revenue for that purpose under section 477A.0124, subdivision 1, clause (4), or 477A.03,
42.24 subdivision 2b, paragraph (a).

42.25 The costs of appointed counsel and associated services in cases arising from new
42.26 criminal charges brought against indigent inmates who are incarcerated in a Minnesota
42.27 state correctional facility are the responsibility of the state Board of Public Defense. In
42.28 such cases the state public defender may follow the procedures outlined in this section for
42.29 obtaining court-ordered counsel.

42.30 **EFFECTIVE DATE.** This section is effective July 1, 2007.

42.31 Sec. 27. Minnesota Statutes 2006, section 611.27, subdivision 15, is amended to read:

Subd. 15. **Costs of transcripts.** In appeal cases and postconviction cases where the ~~state appellate~~ public defender's office does not have sufficient funds to pay for transcripts and other necessary expenses because it has spent or committed all of the transcript funds in its annual budget, the state public defender may forward to the commissioner of finance all billings for transcripts and other necessary expenses. The commissioner shall pay for these transcripts and other necessary expenses from ~~county criminal justice aid retained by the commissioner of revenue under section 477A.0121, subdivision 4, or from county~~ program aid retained by the commissioner of revenue for that purpose under section 477A.0124, subdivision 1, clause (4), or 477A.03, subdivision 2b, paragraph (a).

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 28. Minnesota Statutes 2006, section 611.35, is amended to read:

**611.35 REIMBURSEMENT OF ~~PUBLIC DEFENDER AND APPOINTIVE~~
APPOINTED COUNSEL.**

Subdivision 1. **Reimbursement; civil obligation.** Any person who is represented by a ~~public defender or appointive~~ appointed counsel shall, if financially able to pay, reimburse the governmental unit chargeable with the compensation of ~~such public defender or appointive~~ appointed counsel for the actual costs to the governmental unit in providing the services of the ~~public defender or appointive~~ appointed counsel. The court in hearing such matter shall ascertain the amount of such costs to be charged to the defendant and shall direct reimbursement over a period of not to exceed six months, unless the court for good cause shown shall extend the period of reimbursement. If a term of probation is imposed as a part of a sentence, reimbursement of costs as required by this chapter must not be made a condition of probation. Reimbursement of costs as required by this chapter is a civil obligation and must not be made a condition of a criminal sentence.

Subd. 2. **Civil action.** The county attorney may commence a civil action to recover such cost remaining unpaid at the expiration of six months unless the court has extended the reimbursement period and shall, if it appears that such recipient of ~~public defender or appointive~~ appointed counsel services is about to leave the jurisdiction of the court or sell or otherwise dispose of assets out of which reimbursement may be obtained, commence such action forthwith. The county attorney may compromise and settle any claim for reimbursement with the approval of the court which heard the matter. No determination or action shall be taken later than two years after the termination of the duties of the ~~public defender or appointive~~ appointed counsel.

EFFECTIVE DATE. This section is effective July 1, 2007.

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44.1 Sec. 29. Laws 2001, First Special Session chapter 8, article 4, section 4, is amended to
44.2 read:

44.3	Sec. 4. DISTRICT COURTS	\$	118,470,000	\$	128,842,000
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44.4 Carlton County Extraordinary Expenses.

44.5 \$300,000 the first year is to reimburse

44.6 Carlton county for extraordinary expenses

44.7 related to homicide trials. This is a onetime

44.8 appropriation.

44.9 **New Judge Units.** \$774,000 the first year

44.10 and \$1,504,000 the second year are for an

44.11 increase in judgeship units, including one

44.12 trial court judge unit beginning October 1,

44.13 2001, in the tenth judicial district, one trial

44.14 court judge unit beginning April 1, 2002, in

44.15 the third judicial district, one trial court judge

44.16 unit beginning July 1, 2002, in the tenth

44.17 judicial district, one trial court judge unit

44.18 beginning January 1, 2003, in the seventh

44.19 judicial district, and one trial court judge

44.20 unit beginning January 1, 2003, in the first

44.21 judicial district. Each judge unit consists of a

44.22 judge, law clerk, and court reporter.

