

A bill for an act

relating to public safety; allowing persons facing civil commitment as sexually dangerous persons or sexual psychopathic personalities to choose to be confined in correctional facilities while the petition is being adjudicated; addressing the cost of care for persons facing civil commitment; addressing access to certain data; modifying registration requirements for predatory offenders; excluding persons who are mentally ill and dangerous, sexual psychopathic personality, or sexually dangerous from a commitment hearing on demand; requiring the commissioner of corrections to develop a marketing plan for MINNCOR industries; requiring the commissioner of corrections to conduct an internal review of parole and supervised release procedures and sanctions; authorizing the judicial branch to accept electronic payments and collect convenience fees on credit card payments; giving the Board of Public Defense and district courts greater flexibility in the use of appropriations for this biennium; authorizing courts to take certain actions relating to military veterans with mental illnesses who have been convicted of a crime; removing a sunset on the law governing Internet access to Bureau of Criminal Apprehension data; making technical corrections to certain provisions of the criminal code and corrections; eliminating juvenile residential treatment grants and juvenile restitution grants; authorizing a correctional facility to define a discipline policy for the length of time of a secure confinement; establishing a working group to review, assess, and make recommendations regarding the modification and application of controlled substance laws; establishing a study group regarding joint physical custody; providing for reports; amending Minnesota Statutes 2006, sections 13.851, by adding a subdivision; 13.87, subdivision 3; 241.27, by adding a subdivision; 241.301; 243.1606, subdivision 3; 243.166, subdivisions 3a, 4; 243.167, subdivision 2; 253B.045, subdivisions 1, 2, by adding a subdivision; 253B.08, subdivision 1; 253B.185, subdivision 5; 299C.41, subdivision 2, as added; 373.47, subdivision 1; 609.115, by adding a subdivision; 609.117, subdivision 3; 641.05; 641.18; Minnesota Statutes 2007 Supplement, section 253B.185, subdivision 1b; Laws 2007, chapter 54, article 1, sections 5; 9; proposing coding for new law in Minnesota Statutes, chapter 480; repealing Minnesota Statutes 2006, sections 242.193, subdivision 1; 242.39; 609.103; Laws 2008, chapter 242, section 3, subdivision 4.

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

H.F. No. 2996, 4th Engrossment - 2007-2008th Legislative Session (2007-2008)

Section 1. Minnesota Statutes 2006, section 13.851, is amended by adding a subdivision to read:

Subd. 9. **Civil commitment of sexual offenders.** Data relating to the preparation of a petition to commit an individual as a sexual psychopathic personality or sexually dangerous person is governed by section 253B.185, subdivision 1b.

Sec. 2. Minnesota Statutes 2006, section 13.87, subdivision 3, is amended to read:

Subd. 3. **Internet access.** (a) The Bureau of Criminal Apprehension shall establish and maintain an Internet Web site containing public criminal history data by July 1, 2004.

(b) Notwithstanding section 13.03, subdivision 3, paragraph (a), the bureau may charge a fee for Internet access to public criminal history data provided through August 1, 2005. The fee may not exceed \$5 per inquiry or the amount needed to recoup the actual cost of implementing and providing Internet access, whichever is less. Fees collected must be deposited in the general fund as a nondedicated receipt.

(c) The Web site must include a notice to the subject of data of the right to contest the accuracy or completeness of data, as provided under section 13.04, subdivision 4, and provide a telephone number and address that the subject may contact for further information on this process.

(d) The Web site must include the effective date of data that is posted.

(e) The Web site must include a description of the types of criminal history data not available on the site, including arrest data, juvenile data, criminal history data from other states, federal data, data on convictions where 15 years have elapsed since discharge of the sentence, and other data that are not accessible to the public.

(f) A person who intends to access the Web site to obtain information regarding an applicant for employment, housing, or credit must disclose to the applicant the intention to do so. The Web site must include a notice that a person obtaining such access must notify the applicant when a background check using this Web site has been conducted.

(g) This subdivision does not create a civil cause of action on behalf of the data subject.

~~(h) This subdivision expires July 31, 2007.~~

EFFECTIVE DATE. This section is effective retroactively from July 31, 2007.

Sec. 3. Minnesota Statutes 2006, section 241.27, is amended by adding a subdivision to read:

Subd. 1a. **Marketing plan.** The commissioner of corrections, in consultation with the commissioner of employment and economic development, shall develop, implement,

and maintain a formal marketing plan to attract private sector businesses and industries to employ inmate services through MINNCOR industries. The plan shall be reviewed and updated annually by the commissioner of corrections.

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

Sec. 4. Minnesota Statutes 2006, section 241.301, is amended to read:

241.301 FINGERPRINTS OF INMATES, PAROLEES, AND PROBATIONERS FROM OTHER STATES.

The commissioner of corrections shall establish procedures so that whenever this state receives an inmate, parolee, or probationer from another state under sections 241.28 to 241.30 or ~~243.16~~ 243.1605, fingerprints and thumbprints of the inmate, parolee, or probationer are obtained and forwarded to the bureau of criminal apprehension.

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

Sec. 5. Minnesota Statutes 2006, section 243.1606, subdivision 3, is amended to read:

Subd. 3. **Annual report.** By ~~January 15~~ March 1 of each year, the council shall report to the governor and the ~~legislature~~ chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice policy on its activities and the activities of the interstate commission and executive committee as described in section 243.1605 for the preceding year. The report also must include an assessment of how the interstate compact is functioning both within and without the state.

