

Sec. 4. Minnesota Statutes 1984, section 611A.06, is amended to read:

611A.06 RIGHT TO NOTICE OF RELEASE.

The commissioner of corrections or other custodial authority shall make a good faith effort to notify the victim that the offender is to be released from imprisonment or incarceration, ~~either than~~ including release on extended furlough and for work release, or released from a facility in which the offender was confined due to incompetency, mental illness, mental deficiency, or commitment under section 253B.18, prior to the release if the victim has mailed to the commissioner of corrections or to the head of the facility in which the offender is confined a written request for this notice. The commissioner or other custodial authority complies with this section if he mails the notice of impending release to the victim at the address which the victim has most recently provided to him in writing.

Sec. 5. **EFFECTIVE DATE.**

Section 3 is effective August 1, 1986, and applies to crimes committed on or after that date.

Approved March 25, 1986

CHAPTER 446—H.F.No. 1863

An act relating to crimes; providing for the waiver of the right to counsel in juvenile proceedings; clarifying the crime of failing to file a tax return; creating a presumption that property acquired during the course of certain crimes are "proceeds" of the crime for purposes of forfeiture law; amending Minnesota Statutes 1984, section 260.155, subdivision 8, and by adding a subdivision; and Minnesota Statutes 1985 Supplement, sections 290.92, subdivision 15; and 609.531, subdivision 2.

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

Section 1. Minnesota Statutes 1984, section 260.155, is amended by adding a subdivision to read:

Subd. 1a. RIGHT TO PARTICIPATE IN PROCEEDINGS. A child who is the subject of a petition, and the parents, guardian, or custodian of the child, and any grandparent of the child with whom the child has resided within the past two years, have the right to participate in all proceedings on a petition.

Sec. 2. Minnesota Statutes 1984, section 260.155, subdivision 8, is amended to read:

Subd. 8. **WAIVER.** (a) Waiver of any right which a child has under this chapter must be an express waiver voluntarily and intelligently made by the

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child after the child has been fully and effectively informed of the right being waived. If a child is under 12 years of age, the child's parent, guardian or custodian shall give any waiver or offer any objection contemplated by this chapter.

(b) Waiver of a child's right to be represented by counsel provided under the juvenile court rules must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. In determining whether a child has voluntarily and intelligently waived the right to counsel, the court shall look to the totality of the circumstances which includes but is not limited to the child's age, maturity, intelligence, education, experience, and ability to comprehend, and the presence and competence of the child's parents, guardian, or guardian ad litem. If the court accepts the child's waiver, it shall state on the record the findings and conclusions that form the basis for its decision to accept the waiver.

Sec. 3. Minnesota Statutes 1985 Supplement, section 290.92, subdivision 15, is amended to read:

Subd. 15. **PENALTIES.** (1) In the case of any failure to withhold a tax on wages, make and file quarterly returns or make payments to or deposits with the commissioner of amounts withheld, as required by this section, within the time prescribed by law, there shall be added to the tax a penalty equal to ten percent of the amount of tax that should have been properly withheld and paid over to or deposited with the commissioner if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which the failure continues, not exceeding 25 percent in the aggregate. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The amount added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount added shall be collected in the same manner as the tax.

(2) If any employer required to withhold a tax on wages, make deposits, make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by sections 290.92 to 290.97, willfully fails to withhold the tax or make the deposits, files a false or fraudulent return, willfully fails to make the payment or deposit, or willfully attempts in any manner to evade or defeat the tax or the payment or deposit of it, there shall also be imposed on the employer as a penalty an amount equal to 50 percent of the amount of tax, less any amount paid or deposited by the employer on the basis of the false or fraudulent return or deposit, that should have been properly withheld and paid over or deposited with the commissioner. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The penalty imposed by this paragraph shall be collected as a part of the tax, and shall be in addition to any other penalties civil and criminal, prescribed by this subdivision.

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(3) If any person required under the provisions of subdivision 7 to furnish a statement to an employee or payee and a duplicate statement to the commissioner, or to furnish a reconciliation of the statements, and quarterly returns, to the commissioner, willfully furnishes a false or fraudulent statement to an employee or payee or a false or fraudulent duplicate statement or reconciliation of statements, and quarterly returns, to the commissioner, or willfully fails to furnish a statement or the reconciliation in the manner, at the time, and showing the information required by the provisions of subdivision 7, or rules prescribed by the commissioner thereunder, there shall be imposed on the person a penalty of \$50 for each act or failure to act, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed \$25,000. The penalty imposed by this paragraph is due and payable within ten days after the mailing of a written demand therefor, and may be collected in the manner prescribed in subdivision 6, paragraph (8).