44.23 **Alternative Dispute Resolution Programs.**

44.24 A portion of this appropriation may be

44.25 used for the alternative dispute resolution

44.26 programs authorized by article 5, section 18.

44.27 Supplemental Funding for Certain

44.28 **Mandated Costs.** \$4,533,000 the first

44.29 year and \$6,032,000 the second year are to

44.30 supplement funding for guardians ad litem,

44.31 interpreters, rule 20 and civil commitment

44.32 examinations, and in forma pauperis costs in

44.33 the fifth, seventh, eighth, and ninth judicial

44.34 districts.

45.1 **Trial Court Infrastructure Staff.** \$684,000
45.2 the first year and \$925,000 the second year
45.3 are for infrastructure staff.

45.4 **Court Effectiveness Initiatives;**
45.5 **Community Courts and Screener**
45.6 **Collectors.** \$835,000 the first year and
45.7 \$765,000 the second year are for court
45.8 effectiveness initiatives. Of this amount,
45.9 \$125,000 each year is for continued funding
45.10 of the community court in the fourth judicial
45.11 district and \$125,000 each year is for
45.12 continued funding of the community court
45.13 in the second judicial district. These are
45.14 onetime appropriations.

45.15 The second judicial district and fourth
45.16 judicial district shall each report quarterly to
45.17 the chairs and ranking minority members of
45.18 the legislative committees and divisions with
45.19 jurisdiction over criminal justice funding on:
45.20 (1) how money appropriated for this initiative
45.21 was spent; and
45.22 (2) the cooperation of other criminal justice
45.23 agencies and county units of government in
45.24 the community courts' efforts.

45.25 The first report is due on October 1, 2001.
45.26 None of this appropriation may be used
45.27 for the purpose of complying with these
45.28 reporting requirements.

45.29 Of this amount, \$585,000 the first year and
45.30 \$515,000 the second year are for screener
45.31 collector programs.

45.32 ~~The fifth, seventh, and ninth judicial district~~
45.33 ~~courts shall implement screener collector~~
45.34 ~~programs to enhance the collection of~~

~~overdue fine revenue by at least ten percent in each location serviced by a screener collector. By August 15, 2002, and annually thereafter, the state court administrator shall report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over criminal justice policy and funding issues on the total amount of fines collected, the amount of overdue fines collected for the two preceding fiscal years, and the expenditures associated with the screener collector program.~~

Ninth District County and Support Pilot Projects. Up to \$99,000 each year may be used for the ninth judicial district to implement the pilot projects on the six-month review of child custody, parenting time, and support orders, and on the accounting for child support by obligees.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 30. Laws 2003, First Special Session chapter 2, article 1, section 2, is amended to read:

Sec. 2. SUPREME COURT	\$	38,806,000	\$	36,439,000
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~~**Report on Court Fees.** The state court administrator shall review and report back on the financial consequences of policy changes made in the following areas: (1) criminal and traffic offender surcharges; (2) public defender co-pays; and (3) the use of revenue recapture to collect the public defender co-pay. The report shall also list the local governmental units that employ administrative procedures to collect fines for ordinance violations. The state court~~

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47.1 ~~administrator must submit the report to the~~
47.2 ~~chairs and ranking minority members on the~~
47.3 ~~committees that have jurisdiction over court~~
47.4 ~~funding by January 15 of each year.~~

47.5 \$5,000 each year is for a contingent account
47.6 for expenses necessary for the normal
47.7 operation of the court for which no other
47.8 reimbursement is provided.

47.9 **Legal Services to Low-Income Clients in**
47.10 **Family Law Matters.** Of this appropriation,
47.11 \$877,000 each year is to improve the
47.12 access of low-income clients to legal
47.13 representation in family law matters. This
47.14 appropriation must be distributed under
47.15 Minnesota Statutes, section 480.242, to
47.16 the qualified legal services programs
47.17 described in Minnesota Statutes, section
47.18 480.242, subdivision 2, paragraph (a). Any
47.19 unencumbered balance remaining in the first
47.20 year does not cancel and is available in the
47.21 second year.

