

Sec. 3. **EFFECTIVE DATE.**

Section 1 is effective retroactive to October 1, 1987. Section 2 is effective July 1, 1989.

Presented to the governor May 26, 1989

Signed by the governor May 26, 1989, 5:38 p.m.

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**CHAPTER 290—H.F.No. 59**

*An act relating to crime; authorizing bonding for capital improvements; increasing penalties for controlled substance offenses; increasing penalties for murder and criminal sexual conduct; permitting courts to sentence dangerous offenders and career criminals to longer periods of incarceration; denying release to certain heinous murderers; increasing minimum parole eligibility date for persons serving a life sentence for first degree murder; increasing statutory maximum sentences for the crimes of failure to report an accident, failure to use a drug stamp, possessing explosives, restraint of trade, manslaughter in the second degree, criminal vehicular operation, assault, child abuse, parental kidnapping, manslaughter of an unborn child, assault of an unborn child, criminal sexual conduct in the fourth degree, perjury, fleeing a peace officer, negligently causing a fire, and bribery; making it a crime for a repeat DWI violator to refuse a breath test; permitting courts to sentence dangerous or patterned sex offenders to longer periods of incarceration and supervision; imposing a mandatory sentence for third criminal sexual conduct conviction; extending the statute of limitations for criminal sexual conduct; providing for sex offender treatment programs; creating a permissible inference that occupants of a room and drivers of automobiles knowingly possess controlled substances found there; lowering threshold for forfeiture of vehicles and real estate in connection with a controlled substance offense; requiring courts to order forfeiture of property subject to forfeiture; imposing a gross misdemeanor penalty for selling tobacco to a minor; establishing an office of drug policy in the department of public safety; requiring testing for and reporting of prenatal exposure to controlled substances; providing for coordination of drug programs; providing for the admissibility of DNA evidence; providing access to certain data; expanding the theft statute to include unauthorized use of a motor vehicle; authorizing a community resources program; authorizing establishing multidisciplinary chemical abuse prevention teams; appropriating money; amending Minnesota Statutes 1988, sections 14.02, subdivision 4; 152.01, subdivision 7, and by adding subdivisions; 152.096, subdivision 1; 152.097, by adding a subdivision; 152.151; 152.18, subdivision 1; 152.20; 152.21, subdivision 6; 169.09, subdivision 14; 169.121, subdivisions 1, 1a, 3, and 3b; 169.123, subdivision 2; 169.126, subdivision 4; 243.05, subdivision 1; 243.18; 243.55, subdivision 1; 244.04, subdivision 1; 244.05, subdivisions 1, 2, 3, 4, and 5; 244.09, subdivision 5; 253B.02, subdivisions 2 and 10; 260.125, subdivision 3; 260.185, subdivision 1; 297D.09, subdivision 1a; 299F.80, subdivision 1; 325D.56, subdivision 2; 340A.701; 340A.702; 364.09; 388.14; 526.10; 609.11, subdivisions 7 and 9; 609.185; 609.205; 609.21; 609.221; 609.222; 609.223; 609.2231, subdivision 1; 609.255, subdivision 3; 609.26, subdivisions 1 and 6; 609.2665; 609.267; 609.323, subdivision 1; 609.341, subdivision 11; 609.342, subdivision 2;*

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609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; 609.346, subdivisions 2 and 3, and by adding a subdivision; 609.377; 609.445; 609.48, subdivision 4; 609.487, subdivision 4; 609.52; 609.53, subdivisions 1 and 4; 609.531, subdivision 1; 609.5311, subdivision 3; 609.5314, subdivision 1; 609.5315, subdivision 1; 609.576; 609.62, subdivision 2; 609.631, subdivision 2; 609.685, subdivision 2, and by adding a subdivision; 609.86, subdivision 3; 611A.038; 624.701; 626.52, subdivision 3; 626.556, subdivision 2; and 628.26; Laws 1989, chapter 5, section 3; proposing coding for new law in Minnesota Statutes, chapters 121; 152; 241; 242; 243; 244; 299A; 299C; 299F; 609; 626; and 634; repealing Minnesota Statutes 1988, sections 152.09; 152.15, subdivisions 1, 2, 2a, 2b, 3, 4a, and 5; 609.53, subdivisions 1a, 3, and 3a; and 609.55 as amended.

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

## ARTICLE 1

### APPROPRIATIONS

#### Section 1. BOND SALE; APPROPRIATION FOR CAPITAL IMPROVEMENT.

Subdivision 1. APPROPRIATION; BOND SALE. \$10,755,000 is appropriated from the state building fund to the department of administration to convert portions of the regional treatment center at Faribault for use as a medium security correctional facility for adult males.

To provide the money appropriated by this section from the state building fund, the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to \$10,755,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.

Subd. 2. DEBT SERVICE. The commissioner of finance shall schedule the sale of state general obligation bonds authorized to be issued under this section so that, during the biennium ending June 30, 1991, no more than \$1,553,000 will need to be transferred from the general fund to the state bond fund to pay principal and interest due and to become due on them, in addition to limits in other law placed on debt service on state general obligation bonds for the biennium or either fiscal year of it. The commissioner shall adjust the amount of bonds scheduled to be sold so as to remain within the limit set by this section. The amount needed to make the debt service payments is appropriated from the general fund as provided in Minnesota Statutes, section 16A.641.

#### Sec. 2. CRIME AND CORRECTIONS; APPROPRIATIONS.

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the following sections of this act, to be available for the fiscal years indicated for each purpose. The figures "1990" and "1991," where used in this act, mean that the appropriation or appropriations listed under

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them are available for the year ending June 30, 1990, or June 30, 1991, respectively.

#### SUMMARY BY FUND

	1990	1991	TOTAL
General	\$31,265,000	\$28,499,000	\$59,764,000
		APPROPRIATIONS	
		Available for the Year	
		Ending June 30,	
		1990	1991

### Sec. 3. COMMISSIONER OF CORRECTIONS

#### Subdivision 1. Appropriation by Fund

General Fund	\$22,647,000	\$26,251,000
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The amounts that may be spent from the appropriations for each program and activity are more specifically described in the following subdivisions.

#### Subd. 2. Correctional

Institutions	14,470,000	16,519,000
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Of this amount \$5,713,000 in fiscal year 1990 and \$9,337,000 in fiscal year 1991 are to pay operating costs of the facility at Faribault. The department's complement is increased by up to 245 positions in both years of the biennium.

Of this amount \$1,957,000 is to pay start-up costs associated with conversion of portions of the regional treatment center at Faribault to a medium-security correctional facility.

Of this amount, \$63,000 in fiscal year 1990 and \$332,000 in fiscal year 1991 are to establish and operate two additional sex offender programs within state correctional facilities. The department's complement is increased by one position in 1990 and up to eight positions in 1991.

Any unexpended money in the fiscal year 1990 appropriation for conversion and operation of the facility at Faribault is available in fiscal year 1991.

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During the biennium ending June 30, 1991, the commissioner shall give preference in recruiting, training, and hiring to employees of the department of human services whose positions are eliminated by implementation of the regional treatment center restructuring plan when filling correctional facility positions located on regional treatment center campuses.

Agreements between the commissioner of corrections and the commissioner of human services concerning operation of a correctional facility on a campus of a regional treatment center shall include provisions for operation of the kitchen and laundry facilities by the commissioner of human services. The department of human services shall operate the kitchen and laundry facilities until the department of human services has completed its restructuring plan at the regional treatment center.

Rogers Hall at Faribault regional treatment center may be used by the department of human services for developmentally disabled persons and may not be used by the department of corrections until the legislature specifically authorizes another use for the building.

The commissioner may enter into agreements with the appropriate officials of any state, political subdivision, or the United States, for housing prisoners in Minnesota correctional facilities. Money received under the agreements is appropriated to the commissioner for correctional purposes.

Subd. 3. Community Services

7,734,000

9,020,000

Of this amount, \$40,000 each year is for the West Central Juvenile Center, \$50,000 in 1990 and \$100,000 in 1991 is for the Central Juvenile Center, and \$5,000 each year is for the Leech Lake Youth Center for grants under Minnesota Statutes, section 241.022.

Of this amount, \$75,000 in each year is to be used as a grant to an existing statewide coalition of sexual assault programs, providers, and agencies. Grant money may be used to promote the availability of services to all sexual assault victims throughout the state; to educate the general public and professionals in related fields about victimization issues through programs, publications, and the media; to provide training on issues of common concern to sexual assault service programs through conferences, workshops, and forums; and to offer an opportunity for providers, programs, and agencies to share expertise, experience, and knowledge about sexual assault issues.

Of this amount, \$75,000 in 1990 is a one-time appropriation to the St. Louis County Task Force on Children and Youth to conduct a study with the following objectives: to examine and identify causes of problems faced by children and youth in St. Louis County; to identify resources and gaps in services in the existing service system for children and youth; to make recommendations regarding possible prevention and early intervention initiatives; to improve coordination efforts among agencies, organizations, and systems serving youth in St. Louis County; and to contribute to greater public awareness and recognition of the needs, problems, and concerns of children and youth.

Of this amount, \$150,000 in each year is for residential and outpatient sex offender treatment and after care when required for conditional release or as a condition of supervised release.

Of this amount, \$1,000,000 in 1991 is for juvenile and adult sex offender treatment pilot programs.

The commissioner may transfer unen-

cumbered grant money to fund the department's fiscal year 1989 general fund shortage.

Subd. 4. Management Services	443,000	712,000
Sec. 4. SENTENCING GUIDELINES COMMISSION	20,000	38,000

Of this amount, \$38,000 in 1991 is to study the mandatory minimum sentencing law. The commission shall submit a report to the legislature by February 1, 1991, summarizing its findings and recommending any changes necessary to improve the mandatory minimum sentencing law.

Of this amount, \$20,000 in 1990 is for the local correctional resource data collection study.

Sec. 5. COMMISSIONER OF STATE PLANNING	7,129,000	0
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This appropriation is for the community resources program. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

Sec. 6. COMMISSIONER OF PUBLIC SAFETY	1,169,000	1,610,000
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Of this amount, \$419,000 in 1990 and \$860,000 in 1991 is appropriated to the bureau of criminal apprehension to establish and operate a laboratory to perform DNA analysis and to establish a system for collecting and maintaining DNA analysis data and human biological specimens. The staff complement of the bureau is increased by up to ten positions.

Of this amount, \$100,000 in each year is to be used for grants to establish community crime reduction pilot projects.

Of this amount, \$125,000 in each year is for community drug prevention and education grants, and \$25,000 in each year is for multidisciplinary chemical abuse prevention teams.

Of this amount, \$175,000 in each year is appropriated to the bureau of criminal apprehension for the drug abuse resistance education training program. The staff complement is increased by up to three positions.

Of this amount, \$175,000 in each year is for the office of drug policy and the drug abuse prevention resource council. The staff complement of the office of drug policy is not more than two positions. The staff complement of the council is not more than three positions.

Of this amount, \$150,000 in each year is for the soft body armor reimbursement program.

Sec. 7. COMMISSIONER OF HUMAN SERVICES	300,000	600,000
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This appropriation is for grants to agencies providing chemical dependency treatment to pregnant women and mothers.

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## ARTICLE 2

### SENTENCING PROVISIONS

Section 1. Minnesota Statutes 1988, section 14.02, subdivision 4, is amended to read:

Subd. 4. **RULE.** "Rule" means every agency statement of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by it or to govern its organization or procedure. It does not include (a) rules concerning only the internal management of the agency or other agencies, and which do not directly affect the rights of or procedure available to the public; (b) rules of the

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commissioner of corrections relating to the placement and supervision of inmates serving a supervised release term, the internal management of institutions under the commissioner's control and those rules governing the inmates thereof prescribed pursuant to section 609.105; (c) rules of the division of game and fish published in accordance with section 97A.051; (d) rules relating to weight limitations on the use of highways when the substance of the rules is indicated to the public by means of signs; (e) opinions of the attorney general; (f) the systems architecture plan and long-range plan of the state education management information system provided by section 121.931; (g) the data element dictionary and the annual data acquisition calendar of the department of education to the extent provided by section 121.932; (h) the occupational safety and health standards provided in section 182.655.

Sec. 2. Minnesota Statutes 1988, section 243.05, subdivision 1, is amended to read:

Subdivision 1. **CONDITIONAL RELEASE.** The commissioner of corrections may parole any person sentenced to confinement in any state correctional facility for adults under the control of the commissioner of corrections, provided that:

(a) no inmate serving a life sentence for committing murder before May 1, 1980, other than murder committed in violation of clause (1) of section 609.185 who has not been previously convicted of a felony shall be paroled without having served 20 years, less the diminution that would have been allowed for good conduct had the sentence been for 20 years;

(b) no inmate serving a life sentence for committing murder before May 1, 1980, who has been previously convicted of a felony or though not previously convicted of a felony is serving a life sentence for murder in the first degree committed in violation of clause (1) of section 609.185 shall be paroled without having served 25 years, less the diminution which would have been allowed for good conduct had the sentence been for 25 years;

(c) any inmate sentenced prior to September 1, 1963 who would be eligible for parole had the inmate been sentenced after September 1, 1963, shall be eligible for parole; and

(d) any new rule or policy or change of rule or policy adopted by the commissioner of corrections which has the effect of postponing eligibility for parole has prospective effect only and applies only with respect to persons committing offenses after the effective date of the new rule or policy or change. Upon being paroled and released, an inmate is and remains in the legal custody and under the control of the commissioner, subject at any time to be returned to a facility of the department of corrections established by law for the confinement or treatment of convicted persons and the parole rescinded by the commissioner. The written order of the commissioner of corrections, is sufficient authority for any peace officer or state parole and probation agent to retake and place in actual custody any person on parole or supervised release, but any state parole

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and probation agent may, without order of warrant, when it appears necessary in order to prevent escape or enforce discipline, take and detain a parolee or person on supervised release or work release to the commissioner for action. The written order of the commissioner of corrections is sufficient authority for any peace officer or state parole and probation agent to retake and place in actual custody any person on probation under the supervision of the commissioner pursuant to section 609.135, but any state parole and probation agent may, without an order, when it appears necessary in order to prevent escape or enforce discipline, retake and detain a probationer and bring the probationer before the court for further proceedings under section 609.14. Persons conditionally released, and those on probation under the supervision of the commissioner of corrections pursuant to section 609.135 may be placed within or outside the boundaries of the state at the discretion of the commissioner of corrections or the court, and the limits fixed for these persons may be enlarged or reduced according to their conduct.

In considering applications for conditional release or discharge, the commissioner is not required to hear oral argument from any attorney or other person not connected with an adult correctional facility of the department of corrections in favor of or against the parole or release of any inmates, but the commissioner may institute inquiries by correspondence, taking testimony or otherwise, as to the previous history, physical or mental condition, and character of the inmate, and to that end shall have authority to require the attendance of the chief executive officer of any state adult correctional facility and the production of the records of these facilities, and to compel the attendance of witnesses. The commissioner is authorized to administer oaths to witnesses for these purposes.

### Sec. 3. [243.165] NOTICE OF SEX OFFENDER'S ADDRESS.

Subdivision 1. TERMS. (a) For purposes of this section, the following terms have the meanings given.

(b) "Law enforcement authority" means with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the sheriff of the county.

(c) "Sex offender" means a person who has been convicted and sentenced under section 12, section 609.185, clause (2), section 609.342, 609.343, 609.344, or 609.345 and is serving or is being released to serve the supervised release portion of the sentence imposed or is on probation for that conviction unless the person is placed in a residential community-based facility.

Subd. 2. LOCATION REPORT REQUIRED. A probation officer shall report in writing to the appropriate law enforcement authority the address of a sex offender who is assigned to that probation officer:

(1) when the sex offender is released from a state correctional institution to serve the supervised release term or is released from a residential community-based facility; and

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(2) when the sex offender changes addresses. A sex offender is deemed to change addresses when the sex offender remains at a new address for longer than two weeks and evinces an intent to take up residence there.

Subd. 3. USE OF INFORMATION. The information provided under this section is private data on individuals under section 13.01, subdivision 12. The information may be used only for law enforcement purposes. When the sex offender is discharged from supervised release or probation, the probation officer shall inform all law enforcement agencies notified under this section. Each agency shall then destroy the data.

Sec. 4. Minnesota Statutes 1988, section 243.18, is amended to read:

**243.18 DIMINUTION OF SENTENCE.**

Subdivision 1. GOOD TIME. Every inmate sentenced for any term other than life, confined in a state adult correctional facility or on parole therefrom, may diminish the term of sentence one day for each two days during which the inmate has not violated any facility rule or discipline.