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

Sec. 6. Minnesota Statutes 2006, section 243.166, subdivision 3a, is amended to read:

Subd. 3a. **Registration procedure when person lacks primary address.** (a) If a person leaves a primary address and does not have a new primary address, the person shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours of the time the person no longer has a primary address.

(b) Notwithstanding the time period for registration in paragraphs (a) and (c), a person with a primary address of a correctional facility who is scheduled to be released from the facility and who does not have a new primary address shall register with the law enforcement authority that has jurisdiction in the area where the person will be staying at least three days before the person is released from the correctional facility.

4.1 (c) A person who lacks a primary address shall register with the law enforcement
4.2 authority that has jurisdiction in the area where the person is staying within 24 hours after
4.3 entering the jurisdiction. Each time a person who lacks a primary address moves to a new
4.4 jurisdiction without acquiring a new primary address, the person shall register with the
4.5 law enforcement authority that has jurisdiction in the area where the person is staying
4.6 within 24 hours after entering the jurisdiction.

4.7 ~~(c)~~ (d) Upon registering under this subdivision, the person shall provide the law
4.8 enforcement authority with all of the information the individual is required to provide
4.9 under subdivision 4a. However, instead of reporting the person's primary address, the
4.10 person shall describe the location of where the person is staying with as much specificity
4.11 as possible.

4.12 ~~(d)~~ (e) Except as otherwise provided in paragraph ~~(c)~~ (f), if a person continues to
4.13 lack a primary address, the person shall report in person on a weekly basis to the law
4.14 enforcement authority with jurisdiction in the area where the person is staying. This
4.15 weekly report shall occur between the hours of 9:00 a.m. and 5:00 p.m. The person is
4.16 not required to provide the registration information required under subdivision 4a each
4.17 time the offender reports to an authority, but the person shall inform the authority of
4.18 changes to any information provided under this subdivision or subdivision 4a and shall
4.19 otherwise comply with this subdivision.

4.20 ~~(e)~~ (f) If the law enforcement authority determines that it is impractical, due to the
4.21 person's unique circumstances, to require a person lacking a primary address to report
4.22 weekly and in person as required under paragraph ~~(d)~~ (e), the authority may authorize the
4.23 person to follow an alternative reporting procedure. The authority shall consult with the
4.24 person's corrections agent, if the person has one, in establishing the specific criteria of this
4.25 alternative procedure, subject to the following requirements:

4.26 (1) the authority shall document, in the person's registration record, the specific
4.27 reasons why the weekly in-person reporting process is impractical for the person to follow;

4.28 (2) the authority shall explain how the alternative reporting procedure furthers
4.29 the public safety objectives of this section;

4.30 (3) the authority shall require the person lacking a primary address to report in
4.31 person at least monthly to the authority or the person's corrections agent and shall
4.32 specify the location where the person shall report. If the authority determines it would
4.33 be more practical and would further public safety for the person to report to another
4.34 law enforcement authority with jurisdiction where the person is staying, it may, after
4.35 consulting with the other law enforcement authority, include this requirement in the
4.36 person's alternative reporting process;

(4) the authority shall require the person to comply with the weekly, in-person reporting process required under paragraph ~~(d)~~ (e), if the person moves to a new area where this process would be practical;

(5) the authority shall require the person to report any changes to the registration information provided under subdivision 4a and to comply with the periodic registration requirements specified under paragraph ~~(f)~~ (g); and

(6) the authority shall require the person to comply with the requirements of subdivision 3, paragraphs (b) and (c), if the person moves to a primary address.

~~(f)~~ (g) If a person continues to lack a primary address and continues to report to the same law enforcement authority, the person shall provide the authority with all of the information the individual is required to provide under this subdivision and subdivision 4a at least annually, unless the person is required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States. If the person is required to register under subdivision 1b, paragraph (c), the person shall provide the law enforcement authority with all of the information the individual is required to report under this subdivision and subdivision 4a at least once every three months.

~~(g)~~ (h) A law enforcement authority receiving information under this subdivision shall forward registration information and changes to that information to the bureau within two business days of receipt of the information.

~~(h)~~ (i) For purposes of this subdivision, a person who fails to report a primary address will be deemed to be a person who lacks a primary address, and the person shall comply with the requirements for a person who lacks a primary address.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to predatory offenders required to register on or after that date.

Sec. 7. Minnesota Statutes 2006, section 243.166, subdivision 4, is amended to read:

Subd. 4. **Contents of registration.** (a) The registration provided to the corrections agent or law enforcement authority, must consist of a statement in writing signed by the person, giving information required by the bureau, a fingerprint card, and photograph of the person taken at the time of the person's release from incarceration or, if the person was not incarcerated, at the time the person initially registered under this section. The registration information also must include a written consent form signed by the person allowing a treatment facility or residential housing unit or shelter to release information to a law enforcement officer about the person's admission to, or residence in, a treatment

facility or residential housing unit or shelter. Registration information on adults and juveniles may be maintained together notwithstanding section 260B.171, subdivision 3.

(b) For persons required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States, in addition to other information required by this section, the registration provided to the corrections agent or law enforcement authority must include the person's offense history and documentation of treatment received during the person's commitment. This documentation is limited to a statement of how far the person progressed in treatment during commitment.