47.22 Of this appropriation, \$355,000 in fiscal
47.23 year 2005 is for the implementation of
47.24 the Minnesota Child Support Act and is
47.25 contingent upon its enactment. This is a
47.26 onetime appropriation.

47.27 **EFFECTIVE DATE.** This section is effective July 1, 2007.

47.28 Sec. 31. **PUBLIC DEFENDER STUDY AND REPORT REQUIRED.**

47.29 The State Board of Public Defense and the Hennepin County Board of
47.30 Commissioners shall jointly prepare a report to the legislature on the history of the
47.31 funding of the public defender's office in the Fourth Judicial District provided by the state
47.32 and Hennepin County. The report must compare the costs and services provided by the
47.33 Fourth Judicial District Public Defender's Office to the costs and services provided by the
47.34 state Board of Public Defense in all other public defender district offices. The report must

detail the amount of funding provided by Hennepin County to the Fourth Judicial District Public Defender's Office and the amount necessary for the state to assume the full costs of the public defender duties in the Fourth Judicial District as in the other judicial districts throughout the state. The report must also recommend specific legislation that would provide for an appropriate resolution of the state and local funding of the Fourth Judicial District Public Defender's Office. The report must be completed by October 1, 2007, and be submitted to the commissioner of finance, the chairs and ranking minority members of the senate and house committees and divisions with jurisdiction over finance, judiciary, judiciary finance, and public safety finance, and the house Ways and Means Committee.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 32. **REPEALER.**

Minnesota Statutes 2006, sections 260B.173; 480.175, subdivision 3; 611.20, subdivision 5; and 626A.17, subdivision 3, are repealed.

EFFECTIVE DATE. This section is effective July 1, 2007.

**ARTICLE 5
CORRECTIONS**

Section 1. Minnesota Statutes 2006, section 241.018, is amended to read:

241.018 PER DIEM CALCULATION.

Subdivision 1. **State correctional facilities.** (a) The commissioner of corrections shall develop a uniform method to calculate the average department-wide per diem cost of incarcerating offenders at state adult correctional facilities. In addition to other costs currently factored into the per diem, it must include an appropriate percentage of capitol costs for all adult correctional facilities and 65 percent of the department's management services budget.

(b) The commissioner also shall use this method of calculating per diem costs for offenders in each state adult correctional facility. When calculating the per diem cost of incarcerating offenders at a particular facility, the commissioner shall include an appropriate percentage of capital costs for the facility and an appropriate prorated amount, given the facility's population, of 65 percent of the department's management services budget.

(c) The commissioner shall ensure that these new per diem methods are used in all future annual performance reports to the legislature and are also reflected in the department's biennial budget document.

49.1 Subd. 2. **Local correctional facilities.** (a) The commissioner of corrections shall
49.2 develop a uniform method to calculate the average per diem cost of incarcerating offenders
49.3 in county and regional jail facilities licensed by the commissioner under section 241.021,
49.4 subdivision 1, paragraph (a).

49.5 (b) Each county and regional jail in the state must annually provide the commissioner
49.6 with a per diem calculation based on the formula the commissioner promulgates pursuant
49.7 to paragraph (a).

49.8 (c) The commissioner shall include the county and regional jail per diem data
49.9 collected under paragraph (b) in the Department of Correction's annual performance report
49.10 to the legislature mandated by section 241.016.

49.11 **EFFECTIVE DATE.** This section is effective July 1, 2007.

49.12 Sec. 2. Minnesota Statutes 2006, section 241.69, subdivision 3, is amended to read:

49.13 Subd. 3. **Transfer.** If the licensed mental health professional finds the person to be a
49.14 person who is mentally ill and in need of short-term care, the ~~examining~~ licensed mental
49.15 health care professional may recommend transfer by the commissioner of corrections to
49.16 the mental health unit established pursuant to subdivision 1.