The commissioner of corrections, in view of the aggravated nature and frequency of offenses, may take away any or all of the good time previously gained, and, in consideration of mitigating circumstances or ignorance on the part of the inmate, may afterwards restore the inmate, in whole or in part, to the standing the inmate possessed before such good time was taken away.

Subd. 2. WORK REQUIRED. An inmate for whom a work assignment is available may not earn good time under subdivision 1 for any day on which the inmate does not perform the work assignment. The commissioner may excuse an inmate from work only for illness, physical disability, or to participate in an education or treatment program.

Sec. 5. Minnesota Statutes 1988, section 244.05, subdivision 2, is amended to read:

Subd. 2. RULES. The commissioner of corrections shall promulgate rules for the placement and supervision of inmates serving a supervised release term. ~~The rules shall also provide~~ adopt by rule standards and procedures for the revocation of supervised release, and shall specify the period of revocation for each violation of supervised release. Procedures for the revocation of supervised release shall provide due process of law for the inmate.

Sec. 6. Minnesota Statutes 1988, section 244.05, subdivision 4, is amended to read:

Subd. 4. MINIMUM IMPRISONMENT, LIFE SENTENCE. An inmate serving a mandatory life sentence under section 10 must not be given supervised release under this section. An inmate serving a mandatory life sentence for conviction of murder in the first degree under section 609.185 must not be given supervised release under this section without having served a minimum term of 30 years. An inmate serving a mandatory life sentence ~~shall~~ under section

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609.385 must not be given supervised release under this section without having served a minimum term of imprisonment of 17 years.

Sec. 7. Minnesota Statutes 1988, section 244.05, subdivision 5, is amended to read:

Subd. 5. **SUPERVISED RELEASE, LIFE SENTENCE.** The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence under section 609.185 or 609.385 after the inmate has served the minimum term of imprisonment specified in subdivision 4.

Sec. 8. Minnesota Statutes 1988, section 244.09, subdivision 5, is amended to read:

Subd. 5. The commission shall, on or before January 1, 1980, promulgate sentencing guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:

(1) The circumstances under which imprisonment of an offender is proper; and

(2) A presumptive, fixed sentence for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. The guidelines may provide for an increase or decrease of up to 15 percent in the presumptive, fixed sentence.

The sentencing guidelines promulgated by the commission may also establish appropriate sanctions for offenders for whom imprisonment is not proper. Any guidelines promulgated by the commission establishing sanctions for offenders for whom imprisonment is not proper shall make specific reference to noninstitutional sanctions, including but not limited to the following: payment of fines, day fines, restitution, community work orders, work release programs in local facilities, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation and the conditions thereof.

In establishing and modifying the sentencing guidelines, the primary consideration of the commission shall ~~take into substantial consideration~~ be public safety. The commission shall also consider current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities.

The provisions of sections 14.01 to 14.69 do not apply to the promulgation of the sentencing guidelines, and the sentencing guidelines, including severity levels and criminal history scores, are not subject to review by the legislative commission to review administrative rules. However, on or before January 1, 1986, the commission shall adopt rules pursuant to sections 14.01 to 14.69 which establish procedures for the promulgation of the sentencing guidelines,

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including procedures for the promulgation of severity levels and criminal history scores, and these rules shall be subject to review by the legislative commission to review administrative rules.

**Sec. 9. [609.152] INCREASED SENTENCES FOR CERTAIN DANGEROUS AND CAREER OFFENDERS.**

Subdivision 1. DEFINITIONS. (a) As used in this section, the following terms have the meanings given.

(b) "Conviction" means any of the following accepted and recorded by the court: a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court. The term includes a conviction by any court in Minnesota or another jurisdiction.

(c) "Prior conviction" means a conviction that occurred before the offender committed the next felony resulting in a conviction and before the offense for which the offender is being sentenced under this section.

(d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: section 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; or any provision of chapter 152 that is punishable by a maximum term of imprisonment of 15 years or more.

Subd. 2. INCREASED SENTENCES; DANGEROUS OFFENDERS. Whenever a person is convicted of a violent crime, and the judge is imposing an executed sentence based on a sentencing guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive imprisonment sentence up to the statutory maximum sentence if the offender was at least 18 years old at the time the felony was committed, and:

(1) the offender has two or more prior convictions for violent crimes; and

(2) the court finds that the offender is a danger to public safety and specifies on the record the basis for the finding, which may include:

(i) the offender's past criminal behavior, such as the offender's high frequency rate of criminal activity or juvenile adjudications, or long involvement in criminal activity including juvenile adjudications; or

(ii) the fact that the present offense of conviction involved an aggravating factor that would justify a durational departure under the sentencing guidelines.

Subd. 3. INCREASED SENTENCES; CAREER OFFENDERS. Whenever a person is convicted of a felony, and the judge is imposing an executed sentence based on a sentencing guidelines presumptive imprisonment sentence, the judge

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may impose an aggravated durational departure from the presumptive sentence up to the statutory maximum sentence if the judge finds and specifies on the record that the offender has more than four prior felony convictions and that the present offense is a felony that was committed as part of a pattern of criminal conduct from which a substantial portion of the offender's income was derived.

Sec. 10. **[609.184] HEINOUS CRIMES.**

Subdivision 1. TERMS. (a) A "heinous crime" is a violation of section 609.185, 609.19, 609.195, or a violation of section 609.342 or 609.343, if the offense was committed with force or violence.

(b) "Previous conviction" means a conviction in Minnesota of a heinous crime or a conviction elsewhere for conduct that would have been a heinous crime under this chapter if committed in Minnesota. The term includes any conviction that occurred before the commission of the present offense of conviction, but does not include a conviction if 15 years have elapsed since the person was discharged from the sentence imposed for the offense.

Subd. 2. LIFE WITHOUT RELEASE. The court shall sentence a person to life imprisonment without possibility of release when the person is convicted of first degree murder under section 609.185 and the person has one or more previous convictions for a heinous crime.

Sec. 11. Minnesota Statutes 1988, section 609.185, is amended to read:

**609.185 MURDER IN THE FIRST DEGREE.**

Whoever does any of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:

(1) causes the death of a human being with premeditation and with intent to effect the death of the person or of another;

(2) causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the person or another;

(3) causes the death of a human being with intent to effect the death of the person or another, while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, tampering with a witness in the first degree, ~~or~~ escape from custody, or any felony violation of chapter 152 involving the unlawful sale of a controlled substance;

(4) causes the death of a peace officer or a guard employed at a Minnesota state correctional facility, with intent to effect the death of that person or another, while the peace officer or guard is engaged in the performance of official duties; or

(5) causes the death of a minor under circumstances other than those described

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in clause (1) or (2) while committing or attempting to commit child abuse, when the perpetrator has engaged in a past pattern of child abuse upon the child and the death occurs under circumstances manifesting an extreme indifference to human life.

For purposes of clause (5), "child abuse" means an act committed against a minor victim that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.342, 609.343, 609.344, 609.345, 609.377, or 609.378.

**Sec. 12. [609.196] MANDATORY PENALTY FOR CERTAIN MURDERERS.**

When a person is convicted of violating section 609.19 or 609.195, the court shall sentence the person to the statutory maximum term of imprisonment for the offense if the person was previously convicted of a heinous crime as defined in section 10 and 15 years have not elapsed since the person was discharged from the sentence imposed for that conviction. The court may not stay the imposition or execution of the sentence, notwithstanding section 609.135.

Sec. 13. Minnesota Statutes 1988, section 609.346, subdivision 2, is amended to read:

Subd. 2. **SUBSEQUENT SEX OFFENSE; PENALTY.** Except as provided in section 14, if a person is convicted of a second or subsequent offense under sections 609.342 to 609.345, within 15 years of the prior a previous sex offense conviction, the court shall commit the defendant to the commissioner of corrections for imprisonment for a term of not less than three years, nor more than the maximum sentence provided by law for the offense for which convicted, notwithstanding the provisions of sections 242.19, 243.05, 609.11, 609.12 and 609.135. The court may stay the execution of the sentence imposed under this section subdivision only if it finds that a professional assessment indicates the offender is accepted by and can respond to treatment at a long-term inpatient program exclusively treating sex offenders and approved by the commissioner of corrections. If the court stays the execution of a sentence, it shall include the following as conditions of probation: (1) incarceration in a local jail or workhouse; and (2) a requirement that the offender successfully complete the treatment program and aftercare as directed by the court.

Sec. 14. Minnesota Statutes 1988, section 609.346, is amended by adding a subdivision to read:

**Subd. 2a. MAXIMUM SENTENCE IMPOSED.** (a) The court shall sentence a person to a term of imprisonment of 37 years, notwithstanding the statutory maximum sentences under sections 609.342 and 609.343 if:

(1) the person is convicted under section 609.342 or 609.343; and

(2) the person has two previous sex offense convictions under section 609.342, 609.343, or 609.344.

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(b) Notwithstanding sections 609.342, subdivision 3; and 609.343, subdivision 3; and subdivision 2, the court may not stay imposition of the sentence required by this subdivision.

Sec. 15. Minnesota Statutes 1988, section 609.346, subdivision 3, is amended to read:

Subd. 3. **PRIOR PREVIOUS SEX OFFENSE CONVICTIONS UNDER SIMILAR STATUTES.** For the purposes of this section, ~~an offense a conviction~~ is considered a ~~second or subsequent previous sex offense conviction~~ if ~~conviction of the actor for the offense follows or coincides with a conviction of the actor under~~ person was convicted of a sex offense, before the commission of the present offense of conviction. A person has two previous sex offense convictions only if the person was convicted and sentenced for a sex offense committed after the person was earlier convicted and sentenced for a sex offense, both convictions preceded the commission of the present offense of conviction, and 15 years have not elapsed since the person was discharged from the sentence imposed for the second conviction. A "sex offense" is a violation of sections 609.342 to 609.345 or under any similar statute of the United States, or this or any other state.

Sec. 16. Minnesota Statutes 1988, section 611A.038, is amended to read:

**611A.038 RIGHT TO SUBMIT STATEMENT AT SENTENCING.**

~~Subdivision 1. IMPACT STATEMENT.~~ A victim has the right to submit an impact statement; ~~either orally or in writing~~, to the court at the time of sentencing or disposition hearing. The impact statement may be presented to the court orally or in writing, at the victim's option. If the victim requests, the prosecutor must orally present the statement to the court.

Statements may include the following, subject to reasonable limitations as to time and length:

- (1) a summary of the harm or trauma suffered by the victim as a result of the crime;
- (2) a summary of the economic loss or damage suffered by the victim as a result of the crime; and
- (3) a victim's reaction to the proposed sentence or disposition.

Sec. 17. **DIRECTIVES TO GUIDELINES COMMISSION.**

Subdivision 1. INTENTIONAL SECOND DEGREE MURDER. The sentencing guidelines commission shall increase the presumptive sentence of imprisonment for intentional second degree murder to 306 months for an offender with a criminal history score of zero. The commission shall proportionally increase the presumptive sentences for higher criminal history scores and for attempted first degree murder.

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Subd. 2. UNINTENTIONAL SECOND DEGREE MURDER AND THIRD DEGREE MURDER. The sentencing guidelines commission shall adjust the presumptive sentence of imprisonment for unintentional second degree murder and for third degree murder proportionally to reflect the increased presumptive sentence established under subdivision 1.

Sec. 18. EFFECTIVE DATE.

Sections 6, 7, and 10 to 15 are effective August 1, 1989, and apply to crimes committed on or after that date. The court shall consider convictions occurring before August 1, 1989, as prior convictions in sentencing offenders under sections 9, 10, and 12 to 15. Section 9 is effective August 1, 1990, and applies to crimes committed on or after that date.

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ARTICLE 3

CONTROLLED SUBSTANCE CRIMES

Section 1. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

Subd. 5a. HALLUCINOGEN. "Hallucinogen" means any hallucinogen listed in section 152.02, subdivision 2, clause (3), or Minnesota Rules, part 6800.4210, item C, except marijuana and Tetrahydrocannabinols.

Sec. 2. Minnesota Statutes 1988, section 152.01, subdivision 7, is amended to read:

Subd. 7. MANUFACTURING MANUFACTURE. "Manufacturing Manufacture", in places other than a pharmacy, means and includes the production, cultivation, quality control, and standardization by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

Sec. 3. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

Subd. 9a. MIXTURE. "Mixture" means a preparation, compound, mixture, or substance containing a controlled substance, regardless of purity.

Sec. 4. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

Subd. 12a. PARK ZONE. "Park zone" means an area designated as a public park by the federal government, the state, a local unit of government, a park district board, or a park and recreation board in a city of the first class. "Park zone" includes the area within 300 feet or one city block, whichever distance is greater, of the park boundary.

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Sec. 5. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

**Subd. 14a. SCHOOL ZONE.** "School zone" means:

(1) any property owned, leased, or controlled by a school district or an organization operating a nonpublic school, as defined in section 123.932, subdivision 3, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services in grade one through grade 12 is located, or used for educational purposes, or where extracurricular or cocurricular activities are regularly provided;

(2) the area surrounding school property as described in clause (1) to a distance of 300 feet or one city block, whichever distance is greater, beyond the school property; and

(3) the area within a school bus when that bus is being used to transport one or more elementary or secondary school students.

Sec. 6. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

**Subd. 15a. SELL.** "Sell" means to sell, give away, barter, deliver, exchange, distribute or dispose of to another; or to offer or agree to do the same; or to manufacture.

Sec. 7. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

**Subd. 16a. SUBSEQUENT CONTROLLED SUBSTANCE CONVICTION.** "Subsequent controlled substance conviction" means that before commission of the offense for which the person is convicted under this chapter, the person was convicted in Minnesota of a felony violation of this chapter or a felony-level attempt or conspiracy to violate this chapter, or convicted elsewhere for conduct that would have been a felony under this chapter if committed in Minnesota. An earlier conviction is not relevant if ten years have elapsed since: (1) the person was restored to civil rights; or (2) the sentence has expired, whichever occurs first.

Sec. 8. **[152.021] CONTROLLED SUBSTANCE CRIME IN THE FIRST DEGREE.**

**Subdivision 1. SALE CRIMES.** A person is guilty of controlled substance crime in the first degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures containing ten grams or more of cocaine base;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing a narcotic drug;

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

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 100 kilograms or more containing marijuana or Tetrahydrocannabinols.

**Subd. 2. POSSESSION CRIMES.** A person is guilty of a controlled substance crime in the first degree if:

(1) the person unlawfully possesses one or more mixtures containing 25 grams or more of cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of 500 grams or more containing a narcotic drug;

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

(4) the person unlawfully possesses one or more mixtures of a total weight of 100 kilograms or more containing marijuana or Tetrahydrocannabinols.

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

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than four years nor more than 40 years or to payment of a fine of not more than \$1,000,000, or both.

**Sec. 9. [152.022] CONTROLLED SUBSTANCE CRIME IN THE SECOND DEGREE.**

**Subdivision 1. SALE CRIMES.** A person is guilty of controlled substance crime in the second degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures containing three grams or more of cocaine base;

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

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

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methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 50 or more dosage units;

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols; or

(5) the person unlawfully sells any amount of a Schedule I or II narcotic drug, and:

(i) the person unlawfully sells the substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to unlawfully sell the substance; or

(ii) the sale occurred in a school zone or a park zone.

Subd. 2. POSSESSION CRIMES. A person is guilty of controlled substance crime in the second degree if:

(1) the person unlawfully possesses one or more mixtures containing six grams or more of cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing a narcotic drug;

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

(4) the person unlawfully possesses one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols.

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

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than three years nor more than 40 years or to payment of a fine of not more than \$500,000, or both.

**Sec. 10. [152.023] CONTROLLED SUBSTANCE CRIME IN THE THIRD DEGREE.**

Subdivision 1. SALE CRIMES. A person is guilty of controlled substance crime in the third degree if:

(1) the person unlawfully sells one or more mixtures containing a narcotic drug;

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(2) the person unlawfully sells one or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage units, and equals ten or more dosage units;

(3) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except a Schedule I or II narcotic drug, marijuana or Tetrahydrocannabinols, to a person under the age of 18; or

(4) the person conspires with or employs a person under the age of 18 to unlawfully sell one or more mixtures containing a controlled substance listed in Schedule I, II, or III, except a Schedule I or II narcotic drug, marijuana or Tetrahydrocannabinols.

