

(1) intentionally causes the death of another person in the heat of passion provoked by such words or acts of another as would provoke a person of ordinary self-control under like circumstances, provided that the crying of a child does not constitute provocation;

(2) causes the death of another in committing or attempting to commit a misdemeanor or gross misdemeanor offense with such force and violence that death of or great bodily harm to any person was reasonably foreseeable, and murder in the first or second degree was not committed thereby;

(3) intentionally causes the death of another person because the actor is coerced by threats made by someone other than the actor's coconspirator and which cause the actor reasonably to believe that the act performed by the actor is the only means of preventing imminent death to the actor or another; or

(4) proximately causes the death of another, without intent to cause death by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a controlled substance classified in schedule III, IV, or V.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective August 1, 1988, and applies to crimes committed on or after that date.

Approved April 24, 1988

**CHAPTER 605—H.F.No. 257**

*An act relating to public employment; providing that certain state employees who are eligible to retire are eligible for state-paid insurance benefits; authorizing employer contributions to a deferred compensation plan in certain instances; modifying the definition of terms and conditions of employment for public employees; modifying severance pay; amending Minnesota Statutes 1986, sections 123.72; 179A.03, subdivision 19; 179A.07, subdivision 2; 179A.16, by adding a subdivision; 179A.20, by adding a subdivision; 356.24; 465.72, subdivision 1; and 471.616, subdivision 1; Minnesota Statutes 1987 Supplement, sections 43A.24, subdivision 2; 43A.316, subdivision 8; and 352.96, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 471; repealing Minnesota Statutes 1986, section 465.72, subdivision 2.*

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

Section 1. Minnesota Statutes 1987 Supplement, section 43A.24, subdivision 2, is amended to read:

Subd. 2. **OTHER ELIGIBLE PERSONS.** The following persons are eligible for state paid life insurance and hospital, medical, and dental benefits as

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determined in applicable collective bargaining agreements or by the commissioner or by plans pursuant to section 43A.18, subdivision 6, or by the board of regents for employees of the University of Minnesota not covered by collective bargaining agreements. Coverages made available, including optional coverages, are as contained in the plan established pursuant to section 43A.18, subdivision 2.

(a) a member of the state legislature, provided that changes in benefits resulting in increased costs to the state shall not be effective until expiration of the term of the members of the existing house of representatives. An eligible member of the state legislature may decline to be enrolled for state paid coverages by filing a written waiver with the commissioner. The waiver shall not prohibit the member from enrolling the member or dependents for optional coverages, without cost to the state, as provided for in section 43A.26. A member of the state legislature who returns from a leave of absence to a position previously occupied in the civil service shall be eligible to receive the life insurance and hospital, medical, and dental benefits to which the position is entitled;

(b) a permanent employee of the legislature or a permanent employee of a permanent study or interim committee or commission or a state employee on leave of absence to work for the legislature, during a regular or special legislative session;

(c) a judge of the appellate courts or an officer or employee of these courts; a judge of the district court, a judge of county court, a judge of county municipal court, or a judge of probate court; a district administrator; and an employee of the office of the district administrator of the fifth or the eighth judicial districts;

(d) a salaried employee of the public employees retirement association;

(e) a full-time military or civilian officer or employee in the unclassified service of the department of military affairs whose salary is paid from state funds;

(f) a salaried employee of the Minnesota historical society, whether paid from state funds or otherwise, who is not a member of the governing board;

(g) an employee of the regents of the University of Minnesota; ~~and~~

(h) notwithstanding section 43A.27, subdivision 3, an employee of the state of Minnesota or the regents of the University of Minnesota who is at least 60 and not yet 65 years of age on July 1, 1982, who is otherwise eligible for employee and dependent insurance and benefits pursuant to section 43A.18 or other law, who has at least 20 years of service and retires, earlier than required, within 60 days of March 23, 1982; or an employee who is at least 60 and not yet 65 years of age on July 1, 1982, who has at least 20 years of state service and retires, earlier than required, from employment at Rochester state hospital after July 1, 1981; or an employee who is at least 55 and not yet 65 years of age on July 1, 1982, and is covered by the Minnesota state retirement system correc-