49.17 **EFFECTIVE DATE.** This section is effective July 1, 2007.

49.18 Sec. 3. Minnesota Statutes 2006, section 241.69, subdivision 4, is amended to read:

49.19 Subd. 4. **Commitment.** If the ~~examining~~ licensed mental health care professional or
49.20 licensed mental health professional finds the person to be a person who is mentally ill and
49.21 in need of long-term care in a hospital, or if an inmate transferred pursuant to subdivision
49.22 3 refuses to voluntarily participate in the treatment program at the mental health unit, the
49.23 director of psychological services of the institution or the mental health professional shall
49.24 initiate proceedings for judicial commitment as provided in section 253B.07. Upon the
49.25 recommendation of the licensed mental health professional and upon completion of the
49.26 hearing and consideration of the record, the court may commit the person to the mental
49.27 health unit established in subdivision 1 or to another hospital. A person confined in a state
49.28 correctional institution for adults who has been adjudicated to be a person who is mentally
49.29 ill and in need of treatment may be committed to the commissioner of corrections and
49.30 placed in the mental health unit established in subdivision 1.

49.31 **EFFECTIVE DATE.** This section is effective July 1, 2007.

49.32 Sec. 4. Minnesota Statutes 2006, section 383A.08, subdivision 6, is amended to read:

Subd. 6. **Rules and regulations.** The county may promulgate rules and regulations for the proper operation and maintenance of each facility and the proper care and discipline of inmates detained in the facility. These rules and regulations may, among other things, provide for the diminution of sentences of inmates for good behavior, ~~but in no event to exceed a total of five days for each 30-day sentence~~ in accordance with section 643.29.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 5. Minnesota Statutes 2006, section 383A.08, subdivision 7, is amended to read:

Subd. 7. **Confinement of inmates from other counties.** The county may accept an inmate for confinement at a county correction facility when the inmate is committed to the facility by order of a judge of a municipality or county outside Ramsey County if the county is paid the amount of compensation for board, confinement, and maintenance of the inmate that it determines. ~~No compensation of this kind may be in an amount less than the actual per diem cost per person confined.~~ A county outside Ramsey County or a municipality outside Ramsey County may enter into and agree with Ramsey County for the incarceration of prisoners.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 6. Minnesota Statutes 2006, section 641.265, subdivision 2, is amended to read:

Subd. 2. **Withdrawal.** A county board may withdraw from cooperation in a regional jail system ~~if the county boards of all of the other cooperating counties decide, by majority vote, to allow the withdrawal~~ in accordance with the terms of a joint powers agreement.

With the approval of the county board of each cooperating county, the regional jail board shall fix the sum, if any, to be paid to the county withdrawing, to reimburse it for capital cost, debt service, or lease rental payments made by the county prior to withdrawal, in excess of its proportionate share of benefits from the regional jail prior to withdrawal, and the time and manner of making the payments. The payments shall be deemed additional payments of capital cost, debt service, or lease rentals to be made proportionately by the remaining counties and, when received, shall be deposited in and paid from the regional jail fund; provided that:

~~(a)~~ (1) payments shall not be made from any amounts in the regional jail fund which are needed for maintenance and operation expenses or lease rentals currently due and payable; and

~~(b)~~ (2) the withdrawing county shall remain obligated for the payment of its proportionate share of any lease rentals due and payable after its withdrawal, in the

51.1 event and up to the amount of any lease payment not made when due by one or more of
51.2 the other cooperating counties.

51.3 **EFFECTIVE DATE.** This section is effective July 1, 2007.

51.4 **ARTICLE 6**

51.5 **PUBLIC SAFETY AND LAW ENFORCEMENT**

51.6 Section 1. Minnesota Statutes 2006, section 13.87, subdivision 1, is amended to read:

51.7 Subdivision 1. **Criminal history data.** (a) **Definition.** For purposes of this
51.8 subdivision, "criminal history data" means all data maintained in criminal history
51.9 records compiled by the Bureau of Criminal Apprehension and disseminated through
51.10 the criminal justice information system, including, but not limited to fingerprints,
51.11 photographs, identification data, arrest data, prosecution data, criminal court data, custody
51.12 and supervision data.