**Subd. 2. POSSESSION CRIMES. A person is guilty of controlled substance crime in the third degree if:**

(1) the person unlawfully possesses one or more mixtures containing three grams or more of cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug;

(3) the person unlawfully possesses one or more mixtures containing a narcotic drug with the intent to sell it;

(4) the person unlawfully possesses one or more mixtures containing a narcotic drug, it is packaged in dosage units, and equals 50 or more dosage units; or

(5) the person unlawfully possesses any amount of a Schedule I or II narcotic drug in a school zone or a park zone.

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

**(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than two years nor more than 30 years or to payment of a fine of not more than \$250,000, or both.**

**Sec. 11. [152.024] CONTROLLED SUBSTANCE CRIME IN THE FOURTH DEGREE.**

**Subdivision 1. SALE CRIMES. A person is guilty of controlled substance crime in the fourth degree if:**

(1) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except marijuana or Tetrahydrocannabinols;

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(2) the person unlawfully sells one or more mixtures containing marijuana or Tetrahydrocannabinols to a person under the age of 18;

(3) the person conspires with or employs a person under the age of 18 to unlawfully sell one or more mixtures containing marijuana or Tetrahydrocannabinols;

(4) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule IV or V to a person under the age of 18; or

(5) the person conspires with or employs a person under the age of 18 to unlawfully sell a controlled substance classified in Schedule IV or V.

Subd. 2. POSSESSION CRIMES. A person is guilty of controlled substance crime in the fourth degree if:

(1) the person unlawfully possesses one or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage units, and equals ten or more dosage units; or

(2) the person unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except marijuana or Tetrahydrocannabinols, with the intent to sell it.

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

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than one year nor more than 30 years or to payment of a fine of not more than \$100,000, or both.

**Sec. 12. [152.025] CONTROLLED SUBSTANCE CRIME IN THE FIFTH DEGREE.**

Subdivision 1. SALE CRIMES. A person is guilty of controlled substance crime in the fifth degree if:

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

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

Subd. 2. POSSESSION AND OTHER CRIMES. A person is guilty of controlled substance crime in the fifth degree if:

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

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

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

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

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

Subd. 3. PENALTY. (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than six months nor more than ten years or to payment of a fine of not more than \$20,000, or both.

#### Sec. 13. [152.026] MANDATORY SENTENCES.

A defendant convicted and sentenced to a mandatory sentence under sections 8 to 12 is not eligible for probation, parole, discharge, or supervised release until that person has served the full mandatory minimum term of imprisonment as provided by law, notwithstanding sections 242.19, 243.05, 609.12, and 609.135.

#### Sec. 14. [152.027] OTHER CONTROLLED SUBSTANCE OFFENSES.

Subdivision 1. SALE OF SCHEDULE V CONTROLLED SUBSTANCE. A person who unlawfully sells one or more mixtures containing a controlled substance classified in Schedule V may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Subd. 2. POSSESSION OF SCHEDULE V CONTROLLED SUBSTANCE. A person who unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule V may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. The court may order that a person who is convicted under this subdivision and placed on probation be required to take part in a drug education program as specified by the court.

Subd. 3. POSSESSION OF MARIJUANA IN A MOTOR VEHICLE. A person is guilty of a misdemeanor if the person is the owner of a private motor vehicle, or is the driver of the motor vehicle if the owner is not present, and possesses on the person, or knowingly keeps or allows to be kept within the area of the vehicle normally occupied by the driver or passengers, more than 1.4 grams of marijuana. This area of the vehicle does not include the trunk of the motor vehicle if the vehicle is equipped with a trunk, or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not

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equipped with a trunk. A utility or glove compartment is deemed to be within the area occupied by the driver and passengers.

**Subd. 4. POSSESSION OR SALE OF SMALL AMOUNTS OF MARIJUANA.** (a) A person who unlawfully sells a small amount of marijuana for no remuneration, or who unlawfully possesses a small amount of marijuana is guilty of a petty misdemeanor punishable by a fine of up to \$200 and participation in a drug education program unless the court enters a written finding that a drug education program is inappropriate. The program must be approved by an area mental health board with a curriculum approved by the state alcohol and drug abuse authority.

(b) A person convicted of an unlawful sale under paragraph (a) who is subsequently convicted of an unlawful sale under paragraph (a) within two years is guilty of a misdemeanor and shall be required to participate in a chemical dependency evaluation and treatment if so indicated by the evaluation.

(c) A person who is convicted of a petty misdemeanor under paragraph (a) who willfully and intentionally fails to comply with the sentence imposed, is guilty of a misdemeanor. Compliance with the terms of the sentence imposed before conviction under this paragraph is an absolute defense.

**Sec. 15. [152.028] PERMISSIVE INFERENCE OF KNOWING POSSESSION.**

**Subdivision 1. RESIDENCES.** The presence of a controlled substance in open view in a room, other than a public place, under circumstances evincing an intent by one or more of the persons present to unlawfully mix, compound, package, or otherwise prepare for sale the controlled substance permits the factfinder to infer knowing possession of the controlled substance by each person in close proximity to the controlled substance when the controlled substance was found. The permissive inference does not apply to any person if:

- (1) one of them legally possesses the controlled substance; or
- (2) the controlled substance is on the person of one of the occupants.

**Subd. 2. PASSENGER AUTOMOBILES.** The presence of a controlled substance in a passenger automobile permits the factfinder to infer knowing possession of the controlled substance by the driver or person in control of the automobile when the controlled substance was in the automobile. This inference may only be made if the defendant is charged with violating section 8, 9, or 10. The inference does not apply:

- (1) to a duly licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of the operator's trade;
- (2) to any person in the automobile if one of them legally possesses a controlled substance; or

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(3) when the controlled substance is concealed on the person of one of the occupants.

**Sec. 16. [152.029] PUBLIC INFORMATION: SCHOOL ZONES AND PARK ZONES.**

The attorney general shall disseminate information to the public relating to the penalties for committing controlled substance crimes in park zones and school zones. The attorney general shall draft a plain language version of sections 9, 10 and 25 that describes in a clear and coherent manner using words with common and everyday meanings the contents of those sections. The attorney general shall publicize and disseminate the plain language version as widely as practicable, including distributing the version to school boards and local governments.

Sec. 17. Minnesota Statutes 1988, section 152.096, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED ACTS; PENALTIES.** Any person who conspires to commit any act prohibited by ~~section 152.09~~ this chapter, except possession or distribution for no remuneration of a small amount of marijuana as defined in section 152.01, subdivision 16, is guilty of a felony and upon conviction may be imprisoned, fined, or both, up to the maximum amount authorized by law for the act the person conspired to commit.

Sec. 18. Minnesota Statutes 1988, section 152.097, is amended by adding a subdivision to read:

Subd. 4. PENALTY. A person who violates this section may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$20,000, or both. Sentencing for a conviction for attempting to sell, transfer, or deliver a noncontrolled substance in violation of this section is governed by section 609.17, subdivision 4.

Sec. 19. Minnesota Statutes 1988, section 152.151, is amended to read:

**152.151 REPORT TO LEGISLATURE.**

The state alcohol and drug authority shall ~~build into~~ evaluate the drug education program required by ~~section 152.15, subdivision 2, proper evaluation 14~~ and report directly each legislative session to the legislative standing committees having jurisdiction over the subject matter.

**Sec. 20. [152.152] STAYED SENTENCE LIMITED.**

If a person is convicted under section 8, 9, or 10 and the sentencing guidelines grid calls for a presumptive prison sentence for the offense, the court may stay imposition or execution of the sentence only as provided in this section. The sentence may be stayed based on amenability to probation only if the offender presents adequate evidence to the court that the offender has been accepted by, and can respond to, a treatment program that has been approved

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by the commissioner of human services. The court may impose a sentence that is a mitigated dispositional departure on any other ground only if the court includes as a condition of probation incarceration in a local jail or workhouse.

Sec. 21. Minnesota Statutes 1988, section 152.18, subdivision 1, is amended to read:

Subdivision 1. If any person is found guilty of a violation of section ~~152.09, subdivision 1, clause (2)~~ 11, 12, or 14 for possession of a controlled substance, after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place the person on probation upon such reasonable conditions as it may require and for a period, not to exceed the maximum term of imprisonment provided for such violation. The court may give the person the opportunity to attend and participate in an appropriate program of education regarding the nature and effects of alcohol and drug abuse as a stipulation of probation. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge the person from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against that person. Discharge and dismissal hereunder shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the department of public safety solely for the purpose of use by the courts in determining the merits of subsequent proceedings against such person. The court shall forward a record of any discharge and dismissal hereunder to the department of public safety who shall make and maintain the nonpublic record thereof as hereinbefore provided. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

Sec. 22. Minnesota Statutes 1988, section 152.20, is amended to read:

#### 152.20 PENALTIES UNDER OTHER LAWS.

Any penalty imposed for violation of ~~Laws 1971, chapter 937~~ this chapter is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

Sec. 23. Minnesota Statutes 1988, section 152.21, subdivision 6, is amended to read:

Subd. 6. **EXEMPTION FROM CRIMINAL SANCTIONS.** For the purposes of this section, the following are not violations ~~listed in section 152.09 or 152.15~~ under this chapter:

- (1) use or possession of THC, or both, by a patient in the research program;

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(2) possession, prescribing use of, administering, or dispensing THC, or any combination of these actions, by the principal investigator or by any clinical investigator; and

(3) possession or distribution of THC, or both, by a pharmacy registered to handle schedule I substances which stores THC on behalf of the principal investigator or a clinical investigator.

THC obtained and distributed pursuant to this section is not subject to forfeiture under sections 609.531 to 609.5316.

For the purposes of this section, THC is removed from schedule I contained in section 152.02, subdivision 2, and inserted in schedule II contained in section 152.02, subdivision 3.

Sec. 24. Minnesota Statutes 1988, section 243.55, subdivision 1, is amended to read:

Subdivision 1. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or state hospital, or within or upon the grounds belonging to or land or controlled by any such facility or hospital, any controlled substance as defined in section 152.01, subdivision 4, or any firearms, weapons or explosives of any kind, without the consent of the chief executive officer thereof, shall be guilty of a felony and, upon conviction thereof, punished by imprisonment for a term of not less than ~~three~~, nor more than ~~five~~, ten years. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or within or upon the grounds belonging to or land controlled by the facility, any intoxicating or alcoholic liquor or malt beverage of any kind without the consent of the chief executive officer thereof, shall be guilty of a gross misdemeanor. The provisions of this section shall not apply to physicians carrying drugs or introducing any of the above described liquors into such facilities for use in the practice of their profession; nor to sheriffs or other peace officers carrying revolvers or firearms as such officers in the discharge of duties.

Sec. 25. **[244.095] SENTENCING GUIDELINES MODIFICATION; UPWARD DEPARTURE FOR CERTAIN DRUG OFFENSES.**

Subdivision 1. DEFINITIONS. (a) As used in this section, "park zone" and "school zone" have the meanings given them in sections 4 and 5.

(b) As used in this section, "controlled substance" has the meaning given in section 152.01, subdivision 4, but does not include a narcotic drug listed in schedule I or II.

Subd. 2. AGGRAVATING FACTOR FOR DRUG OFFENSES COMMITTED IN PARK ZONES AND IN SCHOOL ZONES. The commission shall modify the list of aggravating factors contained in the sentencing guidelines so as to authorize the sentencing judge to depart from the presumptive sentence

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with respect to either disposition or duration when the following circumstances are present:

(1) the defendant was convicted of unlawfully selling or possessing controlled substances in violation of chapter 152; and

(2) the crime was committed in a park zone or in a school zone.

This aggravating factor shall not apply to a person convicted of unlawfully possessing controlled substances in a private residence located within a school zone or a park zone if no person under the age of 18 was present in the residence when the offense was committed.

**Subd. 3. REPORT TO LEGISLATURE.** The commission shall collect data on the number and types of cases involving a sentencing departure based on the aggravating factor created in subdivision 2, and shall report its findings to the legislature on or before February 1, 1991.

Sec. 26. Minnesota Statutes 1988, section 260.125, subdivision 3, is amended to read:

Subd. 3. A prima facie case that the public safety is not served or that the child is not suitable for treatment shall have been established if the child was at least 16 years of age at the time of the alleged offense and:

(1) Is alleged by delinquency petition to have committed an aggravated felony against the person and (a) in committing the offense, the child acted with particular cruelty or disregard for the life or safety of another; or (b) the offense involved a high degree of sophistication or planning by the juvenile; or

(2) Is alleged by delinquency petition to have committed murder in the first degree; or

(3) Is alleged by delinquency petition (a) to have committed the delinquent act of escape from confinement to a state juvenile correctional facility and (b) to have committed an offense as part of, or subsequent to, escape from custody that would be a felony listed in section 609.11, subdivision 9, if committed by an adult; or

(4) Has been found by the court, pursuant to an admission in court or after trial, to have committed an offense within the preceding 24 months which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed murder in the second or third degree, manslaughter in the first degree, criminal sexual conduct in the first degree or assault in the first degree; or

(5) Has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed manslaughter in

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the second degree, kidnapping, criminal sexual conduct in the second degree, arson in the first degree, aggravated robbery, or assault in the second degree; or

(6) Has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months, one or both of which would be the felony of burglary of a dwelling if committed by an adult, and the child is alleged by the delinquency petition to have committed another burglary of a dwelling. For purposes of this subdivision, "dwelling" means a building which is, in whole or in part, usually occupied by one or more persons living there at night; or

(7) Has previously been found by the court, pursuant to an admission in court or after trial, to have committed three offenses, none in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed any felony other than those described in clause (2), (4), or (5); or

(8) Is alleged by delinquency petition to have committed an aggravated felony against the person, other than a violation of section 609.713, in furtherance of criminal activity by an organized gang; or

(9) Has previously been found by the court, pursuant to an admission in court or after trial, to have committed an offense which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed a felony-level violation of chapter 152 involving the unlawful sale or possession of a schedule I or II controlled substance, while in a public park zone or a school zone as defined in sections 4 and 5. This clause does not apply to a juvenile alleged to have unlawfully possessed a controlled substance in a private residence located within the school zone or park zone.

For the purposes of this subdivision, "aggravated felony against the person" means a violation of any of the following provisions: section 609.185; 609.19; 609.195; 609.20, subdivision 1 or 2; 609.221; 609.222; 609.223; 609.245; 609.25; 609.342; 609.343; 609.344, subdivision 1, clause (c) or (d); 609.345, subdivision 1, clause (c) or (d); 609.561; 609.582, subdivision 1, clause (b) or (c); or 609.713.

For the purposes of this subdivision, an "organized gang" means an association of five or more persons, with an established hierarchy, formed to encourage members of the association to perpetrate crimes or to provide support to members of the association who do commit crimes.

Sec. 27. Minnesota Statutes 1988, section 609.11, subdivision 7, is amended to read:

Subd. 7. **PROSECUTOR SHALL ESTABLISH.** Whenever reasonable grounds exist to believe that the defendant or an accomplice used a firearm or other dangerous weapon or had in possession a firearm, at the time of commission of an offense listed in subdivision 9, the prosecutor shall, at the time of trial or at the plea of guilty, present on the record all evidence tending to establish

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that fact unless it is otherwise admitted on the record. The question of whether the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm shall be determined by the court on the record at the time of a verdict or finding of guilt at trial or the entry of a plea of guilty based upon the record of the trial or the plea of guilty. The court shall determine on the record at the time of sentencing whether the defendant has been convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm.

Sec. 28. Minnesota Statutes 1988, section 609.11, subdivision 9, is amended to read:

Subd. 9. **APPLICABLE OFFENSES.** The crimes for which mandatory minimum sentences shall be served before eligibility for probation, parole, or supervised release as provided in this section are: murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); and 609.344, subdivision 1, clauses (a) to (e) and (h) to (j); escape from custody; arson in the first, second, or third degree; a felony violation of chapter 152; or any attempt to commit any of these offenses.

Sec. 29. Minnesota Statutes 1988, section 609.531, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purpose of sections 609.531 to 609.5316, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a weapon used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the bureau of criminal apprehension, the Minnesota state patrol, a county sheriff's department, the suburban Hennepin regional park district park rangers, or a city or airport police department.

(f) "Designated offense" includes:

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(1) For weapons used: any violation of this chapter;

(2) For all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; ~~subdivision 1 or 2~~; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.671, subdivisions 3, 4, and 5; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; or 617.246.

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

Sec. 30. Minnesota Statutes 1988, section 609.5311, subdivision 3, is amended to read:

**Subd. 3. LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.** (a) A conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is ~~\$500~~ \$25 or more and the conveyance device is associated with a felony-level controlled substance crime.