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tional employee retirement plan or the state patrol retirement fund, who has at least 20 years of state service and retires, earlier than required, within 60 days of March 23, 1982. For purposes of this clause, a person retires when the person terminates active employment in state or University of Minnesota service and applies for a retirement annuity. Eligibility shall cease when the retired employee attains the age of 65, or when the employee chooses not to receive the annuity that the employee has applied for. The retired employee shall be eligible for coverages to which the employee was entitled at the time of retirement, subject to any changes in coverage through collective bargaining or plans established pursuant to section 43A.18, for employees in positions equivalent to that from which retired, provided that the retired employee shall not be eligible for state-paid life insurance. Coverages shall be coordinated with relevant health insurance benefits provided through the federally sponsored Medicare program; and

(i) An employee of an agency of the state of Minnesota identified through the process provided in this paragraph who is eligible to retire prior to age 65. The commissioner and the exclusive representative of state employees shall enter into agreements under section 179A.22 to identify employees whose positions are in programs that are being permanently eliminated or reduced due to federal or state policies or practices. Failure to reach agreement identifying these employees is not subject to impasse procedures provided in chapter 179A. The commissioner must prepare a plan identifying eligible employees not covered by a collective bargaining agreement in accordance with the process outlined in section 43A.18, subdivisions 2 and 3. For purposes of this paragraph, a person retires when the person terminates active employment in state service and applies for a retirement annuity. Eligibility ends as provided in the agreement or plan, but must cease at the end of the month in which the retired employee chooses not to receive an annuity, or the employee is eligible for employer-paid health insurance from a new employer. The retired employees shall be eligible for coverages to which they were entitled at the time of retirement, subject to any changes in coverage through collective bargaining or plans established under section 43A.18 for employees in positions equivalent to that from which they retired, provided that the retired employees shall not be eligible for state-paid life insurance.

Sec. 2. Minnesota Statutes 1987 Supplement, section 43A.316, subdivision 8, is amended to read:

Subd. 8. **CONTINUATION OF COVERAGE.** (a) A participating employee who is laid off or is on unrequested leave may elect to continue the plan coverage. This coverage is at the expense of the employee unless otherwise provided by a collective bargaining agreement. Premiums for these employees shall be established by the commissioner. Coverage continues until one of the following occurs:

(1) the employee is reemployed and eligible for health care coverage under a group policy; or

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(2) the insurance continuation periods required by state and federal laws expire.

(b) A participating employee who retires and is receiving an annuity or is eligible for and has applied for an annuity under chapter 352, 352B, 352C, 352D, 353, 354, 354A, 356, 422A, 423, 423A, 424, or 490 is eligible to continue participation in the plan. ~~Any employer's contribution must cease when the retiree reaches age 65.~~ These employees, and employees who have already retired prior to the group from which they retired entering the plan, are eligible to participate as long as their group continues to participate. This participation is at the retiree's expense unless a collective bargaining agreement or personnel policy provides otherwise. An employer shall notify an employee of this option no later than the effective date of retirement. The retired employee shall notify the employer within 30 days of the effective date of retirement of intent to exercise this option.

The spouse of a deceased retired employee may purchase the benefits provided at premiums established by the commissioner if the deceased retired employee received an annuity under chapter 352, 353, 354, 354A, 356, 422A, 423, 423A, or 424 and if the spouse was a dependent under the retired employee's coverage under this section at the time of the death of the retired employee. Coverage under this clause shall be coordinated with relevant insurance benefits provided through the federally sponsored Medicare program.

(c) The plan benefits shall continue in the event of strike permitted by section 179A.18, if the exclusive representative chooses to have coverage continue and the employee pays the total monthly premiums when due.