51.13 (b) **Classification.** Criminal history data maintained by agencies, political
51.14 subdivisions and statewide systems are classified as private, pursuant to section 13.02,
51.15 subdivision 12, except that data created, collected, or maintained by the Bureau of
51.16 Criminal Apprehension that identify an individual who was convicted of a crime, the
51.17 offense of which the individual was convicted, associated court disposition and sentence
51.18 information, controlling agency, and confinement information are public data for 15 years
51.19 following the discharge of the sentence imposed for the offense. When an innocent party's
51.20 name is associated with a criminal history, and a determination has been made through a
51.21 fingerprint verification that the innocent party is not the subject of the criminal history, the
51.22 name may be redacted from the public criminal history data. The name shall be retained in
51.23 the criminal history and classified as private data.

51.24 The Bureau of Criminal Apprehension shall provide to the public at the central office
51.25 of the bureau the ability to inspect in person, at no charge, through a computer monitor the
51.26 criminal conviction data classified as public under this subdivision.

51.27 (c) **Limitation.** Nothing in paragraph (a) or (b) shall limit public access to data
51.28 made public by section 13.82.

51.29 **EFFECTIVE DATE.** This section is effective July 1, 2007.

51.30 Sec. 2. Minnesota Statutes 2006, section 243.167, subdivision 1, is amended to read:

51.31 Subdivision 1. **Definition.** As used in this section, "crime against the person" means
51.32 a violation of any of the following or a similar law of another state or of the United States:
51.33 section 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223;

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52.1 609.2231; 609.224, subdivision 2 or 4; 609.2242, subdivision 2 or 4; 609.2247; 609.235;
52.2 609.245, subdivision 1; 609.25; 609.255; 609.3451, subdivision 2; 609.498, subdivision 1;
52.3 609.582, subdivision 1; or 617.23, subdivision 2; or any felony-level violation of section
52.4 609.229; 609.377; 609.749; or 624.713.

52.5 **EFFECTIVE DATE.** This section is effective the day following final enactment,
52.6 and applies retroactively to crimes committed on or after August 1, 2005.

52.7 Sec. 3. Minnesota Statutes 2006, section 244.05, is amended by adding a subdivision
52.8 to read:

52.9 Subd. 2a. **Random searches.** (a) This subdivision applies to inmates who were
52.10 convicted of and imprisoned for a violent crime, as defined in section 609.1095, involving
52.11 the sale, use, or possession of a controlled substance or a dangerous weapon.

52.12 (b) When an inmate is released on supervised release or parole, the inmate, as a
52.13 condition of release, consents to a search of the inmate's person and any motor vehicle
52.14 driven by the inmate. The search may be conducted on demand by any parole or
52.15 supervised release agent or peace officer.

52.16 **EFFECTIVE DATE.** This section is effective July 1, 2007.

52.17 Sec. 4. Minnesota Statutes 2006, section 299A.641, subdivision 2, is amended to read:

52.18 Subd. 2. **Membership.** The oversight council shall consist of the following
52.19 individuals or their designees:

52.20 (1) the director of the office of special investigations as the representative of the
52.21 commissioner of corrections;

52.22 (2) the superintendent of the Bureau of Criminal Apprehension as the representative
52.23 of the commissioner of public safety;

52.24 (3) the attorney general;

52.25 (4) eight chiefs of police, selected by the Minnesota Chiefs of Police Association,
52.26 two of which must be selected from cities with populations greater than 200,000;

52.27 (5) eight sheriffs, selected by the Minnesota Sheriffs Association to represent each
52.28 district, two of which must be selected from counties with populations greater than
52.29 500,000;