(b) Real property is subject to forfeiture under this section only if the retail value of the controlled substance is ~~\$5,000~~ \$1,000 or more.

(c) Property used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the use or intended use of the property as described in subdivision 2.

(d) Property is subject to forfeiture under this section only if its owner was privy to the use or intended use described in subdivision 2, or the unlawful use or intended use of the property otherwise occurred with the owner's knowledge or consent.

(e) Forfeiture under this section of a conveyance device or real property encumbered by a bona fide security interest is subject to the interest of the secured party unless the secured party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(f) Notwithstanding paragraphs (d) and (e), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the unlawful use or intended use of the property if the owner or secured party took reasonable steps to terminate use of the property by the offender.

Sec. 31. Minnesota Statutes 1988, section 609.5314, subdivision 1, is amended to read:

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Subdivision 1. **PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE; PRESUMPTION.** (a) The following are presumed to be subject to administrative forfeiture under this section:

- (1) all money, precious metals, and precious stones found in proximity to:
    - (i) controlled substances;
    - (ii) forfeitable drug manufacturing or distributing equipment or devices; or
    - (iii) forfeitable records of manufacture or distribution of controlled substances;
- and

(2) all conveyance devices containing controlled substances with a retail value of ~~500~~ 100 or more if possession or sale of the controlled substance would be a felony under chapter 152.

(b) A claimant of the property bears the burden to rebut this presumption.

Sec. 32. Minnesota Statutes 1988, section 609.5315, subdivision 1, is amended to read:

Subdivision 1. **DISPOSITION.** If the court finds under section 609.5313 or 609.5314 that the property is subject to forfeiture, it ~~may~~ shall order the appropriate agency to:

- (1) sell property that is not required to be destroyed by law and is not harmful to the public and distribute the proceeds under subdivision 5;
- (2) take custody of the property and remove it for disposition in accordance with law;
- (3) forward the property to the federal drug enforcement administration;
- (4) disburse money as provided under subdivision 5; or
- (5) keep property other than money for official use by the agency and the prosecuting agency.

Sec. 33. Minnesota Statutes 1988, section 609.685, is amended by adding a subdivision to read:

Subd. 1a. GROSS MISDEMEANOR. (a) Whoever sells tobacco to a person under the age of 18 years is guilty of a gross misdemeanor.

(b) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

Sec. 34. Minnesota Statutes 1988, section 609.685, subdivision 2, is amended to read:

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Subd. 2. ~~CRIME MISDEMEANOR~~. Whoever furnishes tobacco or tobacco related devices to a person under the age of 18 years is guilty of a misdemeanor.

Sec. 35. **SENTENCING GUIDELINES COMMISSION; STUDY OF MANDATORY MINIMUM SENTENCING LAW.**

The sentencing guidelines commission shall study sentencing practices under section 609.11 to determine the following issues:

(1) whether prosecutors are complying with the statute's requirement to place on the record any evidence tending to show that a gun or dangerous weapon was used to commit an offense listed in section 609.11, subdivision 9;

(2) whether courts are complying with the statute's requirement to determine on the record the question of whether a gun or dangerous weapon was used to commit an offense listed in section 609.11, subdivision 9;

(3) the number of cases in which a prosecutor files a motion under section 609.11, subdivision 8, seeking waiver of the mandatory minimum sentence, the reasons given in these cases to support the motion, and the disposition of these motions; and

(4) the number of cases in which the court, on its own motion, sentences a defendant without regard to the mandatory minimum sentence, the reasons given in these cases for the court's departure, and the sentences pronounced by the court.

The commission shall submit a written report to the legislature on or before February 1, 1991, summarizing its findings on this study and recommending any changes necessary to improve the operation of section 609.11.

Sec. 36. **LOCAL CORRECTIONAL RESOURCES; DATA COLLECTION; NEEDS ASSESSMENT.**

Subdivision 1. DUTIES OF THE SENTENCING GUIDELINES COMMISSION, COUNTIES, AND COMMISSIONER OF CORRECTIONS. The sentencing guidelines commission, with the assistance of the supreme court, the state planning agency, corrections administrators, and the commissioner of corrections, shall determine how more detailed information can be gathered on a routine basis on local sentencing practices, usage of local correctional resources, and local alternatives to incarceration for convicted felons. The corrections administrator for each county or group of counties participating in Minnesota Statutes, chapter 401, shall furnish data and information to assist the sentencing guidelines commission in making its determinations under this subdivision as the determinations pertain to the county or counties served by each administrator. In a like manner the commissioner of corrections shall furnish pertinent data on those counties which do not participate in Minnesota Statutes, chapter 401.

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Subd. 2. NONIMPRISONMENT GUIDELINES PILOT PROJECT. The commissioner of corrections shall report to the sentencing guidelines commission on the results of its nonimprisonment guidelines pilot project when the project is completed. If the pilot project is not completed by July 1, 1990, the commissioner shall provide an interim report to the commission on or before that date.

Subd. 3. REPORT. The sentencing guidelines commission shall report to the legislature on or before February 1, 1991, describing what improvements have been made to address subdivision 1 and whether any legislative action is necessary to implement further improvements.

Sec. 37. **REPEALER.**

Minnesota Statutes 1988, sections 152.09; and 152.15, subdivisions 1, 2, 2a, 2b, 3, 4a, and 5, are repealed.

Sec. 38. **EFFECTIVE DATE.**

Sections 1 to 24, 26 to 32, and 37 are effective August 1, 1989, and apply to crimes committed and violations occurring on or after that date. Sections 33 and 34 are effective July 1, 1989, and apply to crimes committed on or after that date.

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**ARTICLE 4**

**SEX OFFENDERS**

Section 1. [241.67] **SEX OFFENDER TREATMENT; PROGRAMS; STANDARDS; DATA.**

Subdivision 1. SEX OFFENDER TREATMENT. A sex offender treatment system is established under the administration of the commissioner of corrections to provide and finance a range of sex offender treatment programs for eligible adults and juveniles. Eligible offenders are:

- (1) adults and juveniles committed to the custody of the commissioner;
- (2) adult offenders for whom treatment is required by the court as a condition of probation; and
- (3) juvenile offenders who have been found delinquent or received a stay of adjudication, for whom the juvenile court has ordered treatment.

Subd. 2. TREATMENT PROGRAM STANDARDS. By July 1, 1991, the commissioner shall adopt rules under chapter 14 for the certification of adult and juvenile sex offender treatment programs in state and local correctional facilities. The rules shall require that sex offender treatment programs be at

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least four months in duration. After July 1, 1991, a correctional facility may not operate a sex offender treatment program unless the program has met the standards adopted by and been certified by the commissioner of corrections. As used in this subdivision, "correctional facility" has the meaning given it in section 241.021, subdivision 1, clause (5).

**Subd. 3. PROGRAMS FOR ADULT OFFENDERS COMMITTED TO THE COMMISSIONER.** (a) The commissioner shall provide for a range of sex offender treatment programs, including intensive sex offender treatment, within the state adult correctional facility system. Participation in any treatment program is voluntary and is subject to the rules and regulations of the department of corrections. Nothing in this section requires the commissioner to accept or retain an offender in a treatment program. Nothing in this section creates a right of an offender to treatment.

(b) The commissioner shall provide for residential and outpatient sex offender treatment and aftercare when required for conditional release under section 12 or as a condition of supervised release.

**Subd. 4. PROGRAMS FOR JUVENILE OFFENDERS COMMITTED TO THE COMMISSIONER.** The commissioner shall provide for sex offender treatment programs for juveniles committed to the commissioner by the courts under section 260.185, as provided under section 2.

**Subd. 5. PILOT PROGRAMS TO INCREASE ADULT AND JUVENILE SEX OFFENDER TREATMENT.** (a) The commissioner shall designate three or more pilot programs to increase sex offender treatment for:

(1) adults convicted of a violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.746, 609.79, 617.23, 617.246, or 617.247 who are sentenced by the court to incarceration in a local correctional facility or to sex offender treatment as a condition of probation; and

(2) juveniles found delinquent or receiving a stay of adjudication for a violation of one of those sections for whom the juvenile court has ordered sex offender treatment.

(b) At least one pilot program must be in the seven-county metropolitan area, at least one program must be outside the seven-county metropolitan area, at least one program must be in a community corrections act county, and at least one program must be in a noncommunity corrections act county.

(c) A public human services or community corrections agency may apply to the commissioner for a pilot program grant. The application must be submitted in a form approved by the commissioner and must include:

(1) a proposal to increase treatment availability for sex offenders sentenced by the district court in the county;

(2) evidence of participation by local correctional, human services, court,

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and treatment professionals in identifying the current treatment funding level in the county and unmet sex offender treatment needs; and

(3) any other content the commissioner may require.

The commissioner may appoint an advisory task force to assist in the review of applications and the award of grants.

**Subd. 6. SPECIALIZED CORRECTIONS AGENTS AND PROBATION OFFICERS; SEX OFFENDER SUPERVISION.** By January 1, 1990, the commissioner of corrections shall develop in-service training for state and local corrections agents and probation officers who supervise adult and juvenile sex offenders on probation or supervised release. The commissioner shall make the training available to all current and future corrections agents and probation officers who supervise or will supervise sex offenders on probation or supervised release.

After January 1, 1991, a state or local corrections agent or probation officer may not supervise adult or juvenile sex offenders on probation or supervised release unless the agent or officer has completed the in-service sex offender supervision training. The commissioner may waive this requirement if the corrections agent or probation officer has completed equivalent training as part of a post-secondary educational curriculum.

After January 1, 1991, when an adult sex offender is placed on supervised release or is sentenced to probationary supervision, and when a juvenile offender is found delinquent by the juvenile court for a sex offense and placed on probation or is paroled from a juvenile correctional facility, a corrections agent or probation officer may not be assigned to the offender unless the agent or officer has completed the in-service sex offender supervision training.

## Sec. 2. [242.195] JUVENILE SEX OFFENDERS.

**Subdivision 1. TREATMENT PROGRAMS.** The commissioner of corrections shall provide for a range of sex offender treatment programs, including intensive sex offender treatment, for juveniles within state juvenile correctional facilities and through purchase of service from county and private residential and outpatient juvenile sex offender treatment programs.

**Subd. 2. SECURE CONFINEMENT.** If a juvenile sex offender committed to the custody of the commissioner is in need of secure confinement, the commissioner shall provide for the appropriate level of sex offender treatment within a secure facility or unit in a state juvenile correctional facility.

**Subd. 3. DISPOSITIONS.** When a juvenile is committed to the commissioner of corrections by a juvenile court, upon a finding of delinquency for a sex offense, the commissioner may, for the purposes of treatment and rehabilitation:

(1) order the child confined to a state juvenile correctional facility that provides the appropriate level of juvenile sex offender treatment;

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(2) purchase sex offender treatment from a county and place the child in the county's qualifying juvenile correctional facility;

(3) purchase sex offender treatment from a qualifying private residential juvenile sex offender treatment program and place the child in the program;

(4) purchase outpatient juvenile sex offender treatment for the child from a qualifying county or private program and order the child released on parole under treatment and other supervisions and conditions the commissioner believes to be appropriate;

(5) order reconfinement or renewed parole, revoke or modify any order, or discharge the child under the procedures provided in section 242.19, subdivision 2, paragraphs (c), (d), and (e); or

(6) refer the child to a county welfare board or licensed child-placing agency for placement in foster care, or when appropriate, for initiation of child in need of protection or services proceedings under section 242.19, subdivision 2, paragraph (f).

Subd. 4. QUALIFYING FACILITIES; TREATMENT PROGRAMS. The commissioner may not place a juvenile in a correctional facility under this section unless the facility has met the requirements of section 241.021, subdivision 2.

Sec. 3. Minnesota Statutes 1988, section 244.04, subdivision 1, is amended to read:

Subdivision 1. **REDUCTION OF SENTENCE.** Notwithstanding the provisions of section 609.11, subdivision 6, and section 609.346, subdivision 1, the term of imprisonment of any inmate sentenced to a presumptive fixed sentence after May 1, 1980, shall be reduced in duration by one day for each two days during which the inmate violates none of the disciplinary offense rules promulgated by the commissioner. The reduction shall accrue to the period of supervised release to be served by the inmate, except that the period of supervised release for a sex offender sentenced and conditionally released by the commissioner under section 10, subdivision 5, is governed by that provision.

Except as otherwise provided in subdivision 2, if an inmate violates a disciplinary offense rule promulgated by the commissioner, good time earned prior to the violation may not be taken away, but the inmate may be required to serve an appropriate portion of the term of imprisonment after the violation without earning good time.

Sec. 4. Minnesota Statutes 1988, section 244.05, subdivision 1, is amended to read:

Subdivision 1. **SUPERVISED RELEASE REQUIRED.** Except as provided in subdivisions 4 and 5, every inmate shall serve a supervised release term upon completion of the inmate's term of imprisonment as reduced by any good time

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earned by the inmate or extended by confinement in punitive segregation pursuant to section 244.04, subdivision 2. Except for a sex offender conditionally released under section 10, subdivision 5, the supervised release term shall be equal to the period of good time the inmate has earned, and shall not exceed the length of time remaining in the inmate's sentence.

Sec. 5. Minnesota Statutes 1988, section 244.05, subdivision 3, is amended to read:

Subd. 3. **SANCTIONS FOR VIOLATION.** If an inmate violates the conditions of the inmate's supervised release imposed by the commissioner, the commissioner may:

(1) continue the inmate's supervised release term, with or without modifying or enlarging the conditions imposed on the inmate; or

(2) revoke the inmate's supervised release and reimprison the inmate for the appropriate period of time.

The period of time for which a supervised release may be revoked may not exceed the period of time remaining in the inmate's sentence, except that for a sex offender sentenced and conditionally released under section 10, subdivision 5, the period of time for which conditional release may be revoked may not exceed the balance of the original sentence imposed less good time earned under section 244.04, subdivision 1.

Sec. 6. Minnesota Statutes 1988, section 260.185, subdivision 1, is amended to read:

Subdivision 1. If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

(a) Counsel the child or the parents, guardian, or custodian;

(b) Place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court including reasonable rules for conduct and the conduct of the child's parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child, or with the consent of the commissioner of corrections, in a group foster care facility which is under the management and supervision of said commissioner;

(c) Subject to the supervision of the court, transfer legal custody of the child to one of the following:

(1) A child placing agency; or

(2) The county welfare board; or

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(3) A reputable individual of good moral character. No person may receive custody of two or more unrelated children unless licensed as a residential facility pursuant to sections 245.781 to 245.812; or

(4) ~~Except for children found to be delinquent as defined in section 260.015, subdivision 5, clauses (e) and (d);~~ A county home school, if the county maintains a home school or enters into an agreement with a county home school; or

(5) A county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(d) ~~Except for children found to be delinquent as defined in section 260.015, subdivision 5, clauses (e) and (d);~~ Transfer legal custody by commitment to the commissioner of corrections;

(e) If the child is found to have violated a state or local law or ordinance which has resulted in damage to the property of another, the court may order the child to make reasonable restitution for such damage;

(f) Require the child to pay a fine of up to \$700; the court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(g) If the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to provide this treatment or care, the court may order it provided;

(h) If the court believes that it is in the best interests of the child and of public safety that the driver's license of the child be canceled until the child's 18th birthday, the court may recommend to the commissioner of public safety the cancellation of the child's license for any period up to the child's 18th birthday, and the commissioner is hereby authorized to cancel such license without a hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety that the child be authorized to apply for a new license, and the commissioner may so authorize.

If the child is petitioned and found by the court to have committed or attempted to commit an act in violation of section 609.342, 609.343, 609.344, or 609.345, the court shall order an independent professional assessment of the child's need for sex offender treatment. An assessor providing an assessment for the court may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If the assessment indicates that the child is in need of and amenable to sex offender treatment, the court shall include in its disposition order a requirement that the child undergo treatment.

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Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

(a) Why the best interests of the child are served by the disposition ordered; and

(b) What alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case.

~~This subdivision applies to dispositions of juveniles found to be delinquent as defined in section 260.015, subdivision 5, clause (e) or (d) made prior to, on, or after January 1, 1978.~~

**Sec. 7. [299C.155] STANDARDIZED EVIDENCE COLLECTION; DNA ANALYSIS DATA AND RECORDS.**

Subdivision 1. DEFINITION. As used in this section, "DNA analysis" means the process through which deoxyribonucleic acid (DNA) in a human biological specimen is analyzed and compared with DNA from another human biological specimen for identification purposes.