(d) A person who desires to participate under paragraphs (a) to (c) shall notify the eligible employer or former employer of intent to participate according to rules established by the commissioner. The eligible employer shall notify the commissioner, and coverage shall begin as soon as the commissioner permits.

Persons participating under these paragraphs shall make appropriate premium payments in the time and manner established by the commissioner.

Sec. 3. Minnesota Statutes 1986, section 123.72, is amended to read:

**123.72 MEDICAL INSURANCE PREMIUMS FOR RETIRED PERSONNEL.**

The school board of any independent school district may expend funds to pay premiums on hospitalization and major medical insurance coverage for officers and employees who retire prior to age 65 ~~and who are between the ages of 55 and 65.~~ Such premiums shall only be paid until such retired officers and employees reach age 65.

Sec. 4. Minnesota Statutes 1986, section 179A.03, subdivision 19, is amended to read:

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Subd. 19. **TERMS AND CONDITIONS OF EMPLOYMENT.** "Terms and conditions of employment" means the hours of employment, the compensation therefor including fringe benefits except retirement contributions or benefits other than employer payment of, or contributions to, premiums for group insurance coverage of retired employees or severance pay, and the employer's personnel policies affecting the working conditions of the employees. In the case of professional employees the term does not mean educational policies of a school district. "Terms and conditions of employment" is subject to section 179A.07.

Sec. 5. Minnesota Statutes 1986, section 179A.07, subdivision 2, is amended to read:

Subd. 2. **MEET AND NEGOTIATE.** (a) A public employer has an obligation to meet and negotiate in good faith with the exclusive representative of public employees in an appropriate unit regarding grievance procedures and the terms and conditions of employment, but this obligation does not compel the public employer or its representative to agree to a proposal or require the making of a concession.

The public employer's duty under this subdivision exists notwithstanding contrary provisions in a municipal charter, ordinance, or resolution. A provision of a municipal charter, ordinance, or resolution which limits or restricts a public employer from negotiating or from entering into binding contracts with exclusive representatives is superseded by this subdivision.

(b) In addition, a public employer may, but does not have an obligation to, meet and negotiate in good faith with the exclusive representative of public employees in an appropriate unit regarding an employer contribution to the state of Minnesota deferred compensation plan authorized by section 356.24, paragraph (a), clause (4), within the limits set by section 356.24, paragraph (a), clause (4).

Sec. 6. Minnesota Statutes 1986, section 179A.16, is amended by adding a subdivision to read:

Subd. 9. **NO ARBITRATION.** Failure to reach agreement on employer payment of, or contributions toward, premiums for group insurance coverage of retired employees is not subject to interest arbitration procedures under this section.

Sec. 7. Minnesota Statutes 1986, section 179A.20, is amended by adding a subdivision to read:

Subd. 2a. **FORMER EMPLOYEE BENEFITS.** A contract may not obligate an employer to fund all or part of the cost of health care benefits for a former employee beyond the duration of the contract, subject to section 179A.20, subdivision 6. A personnel policy may not obligate an employer to fund all or part of health care benefits for a former employee beyond the duration of the policy. A policy may not extend beyond the termination of the contract of longest duration covering other employees of the employer or, if none, the termination of the budgetary cycle during which the policy is adopted.

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Sec. 8. Minnesota Statutes 1987 Supplement, section 352.96, subdivision 2, is amended to read:

Subd. 2. **PURCHASE OF SHARES.** The amount of compensation so deferred may be used to purchase:

(1) shares in the Minnesota supplemental investment fund established in section 11A.17;

(2) saving accounts in federally insured financial institutions;

(3) life insurance contracts, fixed annuity and variable annuity contracts from companies that are subject to regulation by the commissioner of commerce; or

(4) a combination of (1), (2), or (3), as specified by the participant.