(c) Within three days of receipt, the corrections agent or law enforcement authority shall forward the registration information to the bureau. The bureau shall ascertain whether the person has registered with the law enforcement authority in the area of the person's primary address, if any, or if the person lacks a primary address, where the person is staying, as required by subdivision 3a. If the person has not registered with the law enforcement authority, the bureau shall send one copy to that authority.

(d) The corrections agent or law enforcement authority may require that a person required to register under this section appear before the agent or authority to be photographed. The agent or authority shall forward the photograph to the bureau.

(1) Except as provided in clause (2), the agent or authority shall require a person required to register under this section who is classified as a level III offender under section 244.052 to appear before the agent or authority at least every six months to be photographed.

(2) The requirements of this paragraph shall not apply during any period where the person to be photographed is: (i) committed to the commissioner of corrections and incarcerated, (ii) incarcerated in a regional jail or county jail, or (iii) committed to the commissioner of human services and receiving treatment in a secure treatment facility.

(e) During the period a person is required to register under this section, the following provisions apply:

(1) Except for persons registering under subdivision 3a, the bureau shall mail a verification form to the person's last reported primary address. This verification form must provide notice to the offender that, if the offender does not return the verification form as required, information about the offender may be made available to the public through electronic, computerized, or other accessible means. For persons who are registered under subdivision 3a, the bureau shall mail an annual verification form to the law enforcement authority where the offender most recently reported. The authority shall provide the verification form to the person at the next weekly meeting and ensure that the person

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completes and signs the form and returns it to the bureau. Notice is sufficient under this paragraph, if the verification form is sent by first class mail to the person's last reported primary address, or for persons registered under subdivision 3a, to the law enforcement authority where the offender most recently reported.

(2) The person shall mail the signed verification form back to the bureau within ten days after receipt of the form, stating on the form the current and last address of the person's residence and the other information required under subdivision 4a.

(3) In addition to the requirements listed in this section, a person who is assigned to risk level II or III under section 244.052, and who is no longer under correctional supervision for a registration offense, or a failure to register offense, but who resides, works, or attends school in Minnesota, shall have an annual in-person contact with a law enforcement authority as provided in this section. If the person resides in Minnesota, the annual in-person contact shall be with the law enforcement authority that has jurisdiction over the person's primary address or, if the person has no address, the location where the person is staying. If the person does not reside in Minnesota but works or attends school in this state, the person shall have an annual in-person contact with the law enforcement authority or authorities with jurisdiction over the person's school or workplace. During the month of the person's birth date, the person shall report to the authority to verify the accuracy of the registration information and to be photographed. Within three days of this contact, the authority shall enter information as required by the bureau into the predatory offender registration database and submit an updated photograph of the person to the bureau's predatory offender registration unit.

(4) If the person fails to mail the completed and signed verification form to the bureau within ten days after receipt of the form, or if the person fails to report to the law enforcement authority during the month of the person's birth date, the person is in violation of this section.

(5) For any person who fails to mail the completed and signed verification form to the bureau within ten days after receipt of the form and who has been determined to be a risk level III offender under section 244.052, the bureau shall immediately investigate and notify local law enforcement authorities to investigate the person's location and to ensure compliance with this section. The bureau also shall immediately give notice of the person's violation of this section to the law enforcement authority having jurisdiction over the person's last registered address or addresses.

For persons required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States, the bureau shall comply with clause (1) at least four

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times each year. For persons who, under section 244.052, are assigned to risk level III and who are no longer under correctional supervision for a registration offense or a failure to register offense, the bureau shall comply with clause (1) at least two times each year. For all other persons required to register under this section, the bureau shall comply with clause (1) each year within 30 days of the anniversary date of the person's initial registration.

(f) When sending out a verification form, the bureau shall determine whether the person to whom the verification form is being sent has signed a written consent form as provided for in paragraph (a). If the person has not signed such a consent form, the bureau shall send a written consent form to the person along with the verification form. A person who receives this written consent form shall sign and return it to the bureau at the same time as the verification form.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to predatory offenders required to register on or after that date.

Sec. 8. Minnesota Statutes 2006, section 243.167, subdivision 2, is amended to read:

Subd. 2. **When required.** (a) In addition to the requirements of section 243.166, a person also shall register under section 243.166 if:

(1) the person is convicted of a crime against the person; and

(2) the person was previously convicted of or adjudicated delinquent for an offense listed in section 243.166, or a comparable offense in another state, but was not required to register for the offense because the registration requirements of that section did not apply to the person at the time the offense was committed or at the time the person was released from imprisonment.

(b) A person who was previously required to register in any state and who has completed the registration requirements of that state shall again register under section 243.166 if the person commits a crime against the person.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to persons who commit crimes against a person on or after that date.

Sec. 9. Minnesota Statutes 2006, section 253B.045, subdivision 1, is amended to read:

Subdivision 1. **Restriction.** Except when ordered by the court pursuant to a finding of necessity to protect the life of the proposed patient or others or as provided under subdivision 1a, no person subject to the provisions of this chapter shall be confined in a jail or correctional institution, except pursuant to chapter 242 or 244.

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

9.1 Sec. 10. Minnesota Statutes 2006, section 253B.045, is amended by adding a
9.2 subdivision to read:

9.3 Subd. 1a. **Exception.** A person who is being petitioned for commitment
9.4 under section 253B.185 and who is placed under a judicial hold order under section
9.5 253B.07, subdivision 2b or 7, may be confined at a Department of Corrections or a
9.6 county correctional or detention facility, rather than a secure treatment facility, until a
9.7 determination of the commitment petition as specified in this subdivision.