Subd. 2. UNIFORM EVIDENCE COLLECTION. The bureau shall develop uniform procedures and protocols for collecting evidence in cases of alleged or suspected criminal sexual conduct, including procedures and protocols for the collection and preservation of human biological specimens for DNA analysis. Law enforcement agencies and medical personnel who conduct evidentiary exams shall use the uniform procedures and protocols in their investigation of criminal sexual conduct offenses.

Subd. 3. DNA ANALYSIS AND DATA BANK. The bureau shall adopt uniform procedures and protocols to maintain, preserve, and analyze human biological specimens for DNA. The bureau shall establish a centralized system to cross-reference data obtained from DNA analysis.

Subd. 4. RECORDS. The bureau shall perform DNA analysis and make data obtained available to law enforcement officials in connection with criminal investigations in which human biological specimens have been recovered. Upon request, the bureau shall also make the data available to the prosecutor and the subject of the data in any subsequent criminal prosecution of the subject.

Sec. 8. Minnesota Statutes 1988, section 526.10, is amended to read:

**526.10 LAWS RELATING TO MENTALLY ILL PERSONS DANGEROUS TO THE PUBLIC TO APPLY TO PSYCHOPATHIC PERSONALITIES; TRANSFER TO CORRECTIONS.**

Subdivision 1. PROCEDURE. Except as otherwise provided herein in this section or in chapter 253B, the provisions of chapter 253B, pertaining to persons mentally ill and dangerous to the public shall apply with like force and effect to

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persons having a psychopathic personality, to persons alleged to have such personality, and to persons found to have such personality, respectively. Before such proceedings are instituted, the facts shall first be submitted to the county attorney, who, if satisfied that good cause exists therefor, shall prepare the petition to be executed by a person having knowledge of the facts and file the same with the judge of the probate court of the county in which the "patient," as defined in such statutes, has a settlement or is present. The judge of probate shall thereupon follow the same procedures set forth in chapter 253B, for judicial commitment. The judge may exclude the general public from attendance at such hearing. If, upon completion of the hearing and consideration of the record, the court finds the proposed patient has a psychopathic personality, the court shall commit such person to a public hospital or a private hospital consenting to receive the person, subject to a mandatory review by the head of the hospital within 60 days from the date of the order as provided for in chapter 253B for persons found to be mentally ill and dangerous to the public. The patient shall thereupon be entitled to all of the rights provided for in chapter 253B, for persons found to be mentally ill and dangerous to the public, and all of the procedures provided for in chapter 253B, for persons found to be mentally ill and dangerous to the public shall apply to such patient except as otherwise provided in subdivision 2.

Subd. 2. TRANSFER TO CORRECTIONAL FACILITY. Unless the provisions of section 9 apply, if a person has been committed under this section and also has been committed to the custody of the commissioner of corrections, the person may be transferred from a hospital to another facility designated by the commissioner of corrections as provided in section 253B.18; except that the special review board and the commissioner of human services may consider the following factors in lieu of the factors listed in section 253B.18, subdivision 6, to determine whether a transfer to the commissioner of corrections is appropriate:

- (1) the person's unamenability to treatment;
- (2) the person's unwillingness or failure to follow treatment recommendations;
- (3) the person's lack of progress in treatment at the public or private hospital;
- (4) the danger posed by the person to other patients or staff at the public or private hospital; and
- (5) the degree of security necessary to protect the public.

**Sec. 9. [609.1351] PETITION FOR CIVIL COMMITMENT.**

When a court sentences a person under section 10, 609.342, 609.343, 609.344, or 609.345, the court shall make a preliminary determination whether in the court's opinion a petition under section 526.10 may be appropriate. If the court determines that a petition may be appropriate, the court shall forward its pre-

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liminary determination along with supporting documentation to the county attorney. If the person is subsequently committed under section 526.10, the person shall serve the sentence in a facility designated by the commissioner of corrections. After the person has served the sentence the person shall be transferred to a facility designated by the commissioner of human services.

**Sec. 10. [609.1352] PATTERNED SEX OFFENDERS; SPECIAL SENTENCING PROVISION.**

Subdivision 1. SENTENCING AUTHORITY. A court may sentence a person to a term of imprisonment of not less than double the presumptive sentence under the sentencing guidelines and not more than the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, to a term of imprisonment equal to the statutory maximum, if:

(1) the court is imposing an executed sentence, based on a sentencing guideline presumptive imprisonment sentence or a dispositional departure for aggravating circumstances or a mandatory minimum sentence, on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, or 609.345, or on a person convicted of committing or attempting to commit any other crime listed in subdivision 2 if it reasonably appears to the court that the crime was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal;

(2) the court finds that the offender is a danger to public safety; and

(3) the court finds that the offender needs long-term treatment or supervision beyond the presumptive term of imprisonment and supervised release. The finding must be based on a professional assessment by an examiner experienced in evaluating sex offenders that concludes that the offender is a patterned sex offender. The assessment must contain the facts upon which the conclusion is based, with reference to the offense history of the offender or the severity of the current offense, the social history of the offender, and the results of an examination of the offender's mental status. The conclusion may not be based on testing alone. A patterned sex offender is one whose criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term controls.

Subd. 2. PREDATORY CRIME. A predatory crime is a felony violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, or 609.582, subdivision 1.

Subd. 3. DANGER TO PUBLIC SAFETY. The court shall base its finding that the offender is a danger to public safety on either of the following factors:

(1) the crime involved an aggravating factor that would justify a durational departure from the presumptive sentence under the sentencing guidelines; or

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(2) the offender previously committed or attempted to commit a predatory crime or a violation of section 609.224, including an offense committed as a juvenile that would have been a predatory crime or a violation of section 609.224 if committed by an adult.

Subd. 4. DEPARTURE FROM GUIDELINES. A sentence imposed under subdivision 1 is a departure from the sentencing guidelines.

Subd. 5. CONDITIONAL RELEASE. At the time of sentencing under subdivision 1, the court may provide that after the offender has completed one-half of the full pronounced sentence imposed, without regard to good time, the commissioner of corrections may place the offender on conditional release for the remainder of the statutory maximum period or for ten years, whichever is longer, if the commissioner finds that:

(1) the offender is amenable to treatment and has made sufficient progress in a sex offender treatment program available in prison to be released to a sex offender treatment program operated by the department of human services or a community sex offender treatment and reentry program; and

(2) the offender has been accepted in a program approved by the commissioner that provides treatment, aftercare, and phased reentry into the community.

The conditions of release must include successful completion of treatment and aftercare in a program approved by the commissioner and any other conditions the commissioner considers appropriate. Before the offender is released, the commissioner shall notify the sentencing court, the prosecutor in the jurisdiction where the offender was sentenced and the victim of the offender's crime, where available, of the terms of the offender's conditional release. Release may be revoked and the stayed sentence executed in its entirety less good time if the offender fails to meet any condition of release. The commissioner shall not dismiss the offender from supervision before the sentence expires.

Conditional release granted under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

Subd. 6. COMMISSIONER OF CORRECTIONS. The commissioner shall pay the cost of treatment of a person released under subdivision 5. This section does not require the commissioner to accept or retain an offender in a treatment program.

Sec. 11. Minnesota Statutes 1988, section 609.341, subdivision 11, is amended to read:

Subd. 11. (a) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a) to (e), and (h) to (j) (k), includes any of the following acts committed without the

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complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts, or

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts effected by coercion or the use of a position of authority, or by inducement if the complainant is under 13 years of age or mentally impaired, or

(iii) the touching by another of the complainant's intimate parts effected by coercion or the use of a position of authority, or

(iv) in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts.

(b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g) and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts;

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts;

(iii) the touching by another of the complainant's intimate parts; or

(iv) in any of the cases listed above, touching of the clothing covering the immediate area of the intimate parts.

Sec. 12. Minnesota Statutes 1988, section 609.342, subdivision 2, is amended to read:

Subd. 2. **PENALTY.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~20~~ 25 years or to a payment of a fine of not more than ~~\$35,000~~ \$40,000, or both.

Sec. 13. Minnesota Statutes 1988, section 609.343, subdivision 2, is amended to read:

Subd. 2. **PENALTY.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~15~~ 20 years or to a payment of a fine of not more than ~~\$30,000~~ \$35,000, or both.

Sec. 14. Minnesota Statutes 1988, section 609.344, subdivision 2, is amended to read:

Subd. 2. **PENALTY.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~ten~~ 15 years or to a payment of a fine of not more than ~~\$20,000~~ \$30,000, or both.

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Sec. 15. Minnesota Statutes 1988, section 609.345, subdivision 2, is amended to read:

Subd. 2. **PENALTY.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~five~~ ten years or to a payment of a fine of not more than ~~\$10,000~~ \$20,000, or both.

Sec. 16. **[609.3461] DNA ANALYSIS OF SEX OFFENDERS REQUIRED.**

When a court sentences a person convicted of violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, or the juvenile court adjudicates a person a delinquent child for violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, it shall order the person to provide a biological specimen for the purpose of DNA analysis as defined in section 7. The biological specimen or the results of the analysis shall be maintained by the bureau of criminal apprehension as provided in section 7. If a person convicted of violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, and committed to the custody of the commissioner of corrections for a term of imprisonment has not provided a biological specimen for the purpose of DNA analysis, the commissioner of corrections or local corrections authority shall order the person to provide a biological specimen for the purpose of DNA analysis before completion of the person's term of imprisonment. The commissioner of corrections or local corrections authority shall forward the sample to the bureau of criminal apprehension.

Sec. 17. Minnesota Statutes 1988, section 628.26, is amended to read:

**628.26 LIMITATIONS.**

(a) Indictments or complaints for murder may be found or made at any time after the death of the person killed.

(b) Indictments or complaints for violation of section 609.42, subdivision 1, clause (1) or (2), shall be found or made and filed in the proper court within six years after the commission of the offense.

(c) Indictments or complaints for violation of sections 609.342 to 609.345 if the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within seven years after the commission of the offense or, if the victim failed to report the offense within this limitation period, within two years after the offense was reported to law enforcement authorities, but in no event may an indictment or complaint be found or made after the victim attains the age of 25 years.

(d) Indictments or complaints for violation of sections 609.466 and 609.52, subdivision 2, clause (3)(c) shall be found or made and filed in the proper court within six years after the commission of the offense.

(e) Indictments or complaints for violation of section 609.52, subdivision 2, clause (3), items (a) and (b), (4), (15), or (16), 609.631, or 609.821, where the

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value of the property or services stolen is more than \$35,000, shall be found or made and filed in the proper court within five years after the commission of the offense.

(f) Except for violations relating to false material statements, representations or omissions, indictments or complaints for violations of section 609.671 shall be found or made and filed in the proper court within five years after the commission of the offense.

(g) In all other cases, indictments or complaints shall be found or made and filed in the proper court within three years after the commission of the offense; but the time during which the defendant shall not be an inhabitant of, or usually resident within, this state, shall not constitute any part of the limitations imposed by this section.

**Sec. 18. [634.25] ADMISSIBILITY OF RESULTS OF DNA ANALYSIS.**

In a civil or criminal trial or hearing, the results of DNA analysis, as defined in section 10, are admissible in evidence without antecedent expert testimony that DNA analysis provides a trustworthy and reliable method of identifying characteristics in an individual's genetic material upon a showing that the offered testimony meets the standards for admissibility set forth in the Rules of Evidence.

**Sec. 19. [634.26] STATISTICAL PROBABILITY EVIDENCE.**

In a civil or criminal trial or hearing, statistical population frequency evidence, based on genetic or blood test results, is admissible to demonstrate the fraction of the population that would have the same combination of genetic markers as was found in a specific human biological specimen. "Genetic marker" means the various blood types or DNA types that an individual may possess.

**Sec. 20. CHILD PROTECTION SYSTEM STUDY COMMISSION.**

Subdivision 1. MEMBERSHIP. A child protection system study commission is created consisting of five members of the house of representatives appointed by the speaker of the house and five members of the senate appointed by the senate subcommittee on subcommittees. The commission shall select from its membership a chair or co-chairs and other officers it considers necessary.

Subd. 2. STUDIES. The commission shall study:

(1) the current structure and operation of the child protection system at the state and county level;

(2) the current operation of the child abuse reporting act, including whether the reporting act should be expanded to mandate reports of emotional harm and threatened harm, and whether its definitions of physical and sexual abuse should be expanded to include threatened harm;

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(3) the ways in which the child protection system can provide more effective intervention and prevention services for sexually aggressive and sexually abused children; and

(4) other ways in which the child protection system and the child abuse reporting act can be improved.

Subd. 3. REPORT. The commission shall report to the legislature on its findings and recommendations not later than February 15, 1990, and ceases to function after that date.

Subd. 4. COMPENSATION. Members of the commission must be compensated in the same manner as for other legislative meetings.

#### Sec. 21. EVALUATION OF SEX OFFENDER TREATMENT FUNDING.

Subdivision 1. EVALUATION. The commissioner of corrections and the commissioner of human services shall evaluate funding mechanisms for existing sex offender treatment programs. The commissioners must evaluate the funding of sex offender treatment programs for adults and juveniles and make findings concerning:

(1) the extent to which sex offender treatment programs are used on a statewide basis; and

(2) the effectiveness and adequacy of existing funding mechanisms.

Subd. 2. PILOT PROGRAM EVALUATION. The commissioner of corrections and the commissioner of human services shall evaluate the pilot programs designated under section 1, subdivision 5, and include an analysis of the programs in the report required under this section.

Subd. 3. REPORT. The commissioner of corrections and the commissioner of human services shall report to the legislature by January 1, 1991, their findings and recommendations to improve funding equity and statewide availability of treatment programs, including recommendations to increase funding.

#### Sec. 22. EFFECTIVE DATE.

Sections 1, 2, 7 to 9, 11, 18, and 19 are effective August 1, 1989. Sections 3 to 6, 10, and 12 to 15 are effective August 1, 1989 and apply to offenses committed on or after that date, but a court may consider acts committed before the effective date in determining whether an offender is a danger to public safety under section 10, subdivision 3. Section 17 is effective August 1, 1989, and applies to crimes committed on or after that date, and to crimes committed before that date if the limitations period for the crime did not expire before August 1, 1989. Section 16 is effective January 1, 1990, and applies to persons sentenced or released from incarceration on or after that date.

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## ARTICLE 5

## PRENATAL EXPOSURE TO CERTAIN CONTROLLED SUBSTANCES

**Section 1. [121.883] PROGRAM FOR PUBLIC EDUCATION REGARDING THE EFFECTS OF CONTROLLED SUBSTANCE AND ALCOHOL USE DURING PREGNANCY.**

Subdivision 1. PUBLIC EDUCATION REGARDING THE EFFECTS OF CONTROLLED SUBSTANCE AND ALCOHOL USE DURING PREGNANCY. The commissioner of education, in consultation with the commissioner of health, shall assist school districts in developing and implementing programs to prevent and reduce the risk of harm to unborn children exposed to controlled substance and alcohol use by their mother during pregnancy. Each district program must, at a minimum:

(1) use planning materials, guidelines, and other technically accurate and updated information;

(2) maintain a comprehensive, technically accurate, and updated curriculum;

(3) be directed at adolescents, especially those who may be at high risk of pregnancy coupled with controlled substance or alcohol use;

(4) provide in-service training for appropriate district staff; and

(5) collaborate with appropriate state and local agencies and organizations.

Sec. 2. Minnesota Statutes 1988, section 253B.02, subdivision 2, is amended to read:

Subd. 2. **CHEMICALLY DEPENDENT PERSON.** "Chemically dependent person" means any person (a) determined as being incapable of self-management or management of personal affairs by reason of the habitual and excessive use of alcohol or drugs; and (b) whose recent conduct as a result of habitual and excessive use of alcohol or drugs poses a substantial likelihood of physical harm to self or others as demonstrated by (i) a recent attempt or threat to physically harm self or others, (ii) evidence of recent serious physical problems, or (iii) a failure to obtain necessary food, clothing, shelter, or medical care. "Chemically dependent person" also means a pregnant woman who has engaged during the pregnancy in habitual or excessive use, for a nonmedical purpose, of any of the following controlled substances or their derivatives: cocaine, heroin, phencyclidine, methamphetamine, or amphetamine.

Sec. 3. Minnesota Statutes 1988, section 253B.02, subdivision 10, is amended to read:

Subd. 10. **INTERESTED PERSON.** "Interested person" means an adult, including but not limited to, a public official, including a local welfare agency

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acting under section 5, and the legal guardian, spouse, parent, legal counsel, adult child, next of kin, or other person designated by a proposed patient.