The shares accounts or contracts purchased shall stand in the name of the state or other employing unit, for the officer or employee whose deferred compensation purchased the shares, until distributed to the officer or employee in a manner agreed upon by the employee and the executive director of the Minnesota state retirement system, acting for the employer. This subdivision does not authorize an employer contribution, except as authorized in section 356.24, paragraph (a), clause (4). The state, political subdivision, or other employing unit is not responsible for any loss that may result from investment of the deferred compensation.

Sec. 9. Minnesota Statutes 1986, section 356.24, is amended to read:

**356.24 SUPPLEMENTAL PENSION OR DEFERRED COMPENSATION PLANS, RESTRICTIONS UPON GOVERNMENT UNITS.**

(a) It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or contribute public funds to a supplemental pension or deferred compensation plan which is established, maintained and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than:

(1) to a supplemental pension plan ~~which~~ that was established, maintained and operated ~~prior to~~ before May 6, 1971;

(2) to ~~any a~~ plan ~~which~~ that provides solely for group health, hospital, disability, or death benefits ~~or~~;

(3) to ~~any a~~ plan ~~which~~ that provides solely for severance pay ~~as authorized pursuant to~~ under section 465.72 to a retiring or terminating employee; or

(4) to the state of Minnesota deferred compensation plan under section 352.96, if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of public

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employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year per employee.

(b) No change in benefits or employer contributions in ~~any~~ a supplemental pension plan to which this section applies after May 6, 1971 ~~shall~~, may be effective without prior legislative authorization.

Sec. 10. Minnesota Statutes 1986, section 465.72, subdivision 1, is amended to read:

~~Subdivision 1. PAYMENT; LIMITS.~~ Except as may otherwise be provided in Laws 1959, chapter 690, as amended, ~~any~~ a county, city, township, school district or other governmental subdivision may pay severance pay to its employees who leaves employment ~~on or before or subsequent to the normal retirement date.~~ Severance pay ~~shall also does not~~ include the payment of accumulated vacation leave, compensation for accumulated sick leave or a combination thereof other payments in the form of periodic contributions by an employer toward premiums for group insurance policies for a former employee. The severance pay ~~shall must~~ be excluded from retirement deductions and from any calculations in retirement benefits. ~~It shall~~ Severance pay must be paid in a manner mutually agreeable to the employee and employer ~~and, except as provided in subdivision 2,~~ over a period not to exceed five years from retirement or termination of employment. If a retired or terminated employee dies before all or a portion of the severance pay has been disbursed, that balance due ~~shall must~~ be paid to a named beneficiary or, lacking ~~same one,~~ to the deceased's estate. ~~Except as provided in subdivision 2, in no event shall~~ Severance pay provided for an employee leaving employment may not exceed an amount equivalent to one year of pay.

Sec. 11. [471.611] RETIREES' HEALTH INSURANCE BENEFITS.

Subdivision 1. ACCOUNTING. A unit of local government that agrees to make payments for health insurance benefits for retired employees shall identify the amount required to pay the cost of those benefits during the period in which the contract or personnel policy providing for those benefits is in effect and shall record the amount as an expenditure, according to generally accepted accounting principles, in the fiscal year or years during which the payments are to be made. A school district is in compliance with this subdivision if it complies with section 121.908, subdivision 6. Provision of these benefits under a personnel policy must be approved, as a separate action, by the governing body of the employing governmental unit.

Subd. 2. COORDINATION. A unit of local government that funds all or part of the cost of health care benefits for a retired employee must provide for coverage to be coordinated with applicable benefits provided through the federally sponsored medicare program.