9.8 (a) A court may order that a person who is being petitioned for commitment under
9.9 section 253B.185 be confined in a Department of Corrections facility pursuant to the
9.10 judicial hold order under the following circumstances and conditions:

9.11 (1) The person is currently serving a sentence in a Department of Corrections
9.12 facility and the court determines that the person has made a knowing and voluntary (i)
9.13 waiver of the right to be held in a secure treatment facility and (ii) election to be held in a
9.14 Department of Corrections facility. The order confining the person in the Department of
9.15 Corrections facility shall remain in effect until the court vacates the order or the person's
9.16 criminal sentence and conditional release term expire.

9.17 In no case may the person be held in a Department of Corrections facility pursuant
9.18 only to this subdivision, and not pursuant to any separate correctional authority, for more
9.19 than 210 days.

9.20 (2) A person who has elected to be confined in a Department of Corrections facility
9.21 under this subdivision may revoke the election by filing a written notice of intent to revoke
9.22 the election with the court and serving the notice upon the Department of Corrections and
9.23 the county attorney. The court shall order the person transferred to a secure treatment
9.24 facility within 15 days of the date that the notice of revocation was filed with the court,
9.25 except that, if the person has additional time to serve in prison at the end of the 15-day
9.26 period, the person shall not be transferred to a secure treatment facility until the person's
9.27 prison term expires. After a person has revoked an election to remain in a Department of
9.28 Corrections facility under this subdivision, the court may not adopt another election to
9.29 remain in a Department of Corrections facility without the agreement of both parties and
9.30 the Department of Corrections.

9.31 (3) Upon petition by the commissioner of corrections, after notice to the parties
9.32 and opportunity for hearing and for good cause shown, the court may order that the
9.33 person's place of confinement be changed from the Department of Corrections to a secure
9.34 treatment facility.

9.35 (4) While at a Department of Corrections facility pursuant to this subdivision, the
9.36 person shall remain subject to all rules and practices applicable to correctional inmates

in the facility in which the person is placed including, but not limited to, the powers and duties of the commissioner of corrections under section 241.01, powers relating to use of force under section 243.52, and the right of the commissioner of corrections to determine the place of confinement in a prison, reformatory, or other facility.

(5) A person may not be confined in a Department of Corrections facility under this provision beyond the end of the person's executed sentence or the end of any applicable conditional release period, whichever is later. If a person confined in a Department of Corrections facility pursuant to this provision reaches the person's supervised release date and is subject to a period of conditional release, the period of conditional release shall commence on the supervised release date even though the person remains in the Department of Corrections facility pursuant to this provision. At the end of the later of the executed sentence or any applicable conditional release period, the person shall be transferred to a secure treatment facility.

(6) Nothing in this section may be construed to establish a right of an inmate in a state correctional facility to participate in sex offender treatment. This section must be construed in a manner consistent with the provisions of section 244.03.

(b) The committing county may offer a person who is being petitioned for commitment under section 253B.185 and who is placed under a judicial hold order under section 253B.07, subdivision 2b or 7, the option to be held in a county correctional or detention facility rather than a secure treatment facility, under such terms as may be agreed to by the county, the commitment petitioner, and the commitment respondent. If a person makes such an election under this paragraph, the court hold order shall specify the terms of the agreement, including the conditions for revoking the election.

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

Sec. 11. Minnesota Statutes 2006, section 253B.045, subdivision 2, is amended to read:

Subd. 2. **Facilities.** Each county or a group of counties shall maintain or provide by contract a facility for confinement of persons held temporarily for observation, evaluation, diagnosis, treatment, and care. When the temporary confinement is provided at a regional treatment center, the commissioner shall charge the county of financial responsibility for the costs of confinement of persons hospitalized under section 253B.05, subdivisions 1 and 2, and section 253B.07, subdivision 2b, except that the commissioner shall bill the responsible health plan first. If the person has health plan coverage, but the hospitalization does not meet the criteria in subdivision 6 or section 62M.07, 62Q.53, or 62Q.535, the county is responsible. When a person is temporarily confined in a Department of Corrections facility solely under subdivision 1a, and not based on any separate

11.1 correctional authority: (1) the commissioner of corrections may charge the county of
11.2 financial responsibility for the costs of confinement; and (2) the Department of Human
11.3 Services shall use existing appropriations to fund all remaining nonconfinement costs.
11.4 The funds received by the commissioner for the confinement and nonconfinement costs
11.5 are appropriated to the department for these purposes. "County of financial responsibility"
11.6 means the county in which the person resides at the time of confinement or, if the person
11.7 has no residence in this state, the county which initiated the confinement. The charge
11.8 for confinement in a facility operated by the commissioner of human services shall be
11.9 based on the commissioner's determination of the cost of care pursuant to section 246.50,
11.10 subdivision 5. When there is a dispute as to which county is the county of financial
11.11 responsibility, the county charged for the costs of confinement shall pay for them pending
11.12 final determination of the dispute over financial responsibility. Disputes about the county
11.13 of financial responsibility shall be submitted to the commissioner to be settled in the
11.14 manner prescribed in section 256G.09.