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

52.31 (7) two county attorneys, selected by the Minnesota County Attorneys Association;

52.32 (8) a command-level representative of a gang strike force;

53.1 (9) a representative from a drug task force, selected by the Minnesota State
53.2 Association of Narcotics Investigators;
53.3 (10) a representative from the United States Drug Enforcement Administration;
53.4 (11) a representative from the United States Bureau of Alcohol, Tobacco, and
53.5 Firearms;
53.6 (12) a representative from the Federal Bureau of Investigation;
53.7 (13) a tribal peace officer, selected by the Minnesota Tribal Law Enforcement
53.8 Association; ~~and~~
53.9 (14) two additional members who may be selected by the oversight council;
53.10 (15) a senator who serves on the committee having jurisdiction over criminal justice
53.11 policy, chosen by the Subcommittee on Committees of the senate Committee on Rules
53.12 and Administration; and
53.13 (16) a representative who serves on the committee having jurisdiction over criminal
53.14 justice policy, chosen by the speaker of the house of representatives.
53.15 The oversight council may adopt procedures to govern its conduct as necessary and may
53.16 select a chair from among its members. The legislative members of the council may not
53.17 vote on matters before the council.

53.18 **EFFECTIVE DATE.** This section is effective July 1, 2007.

53.19 Sec. 5. Minnesota Statutes 2006, section 299C.65, subdivision 2, is amended to read:

53.20 Subd. 2. **Task force.** ~~(a) The policy group shall appoint~~ A task force ~~to~~ shall assist
53.21 ~~them~~ the policy group in their its duties. The task force shall monitor, review, and report to
53.22 the policy group on CriMNet-related projects and provide oversight to ongoing operations
53.23 as directed by the policy group. The task force shall consist of the following members:

53.24 (1) ~~two sheriffs recommended~~ members appointed by the Minnesota Sheriffs
53.25 Association, at least one of whom must be a sheriff;

53.26 (2) ~~two police chiefs recommended~~ members appointed by the Minnesota Chiefs of
53.27 Police Association, at least one of whom must be a chief of police;

53.28 (3) ~~two county attorneys recommended~~ members appointed by the Minnesota
53.29 County Attorneys Association, at least one of whom must be a county attorney;

53.30 (4) ~~two city attorneys recommended~~ members appointed by the Minnesota League
53.31 of Cities representing the interests of city attorneys, at least one of whom must be a city
53.32 attorney;

53.33 (5) ~~two public defenders~~ members appointed by the Board of Public Defense, at least
53.34 one of whom must be a public defender;

(6) two district judges appointed by the Judicial Council, ~~one of whom is currently assigned to the juvenile court~~ at least one of whom has experience dealing with juvenile court matters;

(7) two ~~community~~ corrections administrators ~~recommended~~ appointed by the Minnesota Association of Counties; representing the interests of local corrections, at least one of whom represents a community corrections act county;

(8) two probation officers appointed by the commissioner of corrections in consultation with the president of the Minnesota Association of Community Corrections Act Counties and the president of the Minnesota Association of County Probation Officers;

(9) four public members appointed by the governor for a term of six years, one of whom ~~has been a victim of crime~~ represents the interests of victims, and two ~~who~~ of whom are representatives of the private business community who have expertise in integrated information systems and who for the purpose of meetings of the full task force may be compensated pursuant to section 15.059;

(10) two ~~court administrators~~ members appointed by the Minnesota Association for Court Management, at least one of whom must be a court administrator;

(11) one member of the house of representatives appointed by the speaker of the house;

(12) one member of the senate appointed by the majority leader;

(13) one member appointed by the attorney general ~~or a designee~~;

(14) two ~~individuals recommended~~ elected officials appointed by the Minnesota League of Cities, one of whom works or resides in greater Minnesota and one of whom works or resides in the seven-county metropolitan area;

(15) two ~~individuals recommended~~ elected officials appointed by the Minnesota Association of Counties, one of whom works or resides in greater Minnesota and one of whom works or resides in the seven-county metropolitan area;

(16) the director of the Sentencing Guidelines Commission or a designee;

(17) one member appointed by the state chief information officer;

(18) one member appointed by the commissioner of public safety;

(19) one member appointed by the commissioner of corrections;

(20) one member appointed by the commissioner of administration; and

(21) one member appointed by the chief justice of the Supreme Court.