Sec. 4. Minnesota Statutes 1988, section 626.556, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection by a person responsible for the child's care, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so or failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so. Nothing in this section shall be construed to (1) mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, or (2) impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, or medical care, a duty to provide that care. "Neglect" includes prenatal exposure to a controlled substance, as defined in section 5, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance. Neglect also means "medical neglect" as defined in section 260.015, subdivision ~~4~~ 2a, clause ~~(e)~~ (5).

(d) "Physical abuse" means any physical injury inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825.

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(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245.781 to 245.812.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem services.

**Sec. 5. [626.5561] REPORTING OF PRENATAL EXPOSURE TO CONTROLLED SUBSTANCES.**

Subdivision 1. REPORTS REQUIRED. A person mandated to report under section 626.556, subdivision 3, shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy. Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy.

Subd. 2. LOCAL WELFARE AGENCY. If the report alleges a pregnant woman's use of a controlled substance for a nonmedical purpose, the local welfare agency shall immediately conduct an appropriate assessment and offer services indicated under the circumstances. Services offered may include, but are not limited to, a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care. The local welfare agency may also take any appropriate action under chapter 253B, including seeking an emergency admission under section 253B.05. The local welfare agency shall seek an emergency admission under section 253B.05 if the pregnant woman refuses recommended voluntary services or fails recommended treatment.

Subd. 3. RELATED PROVISIONS. Reports under this section are governed by section 626.556, subdivisions 4, 4a, 5, 6, 7, 8, and 11.

Subd. 4. CONTROLLED SUBSTANCES. For purposes of this section and section 6, "controlled substance" means a controlled substance classified in schedule I, II, or III under chapter 152.

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**Sec. 6. [626.5562] TOXICOLOGY TESTS REQUIRED.**

Subdivision 1. TEST; REPORT. A physician shall administer a toxicology test to a pregnant woman under the physician's care to determine whether there is evidence that she has ingested a controlled substance, if the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose. If the test results are positive, the physician shall report the results under section 5. A negative test result does not eliminate the obligation to report under section 5, if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

Subd. 2. NEWBORNS. A physician shall administer to each newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance, if the physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose prior to the birth. If the test results are positive, the physician shall report the results as neglect under section 626.556. A negative test result does not eliminate the obligation to report under section 626.556 if other medical evidence of prenatal exposure to a controlled substance is present.

Subd. 3. REPORT TO DEPARTMENT OF HEALTH. Physicians shall report to the department of health the results of tests performed under subdivisions 1 and 2. A report shall be made on February 1 and August 1 of each year, beginning February 1, 1990. The reports are medical data under section 13.42.

Subd. 4. IMMUNITY FROM LIABILITY. Any physician or other medical personnel administering a toxicology test to determine the presence of a controlled substance in a pregnant woman or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test, if the physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with an established protocol and reasonable medical practice.

Subd. 5. RELIABILITY OF TESTS. A positive test result reported under this section must be obtained from a confirmatory test performed by a drug testing laboratory licensed by the department of health. The confirmatory test must meet the standards established under section 181.953, subdivision 1, and the rules adopted under it.

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## ARTICLE 6

## PENALTY INCREASES

Section 1. Minnesota Statutes 1988, section 169.09, subdivision 14, is amended to read:

Subd. 14. **PENALTIES.** (a) The driver of any vehicle who violates subdivision 1 or 6 and who caused the accident is punishable as follows:

(1) if the accident results in the death of any person, the driver is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than \$20,000, or both;

(2) if the accident results in great bodily harm to any person, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than five years, or to payment of a fine of not more than \$10,000, or both; or

(3) if the accident results in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, the driver is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$5,000, or both.

(b) The driver of any vehicle who violates subdivision 1 or 6 and who did not cause the accident is punishable as follows:

(1) if the accident results in the death of any person, the driver is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$5,000, or both;

(2) if the accident results in great bodily harm to any person, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than ~~one year~~ and ~~one day~~ two years, or to payment of a fine of not more than ~~\$3,000~~ \$4,000, or both; or

(3) if the accident results in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, the driver may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both.

(c) The driver of any vehicle involved in an accident not resulting in substantial bodily harm or death who violates subdivision 1 or 6 may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both.

(d) Any person who violates subdivision 3, clause (b) is guilty of a petty misdemeanor.

(e) Any person who violates subdivision 2, 3, clause (a), 4, 5, 7, 8, 10, 11, or 12 is guilty of a misdemeanor.

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The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

Sec. 2. Minnesota Statutes 1988, section 297D.09, subdivision 1a, is amended to read:

Subd. 1a. **CRIMINAL PENALTY; SALE WITHOUT AFFIXED STAMPS.** In addition to the tax penalty imposed, a dealer distributing or possessing marijuana or controlled substances without affixing the appropriate stamps, labels, or other indicia is guilty of a crime and, upon conviction, may be sentenced to imprisonment for not more than ~~five~~ seven years or to payment of a fine of not more than ~~\$10,000~~ \$14,000, or both.

Sec. 3. Minnesota Statutes 1988, section 299F.80, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 2, whoever possesses explosives without a valid license or permit may be sentenced to imprisonment for not more than ~~three~~ five years.

Sec. 4. Minnesota Statutes 1988, section 325D.56, subdivision 2, is amended to read:

Subd. 2. Any person who is found to have willfully committed any of the acts enumerated in section 325D.53 shall be guilty of a felony and subject to a fine of not more than \$50,000 or imprisonment in the state penitentiary for not more than ~~five~~ seven years, or both.

Sec. 5. Minnesota Statutes 1988, section 609.205, is amended to read:

**609.205 MANSLAUGHTER IN THE SECOND DEGREE.**

A person who causes the death of another by any of the following means is guilty of manslaughter in the second degree and may be sentenced to imprisonment for not more than ~~seven~~ ten years or to payment of a fine of not more than ~~\$14,000~~ \$20,000, or both:

(1) by the person's culpable negligence whereby the person creates an unreasonable risk, and consciously takes chances of causing death or great bodily harm to another; or

(2) by shooting another with a firearm or other dangerous weapon as a result of negligently believing the other to be a deer or other animal; or

(3) by setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) by negligently or intentionally permitting any animal, known by the person to have vicious propensities or to have caused great or substantial bodily

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harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the victim provoked the animal to cause the victim's death.

Sec. 6. Minnesota Statutes 1988, section 609.21, subdivision 1, is amended to read:

Subdivision 1. **RESULTING IN DEATH.** Whoever causes the death of a human being not constituting murder or manslaughter as a result of operating a vehicle as defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in death and may be sentenced to imprisonment for not more than ~~five~~ ten years or to payment of a fine of not more than ~~\$10,000~~ \$20,000, or both.

Sec. 7. Minnesota Statutes 1988, section 609.21, subdivision 2, is amended to read:

Subd. 2. **RESULTING IN INJURY.** Whoever causes great bodily harm to another, as defined in section 609.02, subdivision 8, not constituting attempted murder or assault as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in injury and may be sentenced to imprisonment for not more than ~~three~~ five years or the payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

Sec. 8. Minnesota Statutes 1988, section 609.221, is amended to read:

**609.221 ASSAULT IN THE FIRST DEGREE.**

Whoever assaults another and inflicts great bodily harm may be sentenced

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to imprisonment for not more than ~~ten~~ 20 years or to payment of a fine of not more than ~~\$20,000~~ \$30,000, or both.

Sec. 9. Minnesota Statutes 1988, section 609.222, is amended to read:

**609.222 ASSAULT IN THE SECOND DEGREE.**

Whoever assaults another with a dangerous weapon may be sentenced to imprisonment for not more than ~~five~~ seven years or to payment of a fine of not more than ~~\$10,000~~ \$14,000, or both.

Sec. 10. Minnesota Statutes 1988, section 609.223, is amended to read:

**609.223 ASSAULT IN THE THIRD DEGREE.**

Whoever assaults another and inflicts substantial bodily harm may be sentenced to imprisonment for not more than ~~three~~ five years or to payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

Sec. 11. Minnesota Statutes 1988, section 609.2231, subdivision 1, is amended to read:

Subdivision 1. **PEACE OFFICERS.** Whoever assaults a peace officer licensed under section 626.845, subdivision 1, when that officer is effecting a lawful arrest or executing any other duty imposed by law and inflicts demonstrable bodily harm is guilty of a felony and may be sentenced to imprisonment for not more than ~~one year and a day~~ two years or to payment of a fine of not more than ~~\$3,000~~ \$4,000, or both.

Sec. 12. Minnesota Statutes 1988, section 609.255, subdivision 3, is amended to read:

Subd. 3. **UNREASONABLE RESTRAINT OF CHILDREN.** A parent, legal guardian, or caretaker who intentionally subjects a child under the age of 18 years to unreasonable physical confinement or restraint by means including but not limited to, tying, locking, caging, or chaining for a prolonged period of time and in a cruel manner which is excessive under the circumstances, is guilty of unreasonable restraint of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. If the confinement or restraint results in substantial bodily harm, that person may be sentenced to imprisonment for not more than ~~three~~ five years or to payment of not more than ~~\$5,000~~ \$10,000, or both.

Sec. 13. Minnesota Statutes 1988, section 609.2665, is amended to read:

**609.2665 MANSLAUGHTER OF AN UNBORN CHILD IN THE SECOND DEGREE.**

A person who causes the death of an unborn child by any of the following means is guilty of manslaughter of an unborn child in the second degree and

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may be sentenced to imprisonment for not more than ~~seven~~ ten years or to payment of a fine of not more than ~~\$14,000~~ \$20,000, or both:

(1) by the actor's culpable negligence whereby the actor creates an unreasonable risk and consciously takes chances of causing death or great bodily harm to an unborn child or a person;

(2) by shooting the mother of the unborn child with a firearm or other dangerous weapon as a result of negligently believing her to be a deer or other animal;

(3) by setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) by negligently or intentionally permitting any animal, known by the person to have vicious propensities or to have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the mother of the unborn child provoked the animal to cause the unborn child's death.

Sec. 14. Minnesota Statutes 1988, section 609.267, is amended to read:

**609.267 ASSAULT OF AN UNBORN CHILD IN THE FIRST DEGREE.**

Whoever assaults a pregnant woman and inflicts great bodily harm on an unborn child who is subsequently born alive may be sentenced to imprisonment for not more than ~~ten~~ 15 years or to payment of a fine of not more than ~~\$20,000~~ \$30,000, or both.

Sec. 15. Minnesota Statutes 1988, section 609.323, subdivision 1, is amended to read:

Subdivision 1. Whoever, while acting other than as a prostitute or patron, intentionally receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 13 years, may be sentenced to imprisonment for not more than ~~ten~~ 15 years or to payment of a fine of not more than ~~\$20,000~~ \$30,000, or both.

Sec. 16. Minnesota Statutes 1988, section 609.377, is amended to read:

**609.377 MALICIOUS PUNISHMENT OF A CHILD.**

A parent, legal guardian, or caretaker who, by an intentional act or a series of intentional acts with respect to a child, evidences unreasonable force or cruel discipline that is excessive under the circumstances is guilty of malicious punishment of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. If the punish-

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ment results in substantial bodily harm, that person may be sentenced to imprisonment for not more than ~~three~~ five years or to payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

Sec. 17. Minnesota Statutes 1988, section 609.445, is amended to read:

**609.445 FAILURE TO PAY OVER STATE FUNDS.**

Whoever receives money on behalf of or for the account of the state or any of its agencies or subdivisions and intentionally refuses or omits to pay the same to the state or its agency or subdivision entitled thereto, or to an officer or agent authorized to receive the same, may be sentenced to imprisonment for not more than ~~three~~ five years or to payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

Sec. 18. Minnesota Statutes 1988, section 609.48, subdivision 4, is amended to read:

Subd. 4. **SENTENCE.** Whoever violates this section may be sentenced as follows:

(1) If the false statement was made upon the trial of a felony charge, or upon an application for an explosives license or use permit, to imprisonment for not more than ~~five~~ seven years or to payment of a fine of not more than ~~\$10,000~~ \$14,000, or both; or

(2) In all other cases, to imprisonment for not more than ~~three~~ five years or to payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

Sec. 19. Minnesota Statutes 1988, section 609.487, subdivision 4, is amended to read:

Subd. 4. **FLEEING AN OFFICER; DEATH; BODILY INJURY.** Whoever flees or attempts to flee by means of a motor vehicle a peace officer who is acting in the lawful discharge of an official duty, and the perpetrator knows or should reasonably know the same to be a peace officer, and who in the course of fleeing causes the death of a human being not constituting murder or manslaughter or any bodily injury to any person other than the perpetrator may be sentenced to imprisonment as follows:

(a) If the course of fleeing results in death, to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both; or

(b) If the course of fleeing results in great bodily harm, to imprisonment for not more than ~~five~~ seven years or to payment of a fine of not more than ~~\$10,000~~ \$14,000, or both; or

(c) If the course of fleeing results in substantial bodily harm, to imprisonment for not more than ~~three~~ five years or to payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

New language is indicated by underline, deletions by ~~strikeout~~.



Sec. 20. Minnesota Statutes 1988, section 609.576, is amended to read:

**609.576 NEGLIGENCE FIRES.**

Whoever is culpably negligent in causing a fire to burn or get out of control thereby causing damage or injury to another, and as a result thereof:

(a) a human being is injured and great bodily harm incurred, is guilty of a crime and may be sentenced to imprisonment of not more than ~~three~~ five years or to a fine of not more than ~~\$5,000~~ \$10,000, or both; or

(b) property of another is injured, thereby, is guilty of a crime and may be sentenced as follows:

(1) to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both, if the value of the property damage is under \$300;

(2) to imprisonment for not more than one year, or to a fine of \$3,000 or both, if the value of the property damaged is at least \$300 but is less than \$10,000;

(3) to imprisonment for not less than 90 days nor more than three years, or to a fine of not more than \$5,000, or both, if the value of the property damaged is \$10,000 or more.

Sec. 21. Minnesota Statutes 1988, section 609.62, subdivision 2, is amended to read:

Subd. 2. **ACTS CONSTITUTING.** Whoever, with intent to defraud, does any of the following may be sentenced to imprisonment for not more than ~~two~~ three years or to payment of a fine of not more than ~~\$4,000~~ \$6,000, or both:

(1) Conceals, removes, or transfers any personal property in which the actor knows that another has a security interest; or

(2) Being an obligor and knowing the location of the property refuses to disclose the same to an obligee entitled to possession thereof.

Sec. 22. Minnesota Statutes 1988, section 609.86, subdivision 3, is amended to read:

Subd. 3. **SENTENCE.** Whoever commits commercial bribery may be sentenced as follows:

(1) To imprisonment for not more than ~~three~~ five years or to payment of a fine of not more than ~~\$5,000~~ \$10,000, or both, if the value of the benefit, consideration, compensation or reward is greater than \$500;

(2) In all other cases where the value of the benefit, consideration, compensation or reward is \$500 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700; provided, however, in any prosecu-

New language is indicated by underline, deletions by ~~strikeout~~.

tion of the value of the benefit, consideration, compensation or reward received by the defendant within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed, or all of the offenses aggregated under this clause.

Sec. 23. **EFFECTIVE DATE.**

Sections 1 to 22 are effective August 1, 1989, and apply to crimes committed on or after that date.

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**ARTICLE 7**

**MISCELLANEOUS CRIMINAL PROVISIONS**

Section 1. Minnesota Statutes 1988, section 340A.701, is amended to read:

**340A.701 FELONIES.**

Subdivision 1. UNLAWFUL ACTS. It is a felony:

- (1) to manufacture alcoholic beverages in violation of this chapter;
- (2) to transport or import alcoholic beverages into the state in violation of this chapter for purposes of resale; or
- (3) to sell or give away for beverage purposes poisonous alcohol, methyl alcohol, denatured alcohol, denaturing material, or any other alcoholic substance capable of causing serious physical or mental injuries to a person consuming it; or

(4) for a person other than a licensed retailer of alcoholic beverages, a bottle club permit holder, a municipal liquor store, or an employee or agent of any of these who is acting within the scope of employment, to violate the provisions of section 340A.503, subdivision 2, clause (1), by selling alcoholic beverages if the underage purchaser of the alcoholic beverage becomes intoxicated and causes or suffers death or great bodily harm as a result of the intoxication.