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

11.16 Sec. 12. Minnesota Statutes 2006, section 253B.08, subdivision 1, is amended to read:

11.17 Subdivision 1. **Time for commitment hearing.** (a) The hearing on the commitment
11.18 petition shall be held within 14 days from the date of the filing of the petition, except that
11.19 the hearing on a commitment petition pursuant to section 253B.185 shall be held within 90
11.20 days from the date of the filing of the petition. For good cause shown, the court may extend
11.21 the time of hearing up to an additional 30 days. The proceeding shall be dismissed if the
11.22 proposed patient has not had a hearing on a commitment petition within the allowed time.

11.23 (b) The proposed patient, or the head of the treatment facility in which the person is
11.24 held, may demand in writing at any time that the hearing be held immediately. Unless the
11.25 hearing is held within five days of the date of the demand, exclusive of Saturdays, Sundays
11.26 and legal holidays, the petition shall be automatically discharged if the patient is being
11.27 held in a treatment facility pursuant to court order. For good cause shown, the court may
11.28 extend the time of hearing on the demand for an additional ten days. This paragraph does
11.29 not apply to a commitment petition brought under section 253B.18 or 253B.185.

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

11.31 Sec. 13. Minnesota Statutes 2007 Supplement, section 253B.185, subdivision 1b,
11.32 is amended to read:

Subd. 1b. **County attorney access to data.** Notwithstanding sections 144.291 to 144.298; 245.467, subdivision 6; 245.4876, subdivision 7; 260B.171; 260B.235, subdivision 8; 260C.171; and 609.749, subdivision 6, or any provision of chapter 13 or other state law, prior to filing a petition for commitment as a sexual psychopathic personality or as a sexually dangerous person, and upon notice to the proposed patient, the county attorney or the county attorney's designee may move the court for an order granting access to any records or data, to the extent it relates to the proposed patient, for the purpose of determining whether good cause exists to file a petition and, if a petition is filed, to support the allegations set forth in the petition.

The court may grant the motion if: (1) the Department of Corrections refers the case for commitment as a sexual psychopathic personality or a sexually dangerous person; or (2) upon a showing that the requested category of data or records may be relevant to the determination by the county attorney or designee. The court shall decide a motion under this subdivision within 48 hours after a hearing on the motion. Notice to the proposed patient need not be given upon a showing that such notice may result in harm or harassment of interested persons or potential witnesses.

Notwithstanding any provision of chapter 13 or other state law, a county attorney considering the civil commitment of a person under this section may obtain records and data from the Department of Corrections or any probation or parole agency in this state upon request, without a court order, for the purpose of determining whether good cause exists to file a petition and, if a petition is filed, to support the allegations set forth in the petition. At the time of the request for the records, the county attorney shall provide notice of the request to the person who is the subject of the records.

Data collected pursuant to this subdivision shall retain their original status and, if not public, are inadmissible in any court proceeding unrelated to civil commitment, unless otherwise permitted.

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

Sec. 14. Minnesota Statutes 2006, section 253B.185, subdivision 5, is amended to read:

Subd. 5. **Financial responsibility.** (a) For purposes of this subdivision, "state facility" has the meaning given in section 246.50 and also includes a Department of Corrections facility when the proposed patient is confined in such a facility pursuant to section 253B.045, subdivision 1a.

(b) Notwithstanding sections 246.54, 253B.045, and any other law to the contrary, when a petition is filed for commitment under this section pursuant to the notice required

13.1 in section 244.05, subdivision 7, the state and county are each responsible for 50 percent of
13.2 the cost of the person's confinement at a state facility or county jail, prior to commitment.

13.3 (c) The county shall submit an invoice to the state court administrator for
13.4 reimbursement of the state's share of the cost of confinement.

13.5 (d) Notwithstanding paragraph (b), the state's responsibility for reimbursement is
13.6 limited to the amount appropriated for this purpose.

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

13.8 Sec. 15. Minnesota Statutes 2006, section 299C.41, subdivision 2, as added by Laws
13.9 2008, chapter 242, section 3, is amended to read:

13.10 Subd. 2. **Data classification.** (a) Credentialing data held by a government entity
13.11 are classified as private data on individuals as defined in section 13.02, subdivision 12, or
13.12 nonpublic data as defined in section 13.02, subdivision 9.

13.13 (b) Auditing data and workflow and routing data maintained by the Bureau of
13.14 Criminal Apprehension are classified as confidential data on individuals as defined in
13.15 section 13.02, subdivision 3, or protected nonpublic data as defined in section 13.02,
13.16 subdivision 13, until the investigation is inactive as defined in section 13.82, subdivision
13.17 7. Once the investigation is inactive, and the recipient of the data authorizes release
13.18 to the data subject, the auditing data and workflow and routing data maintained by the
13.19 Bureau of Criminal Apprehension are classified as private data on individuals as defined
13.20 in section 13.02, subdivision 12, or nonpublic data as defined in section 13.02, subdivision
13.21 9. The same data maintained by any other government entity are classified as provided
13.22 by other law.