~~(b) In making these appointments, the appointing authority shall select members with expertise in integrated data systems or best practices.~~

~~(c) The commissioner of public safety may appoint additional, nonvoting members to the task force as necessary from time to time.~~

55.1 **EFFECTIVE DATE.** This section is effective July 1, 2007.

55.2 Sec. 6. Minnesota Statutes 2006, section 299C.65, subdivision 5, is amended to read:

55.3 Subd. 5. **Review of funding and grant requests.** (a) The Criminal and Juvenile
55.4 Justice Information Policy Group shall review the funding requests for criminal justice
55.5 information systems from state, county, and municipal government agencies. The policy
55.6 group shall review the requests for compatibility to statewide criminal justice information
55.7 system standards. The review shall be forwarded to the chairs and ranking minority
55.8 members of the house and senate committees and divisions with jurisdiction over criminal
55.9 justice funding and policy.

55.10 (b) The CriMNet program office, in consultation with the Criminal and Juvenile
55.11 Justice Information Task Force and with the approval of the policy group, shall create
55.12 the requirements for any grant request and determine the integration priorities for the
55.13 grant period. The CriMNet program office shall also review the requests submitted for
55.14 compatibility to statewide criminal justice information systems standards.

55.15 (c) The task force shall review funding requests for criminal justice information
55.16 systems grants and make recommendations to the policy group. The policy group shall
55.17 review the recommendations of the task force and shall make a final recommendation
55.18 for criminal justice information systems grants to be made by the commissioner of
55.19 public safety. Within the limits of available state appropriations and federal grants, the
55.20 commissioner of public safety shall make grants for projects that have been recommended
55.21 by the policy group.

55.22 (d) The policy group may approve grants only if the applicant provides an
55.23 appropriate share of matching funds as determined by the policy group to help pay up to
55.24 one-half of the costs of the grant request. The matching requirement must be constant for
55.25 ~~all counties~~ applicants within each grant offering. The policy group shall adopt policies
55.26 concerning the use of in-kind resources to satisfy the match requirement and the sources
55.27 from which matching funds may be obtained. Local operational or technology staffing
55.28 costs may be considered as meeting this match requirement. Each grant recipient shall
55.29 certify to the policy group that it has not reduced funds from local, county, federal, or
55.30 other sources which, in the absence of the grant, would have been made available to the
55.31 grant recipient to improve or integrate criminal justice technology.

55.32 (e) All grant recipients shall submit to the CriMNet program office all requested
55.33 documentation including grant status, financial reports, and a final report evaluating how
55.34 the grant funds improved the agency's criminal justice integration priorities. The CriMNet
55.35 program office shall establish the recipient's reporting dates at the time funds are awarded.

56.1 **EFFECTIVE DATE.** This section is effective July 1, 2007.

56.2 Sec. 7. Minnesota Statutes 2006, section 609.135, is amended by adding a subdivision
56.3 to read:

56.4 Subd. 9. **Random searches.** (a) This subdivision applies to offenders who are
56.5 convicted of a violent crime, as defined in section 609.1095, involving the sale, use, or
56.6 possession of a controlled substance or a dangerous weapon.

56.7 (b) When an offender is placed on probation, the offender, as a condition of being
56.8 released on probation, consents to a search of the offender's person and any motor vehicle
56.9 driven by the offender. The search may be conducted on demand by any probation
56.10 officer or peace officer.

56.11 **EFFECTIVE DATE.** This section is effective July 1, 2007.