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Sec. 12. Minnesota Statutes 1986, section 471.616, subdivision 1, is amended to read:

Subdivision 1. **BIDDING REQUIRED.** No governmental subdivision, political subdivision, or any other body corporate and politic authorized by law to purchase group insurance for its employees and providing or intending to provide group insurance protections and benefits for 25 or more of its employees shall enter into a contract for or renew any group insurance policy or contract without calling for bids and awarding the contract to the lowest responsible bidder by way of competitive bidding procedures similar to those for the provision of services and supplies under section 16B.07, subdivisions 1 to 5. A political subdivision may provide in the bid specifications that self-insured health benefit plans will not be considered. Lowest responsible bidder means the insurer, service plan corporation, or self-insurance plan, if allowed by the bid specifications which offers the lowest cost, is authorized to do business in this state, and is deemed by the governmental unit to be capable of satisfactorily performing the administration of the policy or contract in accordance with the bid specifications. "Cost" means in the case of an insurer, the net premium, including consideration of any expense and risk charges; in the case of service plan corporation, the charge for expenses and risk taking; and in the case of self-insurance plans, the sum of the cost of paid claims, including provision for estimated incurred but unpaid claims at the end of the term, administrative costs, and premium for excess coverage. The cost of changing plans may also be considered in determining the lowest cost. The aggregate value of benefits provided by a contract entered into after July 1, 1973 shall not be less than those provided by the preexisting contract (a) unless a majority of the employees covered under the group insurance plan and voting on the question agree to a reduction in the benefits, if the employees are not represented by an exclusive representative pursuant to section 179A.12, or (b) unless the public employer and the exclusive representative of the employees of an appropriate bargaining unit, certified pursuant to under section ~~179.67~~ 179A.12, agree to a reduction in the benefits. ~~The aggregate value of benefits of any former employee who has retired shall not, in any event, be reduced pursuant to clause (a) or (b), unless the employee has individually agreed to the reduction.~~

No contract need be submitted to bid more frequently than once every 48 months, unless for any reason whatsoever, a 50 percent or greater change in the premium per covered employee under the policy contract is provided, required or indicated. If additional employees are added to an existing group pursuant to a joint powers agreement under section 471.59, new bids and award are not required.

When an insurer proposes an increase in rates, it shall accompany its proposal with an aggregate claims record for the appropriate period that explains the proposed increase. When a contract is resubmitted for bids the aggregate claims record shall accompany the specifications for the contract. Cost comparisons are not required between insured and self-insurance alternatives, but apply to comparisons between two or more insured proposals or comparisons between two or more self-insurance proposals.

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Sec. 13. **CONTRACTS VALIDATED.**

Notwithstanding any law to the contrary, the terms of a contract or personnel policy in effect before the effective date of this section providing for severance pay for the purposes described in section 465.72, subdivision 2, or providing for employer payment of some or all of the costs of health care benefits or insurance for retired employees, and all payments made under those policies or contracts, are valid, subject to section 7.

Sec. 14. **REPEALER.**

Minnesota Statutes 1986, section 465.72, subdivision 2, is repealed.

Sec. 15. **EFFECTIVE DATES.**

Sections 1 to 14 are effective the day following final enactment. Section 13 applies retroactively to August 1, 1986.

Section 12 applies only to employees who retire after the effective date of the section.

Approved April 24, 1988

**CHAPTER 606—H.F.No. 1656**

*An act relating to traffic regulations; providing for allocation of civil fines for motor vehicle maximum weight violations in Hennepin county; amending Minnesota Statutes 1986, section 169.871, subdivisions 3 and 5.*

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

Section 1. Minnesota Statutes 1986, section 169.871, subdivision 3, is amended to read:

Subd. 3. **APPEARANCES.** Notwithstanding the provisions of section 8.01, county or city attorneys may appear ~~for the commissioner of public safety~~ in civil actions commenced under this section at the request of the attorney general.

Sec. 2. Minnesota Statutes 1986, section 169.871, subdivision 5, is amended to read:

Subd. 5. **FINES.** Any penalty imposed and fines collected pursuant to this section shall be disposed of as provided in section 299D.03, subdivision 5, with the following exceptions:

(a) If the violation occurs in the county, and the county attorney appears in the action, the remaining five-eighths shall be credited to the highway user tax distribution fund.

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