Subd. 2. PRESUMPTIVE SENTENCE. In determining an appropriate disposition for a violation of subdivision 1, clause (4), the court shall presume that a stay of execution with a 90-day period of incarceration as a condition of probation shall be imposed unless the defendant's criminal history score determined according to the sentencing guidelines indicates a presumptive executed sentence, in which case the presumptive executed sentence shall be imposed unless the court departs from the sentencing guidelines under section 244.10. A stay of imposition of sentence may be granted only if accompanied by a statement on the record of the reasons for it.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 2. Minnesota Statutes 1988, section 340A.702, is amended to read:

**340A.702 GROSS MISDEMEANORS.**

It is a gross misdemeanor:

- (1) to sell an alcoholic beverage without a license authorizing the sale;
- (2) for a licensee to refuse or neglect to obey a lawful direction or order of the commissioner or the commissioner's agent, withhold information or a document the commissioner calls for examination, obstruct or mislead the commissioner in the execution of the commissioner's duties or swear falsely under oath;
- (3) to violate the provisions of sections 340A.301 to 340A.313;
- (4) to violate the provisions of section 340A.508;
- (5) for any person, partnership, or corporation to knowingly have or possess direct or indirect interest in more than one off-sale intoxicating liquor license in a municipality in violation of section 340A.412, subdivision 3;
- (6) to sell or otherwise dispose of intoxicating liquor within 1,000 feet of a state hospital, training school, reformatory, prison, or other institution under the supervision and control, in whole or in part, of the commissioner of human services or the commissioner of corrections;
- (7) to violate the provisions of section 340A.502;
- (8) except as otherwise provided in section 340A.701, to violate the provisions of section 340A.503, subdivision 2, clause (1) or (3);
- (9) to withhold any information, book, paper, or other thing called for by the commissioner for the purpose of an examination;
- (10) to obstruct or mislead the commissioner in the execution of the commissioner's duties; or
- (11) to swear falsely concerning any matter stated under oath.

Sec. 3. Minnesota Statutes 1988, section 609.26, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED ACTS.** Whoever intentionally does any of the following acts may be charged with a felony and, upon conviction, may be sentenced as provided in subdivision 6:

- (1) conceals a minor child from the child's parent where the action manifests an intent substantially to deprive that parent of parental rights or conceals a minor child from another person having the right to visitation or custody where the action manifests an intent to substantially deprive that person of rights to visitation or custody;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) takes, obtains, retains, or fails to return a minor child in violation of a court order which has transferred legal custody under chapter 260 to the commissioner of human services, a child placing agency, or the county welfare board;

(3) takes, obtains, retains, or fails to return a minor child from or to the parent in violation of a court order, where the action manifests an intent substantially to deprive that parent of rights to visitation or custody; ~~or~~

(4) takes, obtains, retains, or fails to return a minor child from or to a parent after commencement of an action relating to child visitation or custody but prior to the issuance of an order determining custody or visitation rights, where the action manifests an intent substantially to deprive that parent of parental rights; or

(5) retains a child in this state with the knowledge that the child was removed from another state in violation of any of the above provisions.

Sec. 4. Minnesota Statutes 1988, section 609.26, subdivision 6, is amended to read:

Subd. 6. **PENALTY.** Except as otherwise provided in subdivision 5, whoever violates this section may be sentenced to ~~imprisonment for not more than two years or to payment of a fine of \$4,000, or both;~~ as follows:

(1) to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both; or

(2) to imprisonment for not more than four years or to payment of a fine of not more than \$8,000, or both, if the court finds that:

(i) the defendant committed the violation while possessing a dangerous weapon or caused substantial bodily harm to effect the taking;

(ii) the defendant abused or neglected the child during the concealment, detention, or removal of the child;

(iii) the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause the parent or lawful custodian to discontinue criminal prosecution;

(iv) the defendant demanded payment in exchange for return of the child or demanded to be relieved of the financial or legal obligation to support the child in exchange for return of the child; or

(v) the defendant has previously been convicted under this section or a similar statute of another jurisdiction.

Sec. 5. Minnesota Statutes 1988, section 609.52, is amended to read:

609.52 **THEFT.**

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **DEFINITIONS.** In this section:

(1) "Property" means all forms of tangible property, whether real or personal, without limitation including documents of value, electricity, gas, water, corpses, domestic animals, dogs, pets, fowl, and heat supplied by pipe or conduit by municipalities or public utility companies and articles, as defined in clause (4), representing trade secrets, which articles shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any trade secret represented by the article.

(2) "Movable property" is property whose physical location can be changed, including without limitation things growing on, affixed to or found in land.

(3) "Value" means the retail market value at the time of the theft, or if the retail market value cannot be ascertained, the cost of replacement of the property within a reasonable time after the theft, or in the case of a theft or the making of a copy of an article representing a trade secret, where the retail market value or replacement cost cannot be ascertained, any reasonable value representing the damage to the owner which the owner has suffered by reason of losing an advantage over those who do not know of or use the trade secret. For a theft committed within the meaning of subdivision 2, clause (5), (a) and (b), if the property has been restored to the owner, "value" means the value of the use of the property or the damage which it sustained, whichever is greater, while the owner was deprived of its possession, but not exceeding the value otherwise provided herein.

(4) "Article" means any object, material, device or substance, including any writing, record, recording, drawing, sample specimen, prototype, model, photograph, microorganism, blueprint or map, or any copy of any of the foregoing.

(5) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(6) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing, or sketch made of or from an article while in the presence of the article.

(8) "Property of another" includes property in which the actor is coowner or has a lien, pledge, bailment, or lease or other subordinate interest, and property of a partnership of which the actor is a member, unless the actor and the victim

New language is indicated by underline, deletions by ~~strikeout~~.

are husband and wife. It does not include property in which the actor asserts in good faith a claim as a collection fee or commission out of property or funds recovered, or by virtue of a lien, setoff, or counterclaim.

(9) "Services" include but are not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment services, advertising services, telecommunication services, and the supplying of equipment for use.

(10) "Motor vehicle" means a self-propelled device for moving persons or property or pulling implements from one place to another, whether the device is operated on land, rails, water, or in the air.

Subd. 2. **ACTS CONSTITUTING THEFT.** Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody or title to property or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(a) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(b) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(c) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

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(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and;

(a) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

(b) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(c) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof, or any lessee of the property who sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof. Evidence that a lessee used a false or fictitious name or address in obtaining the property or fails or refuses to return the property to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

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(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property with knowledge that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection, or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law Number 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(i) made or was aware of the connection; and

(ii) was aware that the connection was unauthorized; or

New language is indicated by underline, deletions by ~~strikeout~~.



(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; ~~or~~

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it; or

(17) intentionally takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner.

Subd. 3. **SENTENCE.** Whoever commits theft may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both, if the value of the property or services stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause (3), (4), (15), or (16); or

(2) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the value of the property or services stolen exceeds \$2,500, or if the property stolen was an article representing a trade secret, an explosive or incendiary device, or a controlled substance listed in schedule 1 or 2 pursuant to section 152.02 with the exception of marijuana; or

(3) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(a) the value of the property or services stolen is more than \$500 but not more than \$2,500; or

(b) the property stolen was a controlled substance listed in schedule 3, 4, or 5 pursuant to section 152.02; or

(c) the value of the property or services stolen is more than \$200 but not more than \$500 and the person has been convicted within the preceding five years for an offense under this section, section 256.98; 268.18, subdivision 3; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

~~(4) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, notwithstanding~~

(d) the value of the property or services stolen is not more than \$200, if \$500, and any of the following circumstances exist:

New language is indicated by underline, deletions by ~~strikeout~~.

(a) (i) the property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or

(b) (ii) the property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

(c) (iii) the property is taken from a burning building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

(d) (iv) the property consists of public funds belonging to the state or to any political subdivision or agency thereof; or

(e) (v) the property is a firearm; or

(f) (vi) the property stolen was is a motor vehicle as defined in section 609.55; or

(5) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the property stolen is an article representing a trade secret; or if the property stolen is an explosive or an incendiary device; or

(6) (4) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the property or services stolen is more than \$200 but not more than \$500; or

(7) (5) in all other cases where the value of the property or services stolen is \$200 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3), (4), and (13), the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

#### Sec. 6. [609.526] PRECIOUS METAL DEALERS; RECEIVING STOLEN PROPERTY.

Any precious metal dealer as defined in section 325F.731, subdivision 2, or any person employed by a precious metal dealer as defined in section 325F.731, subdivision 2, who receives, possesses, transfers, buys, or conceals any stolen property or property obtained by robbery, knowing or having reason to know the property was stolen or obtained by robbery, may be sentenced as follows:

(1) if the value of the property received, bought, or concealed is \$1,000 or more, to imprisonment for not more than ten years or to payment of a fine of not more than \$50,000, or both;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) if the value of the property received, bought, or concealed is less than \$1,000 but more than \$300, to imprisonment for not more than five years or to payment of a fine of not more than \$40,000, or both;

(3) if the value of the property received, bought, or concealed is \$300 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both.

Any person convicted of violating this section a second or subsequent time within a period of one year may be sentenced as provided in clause (1).

Sec. 7. Minnesota Statutes 1988, section 609.53, subdivision 1, is amended to read:

Subdivision 1. **PENALTY.** Except as otherwise provided in section 6, any person who receives, possesses, transfers, buys or conceals any stolen property or property obtained by robbery, knowing or having reason to know the property was stolen or obtained by robbery, may be sentenced as follows:

(1) if the value of the property is \$1,000 or more, to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both;

(2) if the value of the property is less than \$1,000, but more than \$300, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both;

(3) if the value of the property is \$300 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both;

(4) notwithstanding the value of the property, if the property is a firearm, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both in accordance with the provisions of section 609.52, subdivision 3.

Sec. 8. Minnesota Statutes 1988, section 609.53, subdivision 4, is amended to read:

Subd. 4. **CIVIL ACTION; TREBLE DAMAGES.** Any person who has been injured by a violation of ~~subdivisions~~ subdivision 1 or 3 ~~section 6~~ may bring an action for three times the amount of actual damages; sustained by the plaintiff or \$1,500, whichever is greater, and the costs of suit and reasonable attorney's fees.

Sec. 9. **[609.546] MOTOR VEHICLE TAMPERING.**

A person is guilty of a misdemeanor who intentionally:

(1) rides in or on a motor vehicle knowing that the vehicle was taken and is being driven by another without the owner's permission; or

(2) tampers with or enters into or on a motor vehicle without the owner's permission.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 10. Minnesota Statutes 1988, section 609.631, subdivision 2, is amended to read:

Subd. 2. **CHECK FORGERY; ELEMENTS.** A person ~~who, is guilty of~~ check forgery and may be sentenced under subdivision 4 if the person, with intent to defraud, does any of the following:

(1) ~~falsely makes or alters a check so that it purports to have been made by another or by the maker under an assumed or fictitious name, or at another time, or with different provisions, or by the authority of one who did not give authority; is guilty of check forgery and may be sentenced as provided in subdivision 4; or~~

(2) ~~falsely endorses or alters a check so that it purports to have been endorsed by another.~~

Sec. 11. Minnesota Statutes 1988, section 624.701, is amended to read:

**624.701 LIQUORS IN CERTAIN BUILDINGS OR GROUNDS.**

Subdivision 1. ~~Except as otherwise provided in subdivision 1a, any person who shall introduce upon, or have in possession upon, or in, introduces or possesses an alcoholic beverage, as defined in section 340A.101, on any school ground, or in any schoolhouse or school building, any alcoholic beverage as defined in section 340A.101, except for is guilty of a misdemeanor.~~

Subd. 1a. EXCEPTIONS. Subdivision 1 does not apply to the following:

(1) ~~experiments in laboratories and except for;~~

(2) ~~those organizations who have been issued temporary licenses to sell nonintoxicating malt liquor pursuant to section 340A.403, subdivision 2; and;~~

(3) ~~any person possessing nonintoxicating malt liquor as a result of a purchase from those organizations holding temporary licenses pursuant to section 340A.403, subdivision 2; shall be guilty of a misdemeanor; or~~

(4) the possession or use of alcoholic beverages in an alcohol use awareness program that is held at a post-secondary school, sponsored or approved by the school, and limited to persons 21 years old or older.

Subd. 2. Any person who except by prescription of a licensed physician or permission of the hospital administrator shall introduce upon, or have in possession upon, or in, any state hospital or grounds thereof under the responsibility of the commissioner of human services any alcoholic beverage as defined in section 340A.101, shall be guilty of a misdemeanor.

Sec. 12. Laws 1989, chapter 5, section 3, is amended to read:

Sec. 3. **[609.396] UNAUTHORIZED PRESENCE AT CAMP RIPLEY.**

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. MISDEMEANOR. A person is guilty of a misdemeanor if the person intentionally and without authorization of the adjutant general enters or is present on the Camp Ripley military reservation.

Subd. 2. FELONY. A person is guilty of a felony and may be sentenced to not more than five years imprisonment or to payment of a fine of not more than \$10,000, or both, if:

(1) the person intentionally enters or is present ~~without authorization of the adjutant general~~ in an area at the Camp Ripley military reservation that is posted by order of the adjutant general as restricted for weapon firing or other hazardous military activity; and

(2) the person knows that doing so creates a risk of death, bodily harm, or serious property damage.

**Sec. 13. INSTRUCTION TO REVISOR; REFERENCE CHANGE.**

The revisor of statutes shall change the reference to Minnesota Statutes, section 609.55, subdivision 1, in section 609.605, subdivision 1, clause (10), to section 609.52, subdivision 1, clause (10).

**Sec. 14. REPEALER.**

Minnesota Statutes 1988, sections 609.53, subdivisions 1a, 3, and 3a, is repealed. Minnesota Statutes 1988, section 609.55, as amended by Laws 1989, chapter 5, sections 5, 6, and 7, is repealed.

**Sec. 15. EFFECTIVE DATE.**

Sections 1 to 14 are effective August 1, 1989, and apply to crimes committed on or after that date.

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**ARTICLE 8**

**FIRE DEPARTMENT ACCESS TO**

**CRIMINAL HISTORY DATA**

**Section 1. [299F.035] FIRE DEPARTMENT ACCESS TO AND USE OF CRIMINAL HISTORY DATA.**

Subdivision 1. DEFINITIONS. (a) The definitions in this subdivision apply to this section.

(b) "Criminal history data" has the meaning given in section 13.87.

(c) "Criminal justice agency" has the meaning given in section 299C.46, subdivision 2.

**New language is indicated by underline, deletions by ~~strikeout~~.**

(d) "Fire department" has the meaning given in section 299F.092, subdivision 6.

(e) "Private data" has the meaning given in section 13.02, subdivision 12.

Subd. 2. ACCESS TO DATA. The superintendent of the bureau of criminal apprehension, in consultation with the state fire marshal, shall develop and implement a plan for fire departments to have access to criminal history data. The plan must include:

(1) security procedures to prevent unauthorized use or disclosure of private data; and

(2) a procedure for the hiring authority in each fire protection agency to fingerprint job applicants, submit requests to the bureau of criminal apprehension, and obtain state and federal criminal history data reports for a nominal fee.

Subd. 3. RELATION OF CONVICTION TO FIRE PROTECTION. Criminal history data may be used in assessing fire protection agency job applicants only if the criminal history data are directly related to the position of employment sought.

Subd. 4. DETERMINATION OF RELATIONSHIP. In determining if criminal history data are directly related to the position of employment sought, the hiring authority may consider:

(1) the nature and seriousness of the criminal history data on the job applicant;

(2) the relationship of the criminal history data to the purposes of regulating the position of employment sought; and

(3) the relationship of the criminal history data to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment sought.

Sec. 2. Minnesota Statutes 1988, section 364.09, is amended to read:

**364.09 EXCEPTIONS.**

This chapter shall not apply to the practice of law enforcement, to fire protection agencies, to eligibility for a family day care license, a family foster care license, a home care provider license, or to eligibility for school bus driver endorsements. Nothing in this section shall be construed to preclude the Minnesota police and peace officers training board or the state fire marshal from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement or fire protection agencies.

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Sec. 3. Minnesota Statutes 1988, section 626.52, subdivision 3, is amended to read:

Subd. 3. **REPORTING BURNS.** A health professional shall ~~immediately file a written report with the state fire marshal within 72 hours after being notified of a burn injury or wound that the professional is called upon to treat, dress, or bandage, if the victim has sustained second- or third-degree burns to five percent or more of the body, the victim has sustained burns to the upper respiratory tract or sustained laryngeal edema from inhaling superheated air, or the victim has sustained a burn injury or wound that may result in the victim's death. The health professional shall make the initial report by telephoning the burn hotline in order to allow the proper law enforcement or other investigatory authority to be notified. Within 72 hours, the professional shall also file a written report with The state fire marshal; on a~~ shall provide the form provided by the fire marshal for the report.