56.12 Sec. 8. Minnesota Statutes 2006, section 641.05, is amended to read:

56.13 **641.05 RECORD OF INMATES; RETURN TO COURT.**

56.14 (a) Every sheriff shall, at the expense of the county, maintain a permanent record of
56.15 all persons committed to any jail under the sheriff's charge. It shall contain the name of
56.16 every person committed, by what authority, residence, date of commitment, and, if for a
56.17 criminal offense, a description of the person, when and by what authority liberated, and,
56.18 in case of escape, the time and manner thereof. At the opening of each term of district
56.19 court the sheriff shall make a certified transcript therefrom to such court, showing all
56.20 cases therein not previously disposed of.

56.21 (b) Upon intake into the jail facility, the name of the committed person shall be
56.22 checked against the Bureau of Criminal Apprehension predatory offender registration
56.23 database to determine whether the person is a registered offender. In the event that the
56.24 person is registered, the sheriff or designee shall notify the bureau of the person's admission
56.25 into the jail facility. At the time of discharge from the facility, the sheriff or designee will
56.26 provide the person with a change of information form for the purposes of reporting the
56.27 address where the person will be living upon release from the facility. Every sheriff who
56.28 intentionally neglects or refuses to so report shall be guilty of a gross misdemeanor.

56.29 **EFFECTIVE DATE.** This section is effective July 1, 2007.

56.30 **ARTICLE 7**

56.31 **EMERGENCY COMMUNICATIONS**

56.32 Section 1. Minnesota Statutes 2006, section 403.07, subdivision 4, is amended to read:

57.1 Subd. 4. **Use of furnished information.** (a) Names, addresses, and telephone
57.2 numbers provided to a 911 system under subdivision 3 are private data and may be used
57.3 only for identifying: (1) to identify the location or identity, or both, of a person calling
57.4 a 911 public safety answering point; or (2) by a public safety answering point to notify
57.5 the public of an emergency. The information furnished under subdivision 3 may not be
57.6 used or disclosed by 911 system agencies, their agents, or their employees for any other
57.7 purpose except under a court order.

57.8 (b) For purposes of paragraph (a), the term "emergency" means a situation in which
57.9 property or human life is in jeopardy and the prompt notification of the public by the
57.10 public safety answering point is essential.

57.11 (c) A telecommunications service provider that participates or cooperates with the
57.12 public safety answering point in the notification of the public is exempt from liability
57.13 pursuant to section 403.07, subdivision 5.

57.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.

57.15 Sec. 2. Minnesota Statutes 2006, section 403.11, is amended by adding a subdivision to
57.16 read:

57.17 Subd. 1a. **Fee collection declaration.** If the commissioner disputes the
57.18 accuracy of a fee submission or if no fees are submitted by a wireless, wire-line, or
57.19 packet-based telecommunications service provider, the wireless, wire-line, or packet-based
57.20 telecommunications service provider shall submit a sworn declaration signed by an officer
57.21 of the company certifying, under penalty of perjury, that the information provided with
57.22 the fee submission is true and correct. The sworn declaration must specifically describe
57.23 and affirm that the 911 fee computation is complete and accurate. When a wireless,
57.24 wire-line, or packet-based telecommunications service provider fails to provide a sworn
57.25 declaration within 90 days of notice by the commissioner that the fee submission is
57.26 disputed, the commissioner may estimate the amount due from the wireless, wire-line, or
57.27 packet-based telecommunications service provider and refer that amount for collection
57.28 under section 16D.04.

57.29 **EFFECTIVE DATE.** This section is effective July 1, 2007.

57.30 Sec. 3. Minnesota Statutes 2006, section 403.11, is amended by adding a subdivision to
57.31 read:

57.32 Subd. 1b. **Fee audit.** If the commissioner determines that an audit is necessary
57.33 to document the fee submission and sworn declaration in subdivision 1a, the wireless,

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58.1 wire-line, or packet-based telecommunications service provider must contract with an
58.2 independent certified public accountant to conduct an audit. The audit must be conducted
58.3 in accordance with generally accepted auditing standards.

58.4 **EFFECTIVE DATE.** This section is effective July 1, 2007.