13.23 Sec. 16. Minnesota Statutes 2006, section 373.47, subdivision 1, is amended to read:

13.24 Subdivision 1. **Authority to incur debt.** Subject to prior approval by the ~~Public~~
13.25 ~~Safety Radio System Planning Committee~~ Statewide Radio Board under section 403.36,
13.26 the governing body of a county may finance the cost of designing, constructing, and
13.27 acquiring public safety communication system infrastructure and equipment for use on the
13.28 statewide, shared public safety radio system by issuing:

13.29 (1) capital improvement bonds under section 373.40, as if the infrastructure and
13.30 equipment qualified as a "capital improvement" within the meaning of section 373.40,
13.31 subdivision 1, paragraph (b); and

13.32 (2) capital notes under the provisions of section 373.01, subdivision 3, as if the
13.33 equipment qualified as "capital equipment" within the meaning of section 373.01,
13.34 subdivision 3.

14.1 **EFFECTIVE DATE.** This section is effective August 1, 2008.

14.2 Sec. 17. **[480.237] ELECTRONIC PAYMENTS; CONVENIENCE FEES;**
14.3 **RECORDS ACCESS.**

14.4 (a) The judicial branch may accept credit cards, charge cards, debit cards, or other
14.5 methods of electronic funds transfer for government fees and payments ordered by a court.

14.6 (b) The judicial branch may impose a convenience fee to be added to each
14.7 transaction. The total amount of the convenience fee may not exceed the transaction fee
14.8 charged by a processing contractor for the credit services during the most recent collection
14.9 period. Each court imposing a convenience fee must notify the person using the credit
14.10 services of the fee before the transaction is processed. Fees collected under this section
14.11 are appropriated to the level of court that imposed the fee for the purposes of paying
14.12 the processing contractor.

14.13 (c) Records relating to credit card, charge card, debit card, or other method of
14.14 electronic funds transfer account numbers collected by the judicial branch in connection
14.15 with a transaction under this section are not accessible to the general public.

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

14.17 Sec. 18. Minnesota Statutes 2006, section 609.115, is amended by adding a subdivision
14.18 to read:

14.19 Subd. 10. **Military veterans.** (a) When a defendant appears in court and is
14.20 convicted of a crime, the court shall inquire whether the defendant is currently serving in
14.21 or is a veteran of the armed forces of the United States.

14.22 (b) If the defendant is currently serving in the military or is a veteran and has been
14.23 diagnosed as having a mental illness by a qualified psychiatrist or clinical psychologist or
14.24 physician, the court may:

14.25 (1) order that the officer preparing the report under subdivision 1 consult with the
14.26 United States Department of Veterans Affairs, Minnesota Department of Veterans Affairs,
14.27 or another agency or person with suitable knowledge or experience, for the purpose
14.28 of providing the court with information regarding treatment options available to the
14.29 defendant, including federal, state, and local programming; and

14.30 (2) consider the treatment recommendations of any diagnosing or treating mental
14.31 health professionals together with the treatment options available to the defendant in
14.32 imposing sentence.

14.33 **EFFECTIVE DATE.** This section is effective August 1, 2008.

Sec. 19. Minnesota Statutes 2006, section 609.117, subdivision 3, is amended to read:

Subd. 3. **Offenders from other states.** When the state accepts an offender from another state under the interstate compact authorized by section ~~243.16~~ 243.1605, the acceptance is conditional on the offender providing a biological specimen for the purposes of DNA analysis as defined in section 299C.155, if the offender was initially charged with committing or attempting to commit a felony offense and was convicted of that offense or of any offense arising out of the same set of circumstances. The specimen must be provided under supervision of staff from the Department of Corrections or a Community Corrections Act county within 15 business days after the offender reports to the supervising agent. The cost of obtaining the biological specimen is the responsibility of the agency providing supervision.

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

Sec. 20. Minnesota Statutes 2006, section 641.05, is amended to read:

641.05 RECORD OF INMATES; RETURN TO COURT; BUREAU OF CRIMINAL APPREHENSION.

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

(b) Upon intake into the jail facility, the name of the committed person shall be checked against the Bureau of Criminal Apprehension predatory offender registration database to determine whether the person is a registered predatory offender. In the event that the person is registered, the sheriff or designee shall notify the bureau of the person's admission into the jail facility. At the time of discharge from the facility, the sheriff or designee shall provide the person with a change of information form for the purposes of reporting the address where the person will be living upon release from the facility.

(c) Every sheriff who intentionally neglects or refuses to ~~so~~ report under paragraph (a) or (b) shall be guilty of a gross misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to crimes committed on or after that date.

16.1 Sec. 21. Minnesota Statutes 2006, section 641.18, is amended to read:

16.2 **641.18 ~~SOLITARY~~ SECURE CONFINEMENT.**

16.3 When any prisoner is unruly or disobeys any regulation for the management of jails,
16.4 the prisoner may be kept in ~~solitary~~ secure confinement as provided in section 641.09.

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

16.6 Sec. 22. Laws 2007, chapter 54, article 1, section 5, is amended to read:

16.7 Sec. 5. **TRIAL COURTS** \$ 246,077,000 \$ 254,916,000

16.8 **New Judge Units.** \$1,792,000 the first year
16.9 and \$3,241,000 the second year are for an
16.10 increase in judge units, including three trial
16.11 court judge units in the First Judicial District,
16.12 one trial court judge unit in the Seventh
16.13 Judicial District, one trial court judge unit in
16.14 the Ninth Judicial District and two trial court
16.15 judge units in the Tenth Judicial District.

16.16 These new judge units begin on January 1,
16.17 2008. Each judge unit consists of a judge,
16.18 law clerk, and court reporter.