(4) In addition to any other penalties prescribed, any person required to withhold a tax on wages, ~~make and~~ file quarterly returns, and make payments or deposits to the commissioner of amounts withheld, as required by this section, who attempts to evade the tax by (i) willfully fails failing to withhold the tax or truthfully make and file the quarterly return, or make the payment or deposit, or attempts to evade or defeat the tax (ii) willfully preparing or filing a false return, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event he is guilty of a felony.

(5) In lieu of any other penalty provided by law, except the penalty provided by paragraph (3); any person required under the provisions of subdivision 7 to furnish a statement of wages to an employee and a duplicate statement to the commissioner, who willfully furnishes a false or fraudulent statement of wages to an employee or a false or fraudulent duplicate statement of wages to the commissioner, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or rules prescribed by the commissioner thereunder, is guilty of a gross misdemeanor.

(6) Any employee required to supply information to his employer under the provisions of subdivision 5, who willfully fails to supply information or willfully supplies false or fraudulent information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2a or 3, is guilty of a gross misdemeanor.

(7) The term "person," as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership, who as an officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(8) All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

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(9) In addition to any other penalty provided by law, any employee who furnishes a withholding exemption certificate to his employer which the employee has reason to know contains a materially incorrect statement is liable to the commissioner of revenue for a penalty of \$500 for each instance. The penalty is immediately due and payable and may be collected in the same manner as any delinquent income tax.

(10) In addition to any other penalty provided by law, any employer who fails to submit a copy of a withholding exemption certificate required by subdivision 5a, clause (1)(a), (1)(b), or (2) is liable to the commissioner of revenue for a penalty of \$50 for each instance. The penalty is immediately due and payable and may be collected in the manner provided in subdivision 6, paragraph (8).

(11) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under this section, of a return, affidavit, claim, or other document, which is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, is guilty of a gross misdemeanor, unless the tax involved exceeds \$300, in which event he is guilty of a felony.

(12) Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 4. Minnesota Statutes 1985 Supplement, section 609.531, subdivision 2, is amended to read:

Subd. 2. **FORFEITURES OF CONVEYANCE DEVICES; COMMUNICATIONS DEVICES; PRIMARY CONTAINERS; WEAPONS USED; AND CONTRABAND PROPERTY.** (a) Proceeds that are derived from or traced to the commission of a designated offense, conveyance devices, communications devices or components, primary containers, and weapons associated with the commission or utilized in the commission of a designated offense, and all contraband property shall be subject to forfeiture with the following limitations:

(a) (1) No conveyance device, communications device or component or primary container used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless the owner or other person in charge of the conveyance, container, or communications device or component is a consenting party or privy to commission of a designated offense.

(b) (2) No conveyance device, communications device or component, primary container, or weapon used is subject to forfeiture under this section unless the owner of it is privy to a violation of a designated offense or unless the use of the conveyance device, communications device or component, primary container, or weapon in a violation occurred with his knowledge or consent.

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(e) (3) A forfeiture of a conveyance device, communications device or component, primary container, or weapon used encumbered by a bona fide security interest is subject to the interest of the secured party unless he had knowledge of or consented to the act or omission upon which the forfeiture is based.

(e) (4) Proceeds which are derived from or traced to the commission of a designated offense are subject to forfeiture under this section only to the extent that the owner of the proceeds was privy to the violation upon which the forfeiture action is based.

(b) Any property acquired during or after the commission of the designated offense shall be presumed to be proceeds derived from or traced to the commission of a designated offense and subject to forfeiture under paragraph (a). The burden of rebutting this presumption is upon the claimant.

Sec. 5. **EFFECTIVE DATE.**

Sections 3 and 4 are effective August 1, 1986, and apply to crimes committed on or after that date.

Approved March 25, 1986

CHAPTER 447—H.F.No. 1919

An act relating to education; imposing a limit on participation; eliminating state tuition reimbursement for courses taken for post-secondary credit; making other modifications to the post-secondary enrollment options act; requiring the University of Minnesota, state university board, and state board for community colleges to develop policies for awarding post-secondary credit for advanced placement programs; amending Minnesota Statutes 1985 Supplement, section 123.3514, subdivisions 3, 4, 5, 6, 8, 10, and by adding subdivisions; Laws 1985, First Special Session chapter 12, article 5, section 7; proposing coding for new law in Minnesota Statutes, chapter 135A.

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

Section 1. Minnesota Statutes 1985 Supplement, section 123.3514, subdivision 3, is amended to read:

Subd. 3. **ELIGIBLE POST-SECONDARY INSTITUTIONS DEFINITIONS.** For purposes of this section, an "eligible institution" means a Minnesota public post-secondary institution or a private, residential, two-year or four-year, liberal arts, degree-granting college or university located in Minnesota. "Course" means a course or program.

Sec. 2. Minnesota Statutes 1985 Supplement, section 123.3514, subdivision 4, is amended to read:

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