16.19 ~~**Maintain and Expand Drug Courts.**~~

16.20 ~~\$2,096,000 the first year and \$2,097,000 the~~
16.21 ~~second year are to maintain and to establish~~
16.22 ~~new drug courts.~~

16.23 **Guardian Ad Litem Services.** \$1,260,000
16.24 the first year and \$1,629,000 the second year
16.25 are for guardian ad litem services.

16.26 **Interpreter Services.** \$606,000 the first
16.27 year and \$777,000 the second year are for
16.28 interpreter services.

16.29 **Psychological Services.** \$1,531,000 the first
16.30 year and \$2,151,000 the second year are for
16.31 psychological services.

16.32 **In Forma Pauperis Services.** \$178,000
16.33 each year is for in forma pauperis services.

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

17.2 Sec. 23. Laws 2007, chapter 54, article 1, section 9, is amended to read:

17.3 Sec. 9. **BOARD OF PUBLIC DEFENSE** \$ 66,348,000 \$ 69,519,000

17.4 ~~**District Public Defense Caseload Increase.**~~

17.5 ~~\$3,213,000 the first year and \$5,009,000~~

17.6 ~~the second year are for 34 new full-time~~

17.7 ~~equivalent attorneys and 11 new full-time~~

17.8 ~~equivalent support staff positions to address~~

17.9 ~~caseload increases. Of this amount, \$200,000~~

17.10 ~~each year is for transcript costs.~~

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

17.12 Sec. 24. **GUIDELINES FOR REVOCATION OF PAROLE AND SUPERVISED**

17.13 **RELEASE; DEPARTMENT OF CORRECTIONS INTERNAL REVIEW; REPORT**

17.14 **TO LEGISLATURE.**

17.15 The commissioner of corrections shall perform an internal review of the
17.16 department's guidelines for revocation of parole and supervised release. At a minimum,
17.17 the commissioner shall assess: (1) the appropriateness and proportionality of the sanctions
17.18 set forth in the guidelines; (2) the use of intermediate sanctions and the potential for
17.19 expanding the use and number of intermediate sanctions; and (3) the option of capping the
17.20 number of days that an offender may be re-incarcerated for a parole or supervised release
17.21 violation. By March 1, 2009, the commissioner shall report the results of the internal
17.22 review to the chairs and ranking minority members of the senate and house committees
17.23 and divisions having jurisdiction over criminal justice policy and funding.

17.24 **EFFECTIVE DATE.** This section is effective August 1, 2008.

17.25 Sec. 25. **JOINT PHYSICAL CUSTODY; STUDY GROUP.**

17.26 (a) The state court administrator shall convene a study group of 12 members to
17.27 consider the impact that a presumption of joint physical custody would have in Minnesota.
17.28 The evaluation must consider the positive and negative impact on parents and children
17.29 of adopting a presumption of joint physical custody, the fiscal impact of adopting this
17.30 presumption, and the experiences of other states that have adopted a presumption of
17.31 joint physical custody. The study must consider data and information from academic
17.32 and research professionals.

(b) In appointing members to the study group, the state court administrator must ensure that the viewpoint of parent advocacy groups, academics, policy analysts, judges, court administrators, attorneys, domestic violence advocates, citizen members who are not associated with a parent advocacy group, and other interested parties are represented. At least one member of the study group must be a representative of the Department of Human Services. The state court administrator must consult with the chairs and ranking minority members of the budget and policy committees in the house and senate with jurisdiction over family law on the composition of the working group. The state court administrator shall report to the legislature on the evaluation of presumption of joint physical custody, the experiences of other states, and recommendations made by the study group no later than January 15, 2009.

Sec. 26. **COMPREHENSIVE FAMILY COURT PROCESS; STUDY.**

The state court administrator shall report on a plan to conduct a multidisciplinary, comprehensive study on family law to the chairs and ranking minority members of the budget and policy committees in the house and senate with jurisdiction over family law no later than January 15, 2009.

Sec. 27. **WORKING GROUP ON CONTROLLED SUBSTANCE LAWS; REPORT TO LEGISLATURE.**

Subdivision 1. **Establishment; membership; staff.** (a) The speaker of the house of representatives and the Subcommittee on Committees of the Committee on Rules and Administration of the senate shall jointly appoint a working group on the state's controlled substance laws. The working group shall include:

- (1) two representatives of the Minnesota County Attorneys Association;
- (2) two representatives of the Board of Public Defense;
- (3) three representatives of state law enforcement associations, including one sheriff, one chief of police, and one member of the Minnesota Police and Peace Officers Association;
- (4) two representatives of the Judicial Council;
- (5) one representative from community corrections or probation;
- (6) one expert in the fields of drug treatment and controlled substance laws;
- (7) two individuals who are not affiliated with any of the organizations in clauses (1) to (6) and who have relevant experience related to sentencing policy or the criminal justice field; and

(8) four community members that reside in areas adversely affected by controlled substance crimes and violent crimes, two of whom shall be appointed by the speaker of the house of representatives and two of whom shall be appointed by the Subcommittee on Committees of the Committee on Rules and Administration of the senate. One of the community members appointed by the senate must be a member of a community crime prevention organization. Of the community members appointed by the senate, one must reside in Minneapolis and one must reside in greater Minnesota. Of the community members appointed by the house, one must reside in St. Paul and one must reside in a suburb of Minneapolis or St. Paul.

(b) Before making the appointments required under paragraph (a), the legislative appointing authorities must consider the recommendations of the chairs and ranking minority members of the committees and divisions with jurisdiction over criminal justice policy and funding.

(c) The appointments under paragraph (a) must be completed by July 1, 2008. Staff support for the working group shall be provided by the Sentencing Guidelines Commission. The executive director of the Sentencing Guidelines Commission or the executive director's designee shall convene the first meeting of the working group. The working group shall elect its chair from its membership at the first meeting.

Subd. 2. **Subject matter.** (a) The working group must review, assess, and make specific recommendations, including any necessary draft legislation regarding the following alternatives for modification and application of Minnesota's controlled substance laws:

(1) revising the threshold amounts for Minnesota's controlled substance crimes;

(2) establishing a separate sentencing guidelines grid for drug offenses;

(3) establishing additional aggravating factors so as to target certain particularly dangerous offenders;

(4) revising the criminal history point calculations for repeat drug offenders;

(5) maximizing the use of deferred prosecutions for low-level drug offenders under section 152.18 throughout the state; and

(6) increasing the use of the early release program for nonviolent controlled substance offenders who successfully complete drug treatment while incarcerated as provided in section 244.055.

(b) As part of its review of the various possible reforms, the working group may also study and consider:

(1) the significance, if any, of current rates of departure from presumptive guideline sentences for controlled substance crimes;

(2) the significance, if any, of current rates of departure from presumptive guideline sentences for controlled substance crimes for identifiable categories of offenders;

(3) the impact that recent United States Supreme Court criminal sentencing decisions have on implementing further reform;

(4) the barriers to comparing Minnesota's sentencing data with data from other states;

(5) strategies for reducing probation and supervised release violations among drug offenders;

(6) strategies for increasing the efficacy of programs that are now available to treat drug offenders;

(7) the likely impact of any recommended change in policy upon victims of drug-related crimes and the neighborhoods in which these crimes occur;

(8) the likely impact of any recommended change in policy upon the efficacy of law enforcement, prosecution, public defender, or court personnel; or

(9) any other sentencing-related matter that the working group sees fit to consider.

Subd. 3. **Report to legislature.** The working group shall report its findings and recommendations to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over criminal justice policy and funding by January 15, 2009. The working group expires upon the submission of the report required by this subdivision.

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

Sec. 28. **REPEALER.**

(a) Minnesota Statutes 2006, sections 242.193, subdivision 1; 242.39; and 609.103, are repealed.

(b) Laws 2008, chapter 242, section 3, subdivision 4, is repealed.

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

242.193 JUVENILE RESIDENTIAL TREATMENT GRANTS.

Subdivision 1. **Grants.** Within the limits of available appropriations, the commissioner of corrections shall make juvenile residential treatment grants to counties to defray the cost of juvenile residential treatment. The commissioner shall distribute 80 percent of the money appropriated for these purposes to noncommunity corrections counties and 20 percent to Community Corrections Act counties. The commissioner shall distribute the money according to the formula contained in section 401.10.

242.39 JUVENILE RESTITUTION GRANT PROGRAM.

Subdivision 1. **Grant program.** A juvenile restitution grant program is established under the commissioner of corrections to provide and finance work for eligible juveniles. Juveniles eligible to participate in the program are juveniles who have monetary restitution obligations to victims.

Subd. 2. **Administering program.** The Department of Corrections shall administer the grant program. The commissioner shall award grants to community correction agencies, other state and local agencies, and nonprofit agencies that meet the criteria developed by the commissioner relating to juvenile restitution grant programs. The criteria developed by the commissioner may include a requirement that the agency provide a match to the grant amount consisting of in-kind services, money, or both.

Subd. 3. **Cooperation; types of programs.** The commissioner of corrections shall work with the commissioner of natural resources, the commissioner of public safety, local government and nonprofit agencies, educational institutions, and the courts to design and develop suitable juvenile restitution grant programs. Programs must provide services to communities, including but not necessarily limited to, park maintenance, recycling, and other related work. Eligible juveniles may earn monetary restitution on behalf of a victim or perform a service for the victim. Work performed by eligible juveniles must not result in the displacement of currently employed full- or part-time workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. Any monetary restitution earned by an eligible juvenile must either be forwarded to the victim or held in an account for the benefit of the victim.

Subd. 4. **Referral to program.** The grant program must provide that eligible juveniles may be referred to the program by a community diversion agency, a correctional or human service agency, or by a court order of monetary restitution.

609.103 PAYMENT BY CREDIT CARD.

The court may permit the defendant to pay any fine, assessment, surcharge, attorney reimbursement obligation, or restitution obligation by credit card. The discount fees assessed by the credit card company shall be borne by the county, except that in a judicial district under section 480.181, subdivision 1, paragraph (b), the cost shall be borne by the state.

APPENDIX
Repealed Minnesota Session Laws: H2996-4

Laws 2008, chapter 242, section 3, subdivision 4

Sec. 3. [299C.41] E-CHARGING.

Subd. 4. **Responding to data requests.** When the Bureau of Criminal Apprehension receives a request under chapter 13 for access to data in e-charging that are not auditing data, credentialing data, or workflow and routing data held by the Bureau of Criminal Apprehension, the Bureau of Criminal Apprehension shall direct the requester to all government entities that have created the requested data. As part of its response, the Bureau of Criminal Apprehension shall provide the requester with the name, address, and telephone number for the responsible authority for the government entity.