## ARTICLE 9

### DRUG POLICY PROGRAMS

#### Section 1. [299A.29] DEFINITIONS.

Subdivision 1. APPLICABILITY. For purposes of sections 1 to 8, the following terms have the meanings given them in this section.

Subd. 2. DEMAND REDUCTION. "Demand reduction" means an activity carried on by a drug program agency that is designed to reduce demands for drugs, including education, prevention, treatment, and rehabilitation programs.

Subd. 3. DRUG. "Drug" means a controlled substance as defined in section 152.01, subdivision 4.

Subd. 4. DRUG PROGRAM AGENCY. "Drug program agency" means an agency of the state, a political subdivision of the state, or the United States government that is involved in demand reduction or supply reduction.

Subd. 5. SUPPLY REDUCTION. "Supply reduction" means an activity carried on by a drug program agency that is designed to reduce the supply or use of drugs, including law enforcement, eradication, and prosecutorial activities.

#### Sec. 2. [299A.30] OFFICE OF DRUG POLICY.

Subdivision 1. OFFICE; ASSISTANT COMMISSIONER. The office of drug policy is an office in the department of public safety headed by an assistant commissioner appointed by the commissioner to serve in the unclassified service. The assistant commissioner may appoint other employees in the unclassified service. The assistant commissioner shall coordinate the activities of drug

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program agencies and serve as staff to the drug abuse prevention resource council.

Subd. 2. DUTIES. (a) The assistant commissioner shall gather and make available information on demand reduction and supply reduction throughout the state, foster cooperation among drug program agencies, and assist agencies and public officials in training and other programs designed to improve the effectiveness of demand reduction and supply reduction.

(b) The assistant commissioner shall coordinate the distribution of funds received by the state of Minnesota through the federal Anti-Drug Abuse Act. The assistant commissioner may obtain technical assistance from the state planning agency to perform this function. The assistant commissioner shall recommend to the commissioner recipients of grants under sections 5 and 6, after consultation with the drug abuse prevention resource council.

(c) The assistant commissioner shall:

(1) after consultation with all drug program agencies operating in the state, develop a state drug strategy encompassing the efforts of those agencies and taking into account all money available for demand reduction and supply reduction, from any source;

(2) submit the strategy to the governor and the legislature by January 15 of each year, along with a summary of demand reduction and supply reduction during the preceding calendar year;

(3) assist appropriate professional and occupational organizations, including organizations of law enforcement officers, prosecutors, and educators, in developing and operating informational and training programs to improve the effectiveness of demand reduction and supply reduction; and

(4) provide information and assistance to drug program agencies, both directly and by functioning as a clearinghouse for information from other drug program agencies.

**Sec. 3. [299A.31] DRUG ABUSE PREVENTION RESOURCE COUNCIL; ESTABLISHMENT; MEMBERSHIP.**

Subdivision 1. ESTABLISHMENT; MEMBERSHIP. A drug abuse prevention resource council consisting of 18 members is established. The commissioners of public safety, education, health, human services, and the state planning agency, and the attorney general shall each appoint one member from among their employees. The speaker of the house of representatives and the subcommittee on committees of the senate shall each appoint a legislative member. The governor shall appoint an additional ten members who shall demonstrate knowledge in the area of drug abuse prevention, shall represent the demographic and geographic composition of the state and, to the extent possible, shall represent the following groups: parents, educators, clergy, local gov-

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ernment, racial and ethnic minority communities, professional providers of drug abuse prevention services, volunteers in private, nonprofit drug prevention programs, and the business community. The members shall designate one of the governor's appointees as chair of the council. Compensation and removal of members are governed by section 15.059.

Subd. 2. ACCEPTANCE OF FUNDS AND DONATIONS. The council may accept federal money, gifts, donations, and bequests for the purpose of performing the duties set forth in this section and section 4. The council shall use its best efforts to solicit funds from private individuals and organizations to match state appropriations.

#### Sec. 4. [299A.32] RESPONSIBILITIES OF THE COUNCIL.

Subdivision 1. PURPOSE OF THE COUNCIL. The general purpose of the council is to foster the coordination and development of a statewide drug abuse prevention policy.

Subd. 2. SPECIFIC DUTIES AND RESPONSIBILITIES. In furtherance of the general purpose specified in subdivision 1, the council has the following duties and responsibilities:

- (1) it shall develop a coordinated, statewide drug abuse prevention policy;
- (2) it shall develop a mission statement that defines the roles and relationships of agencies operating within the continuum of chemical health care;
- (3) it shall develop guidelines for drug abuse prevention program development and operation based on its research and program evaluation activities;
- (4) it shall assist local governments and groups in planning, organizing, and establishing comprehensive, community-based drug abuse prevention programs and services;
- (5) it shall coordinate and provide technical assistance to organizations and individuals seeking public or private funding for drug abuse prevention programs, and to government and private agencies seeking to grant funds for these purposes;
- (6) it shall assist providers of drug abuse prevention services in implementing, monitoring, and evaluating new and existing programs and services;
- (7) it shall provide information on and analysis of the relative public and private costs of drug abuse prevention, enforcement, intervention, and treatment efforts; and
- (8) it shall advise the assistant commissioner of the office of drug policy in awarding grants and in other duties.

Subd. 3. ANNUAL REPORT. On or before February 1, 1991, and each

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year thereafter, the council shall submit a written report to the legislature describing its activities during the preceding year, describing efforts that have been made to enhance and improve utilization of existing resources and to identify deficits in prevention efforts, and recommending appropriate changes, including any legislative changes that it considers necessary or advisable in the area of drug abuse prevention policy, programs, or services.

**Sec. 5. [299A.33] DRUG ABUSE RESISTANCE EDUCATION PROGRAM.**

Subdivision 1. PROGRAM. The drug abuse resistance education program assists law enforcement agencies or school districts by providing grants to enable peace officers to undergo the training described in subdivision 3. Grants may be used to cover the cost of the training as well as reimbursement for actual, reasonable travel and living expenses incurred in connection with the training. The commissioner shall administer the program, shall promote it throughout the state, and is authorized to receive money from public and private sources for use in carrying it out. For purposes of this section, "law enforcement agency" means a police department or sheriff's office.

Subd. 2. GRANTS. A law enforcement agency or a school district may apply to the commissioner for a grant under subdivision 1.

Subd. 3. TRAINING PROGRAM. The bureau of criminal apprehension shall develop a program to train peace officers to teach a curriculum on drug abuse resistance in schools. The training program must be approved by the commissioner.

Subd. 4. AVAILABILITY OF PEACE OFFICER TRAINING. The training described in subdivision 3 is available on a voluntary basis to local law enforcement agencies and school districts.

Subd. 5. COORDINATION OF ACTIVITIES. If the commissioner receives grant requests from more than one applicant for programs to be conducted in a single school district, the commissioner shall require the applicants to submit a plan for coordination of their training and programs.

Subd. 6. REPORTS. The commissioner may require grant recipients to account to the director at reasonable time intervals regarding the use of the grants and the training and programs provided.

**Sec. 6. [299A.34] LAW ENFORCEMENT AND COMMUNITY GRANTS.**

Subdivision 1. GRANT PROGRAMS. (a) The commissioner shall develop grant programs to:

(1) assist law enforcement agencies in purchasing equipment, provide under-cover buy money, and pay other nonpersonnel costs; and

(2) assist community and neighborhood organizations in efforts to prevent

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or reduce criminal activities in their areas, particularly activities involving youth and the use and sale of drugs.

(b) The commissioner shall by rule prescribe criteria for eligibility and the award of grants and reporting requirements for recipients.

Subd. 2. SELECTION AND MONITORING. The drug abuse prevention resource council shall assist in the selection and monitoring of grant recipients.

**Sec. 7. [299A.35] COMMUNITY CRIME REDUCTION PROGRAMS; GRANTS.**

Subdivision 1. PROGRAMS. The commissioner shall, in consultation with the drug abuse prevention resource council, administer a grant program to fund community-based programs that are designed to enhance the community's sense of personal security and to assist the community in its crime control efforts. Examples of qualifying programs include, but are not limited to, the following:

(1) programs to provide security systems for residential buildings serving low-income persons, elderly persons, and persons who have physical or mental disabilities;

(2) community-based programs designed to discourage young people from involvement in unlawful drug or street gang activities;

(3) neighborhood block clubs and innovative community-based crime watch programs; and

(4) other community-based crime prevention programs that are innovative and encourage substantial involvement by members of the community served by the program.

Subd. 2. GRANT PROCEDURE. A local unit of government may apply for a grant by submitting an application with the commissioner. The applicant shall specify the following in its application:

(1) a description of each program for which funding is sought;

(2) the amount of funding to be provided to the program;

(3) the geographical area to be served by the program; and

(4) statistical information as to the number of arrests in the geographical area for violent crimes and for crimes involving schedule I and II controlled substances. "Violent crime" includes a violation of or an attempt or conspiracy to violate any of the following laws: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; and any provision of chapter

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152 that is punishable by a maximum term of imprisonment greater than ten years.

The commissioner shall give priority to funding programs in the geographical areas that have the highest crime rates, as measured by the data supplied under clause (4), and that demonstrate substantial involvement by members of the community served by the program. The maximum amount that may be awarded to an applicant is \$25,000.

Subd. 3. REPORT. An applicant that receives a grant under this section shall provide the commissioner with a summary of how the grant funds were spent and the extent to which the objectives of the program were achieved. The commissioner shall submit a written report with the legislature based on the information provided by applicants under this subdivision.

#### Sec. 8. [299A.36] OTHER DUTIES.

The assistant commissioner assigned to the office of drug policy, in consultation with the drug abuse prevention resource council, shall:

(1) provide information and assistance upon request to school preassessment teams established under section 126.034 and school and community advisory teams established under section 126.035;

(2) provide information and assistance upon request to the state board of pharmacy with respect to the board's enforcement of chapter 152;

(3) cooperate with and provide information and assistance upon request to the alcohol and other drug abuse section in the department of human services.

(4) assist in coordinating the policy of the office with that of the narcotic enforcement unit in the bureau of criminal apprehension; and

(5) coordinate the activities of the regional drug task forces, provide assistance and information to them upon request, and assist in the formation of task forces in areas of the state in which no task force operates.

#### Sec. 9. [299A.37] COOPERATION OF OTHER AGENCIES.

State agencies, and agencies and governing bodies of political subdivisions, shall cooperate with the assistant commissioner assigned to the office of drug policy and shall provide any public information requested by the assistant commissioner assigned to the office of drug policy.

#### Sec. 10. [299A.38] SOFT BODY ARMOR REIMBURSEMENT.

Subdivision 1. DEFINITIONS. As used in this section:

(a) "Commissioner" means the commissioner of public safety.

(b) "Peace officer" means a person who is licensed under section 626.84, subdivision 1, paragraph (c).

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(c) "Vest" means bullet-resistant soft body armor that is flexible, concealable, and custom fitted to the peace officer to provide ballistic and trauma protection.

**Subd. 2. STATE AND LOCAL REIMBURSEMENT.** Peace officers and heads of local law enforcement agencies who buy vests for the use of peace officer employees may apply to the commissioner for reimbursement of funds spent to buy vests. On approving an application for reimbursement, the commissioner shall pay the applicant an amount equal to the lesser of one-third of the vest's purchase price or \$165. The political subdivision that employs the peace officer shall pay at least the lesser of one-third of the vest's purchase price or \$165.

**Subd. 3. ELIGIBILITY REQUIREMENTS.** (a) Only vests that either meet or exceed the requirements of standard 0101.01 of the National Institute of Justice in effect on December 30, 1986, or that meet or exceed the requirements of that standard, except wet armor conditioning, are eligible for reimbursement.

(b) Eligibility for reimbursement is limited to vests bought after December 31, 1986, by or for peace officers (1) who did not own a vest meeting the requirements of paragraph (a) before the purchase, or (2) who owned a vest that was at least six years old.

**Subd. 4. RULES.** The commissioner may adopt rules under chapter 14 to administer this section.

**Subd 5. LIMITATION OF LIABILITY.** A state agency, political subdivision of the state, or state or local government employee that provides reimbursement for purchase of a vest under this section is not liable to a peace officer or the peace officer's heirs for negligence in the death of or injury to the peace officer because the vest was defective or deficient.

**Subd. 6. RIGHT TO BENEFITS UNAFFECTED.** A peace officer who is reimbursed for the purchase of a vest under this section and who suffers injury or death because the officer failed to wear the vest, or because the officer wore a vest that was defective or deficient, may not lose or be denied a benefit or right, including a benefit under section 176B.04, to which the officer, or the officer's heirs, is otherwise entitled.

Sec. 11. Minnesota Statutes 1988, section 388.14, is amended to read:

**388.14 CONTINGENT FUND; EXPENSES.**

The county board may set apart yearly a sum, not exceeding ~~\$5,000~~ \$7,500, except in counties containing cities of the first class, where the sum shall not exceed ~~\$7,500~~ \$10,000, as a contingent fund for defraying necessary expenses not especially provided for by law, in preparing and trying criminal cases, conducting investigations by the grand jury, making contributions to a statewide county attorney's organization, and paying the necessary expenses of the county

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attorney incurred in the business of the county. All disbursements from such fund shall be made upon written request of the county attorney by auditor's warrant, countersigned by a judge of the district court. Any balance remaining at the end of the year shall be transferred to the revenue fund.

#### Sec. 12. STUDY AND REPORT.

In consultation with the drug abuse prevention resource council, the assistant commissioner of the office of drug policy shall review existing drug abuse prevention programs and shall develop and recommend to the governor and the legislature a statewide drug abuse prevention policy that emphasizes local efforts and a coordinated approach. The policy must seek to make most efficient use of available money and other resources and to use existing agencies or organizations whenever possible. The report and recommendations must be submitted before January 1, 1991.

#### Sec. 13. TRANSFER OF DRUG PREVENTION PROGRAM.

Responsibility to administer the federal Anti-Drug Abuse Act in Minnesota is transferred under Minnesota Statutes, section 15.039, from the commissioner of state planning to the commissioner of public safety.

#### Sec. 14. EFFECTIVE DATE.

Sections 1 to 9 and 12 are effective the day following final enactment. Section 13 is effective October 1, 1989.

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## ARTICLE 10

### DRIVING WHILE INTOXICATED PROVISIONS

Section 1. Minnesota Statutes 1988, section 169.121, subdivision 1, is amended to read:

Subdivision 1. **CRIME.** It is a ~~misdemeanor~~ crime for any person to drive, operate, or be in physical control of any motor vehicle within this state or upon the ice of any boundary water of this state:

- (a) when the person is under the influence of alcohol;
- (b) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;
- (c) when the person is under the influence of a combination of any two or more of the elements named in clauses (a), (b), and (f);
- (d) when the person's alcohol concentration is 0.10 or more;

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(e) when the person's alcohol concentration as measured within two hours of the time of driving is 0.10 or more; or

(f) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle.

Sec. 2. Minnesota Statutes 1988, section 169.121, subdivision 1a, is amended to read:

Subd. 1a. **REFUSAL TO SUBMIT TO TESTING; CRIME.** It is a crime for any person to refuse to submit to a chemical test of the person's blood, breath, or urine under section 169.123 if the person's license has been revoked once within the past five years, or two or more times within the past ten years, under any of the following: this section, or section 169.123, 609.21, subdivision 1, clause (2) or (3), 609.21, subdivision 2, clause (2) or (3), 609.21, subdivision 3, clause (2) or (3), or 609.21, subdivision 4, clause (2) or (3).

Subd. 1b. ARREST. A peace officer may lawfully arrest a person for violation of subdivision 1 without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

When a peace officer has probable cause to believe that a person is driving or operating a motor vehicle in violation of subdivision 1, and before a stop or arrest can be made the person escapes from the geographical limits of the officer's jurisdiction, the officer in fresh pursuit of the person may stop or arrest the person in another jurisdiction within this state and may exercise the powers and perform the duties of a peace officer under sections 169.121 and 169.123. An officer acting in fresh pursuit pursuant to this subdivision is serving in the regular line of duty as fully as though within the officer's jurisdiction.

The express grant of arrest powers in this subdivision does not limit the arrest powers of peace officers pursuant to sections 626.65 to 626.70 or section 629.40 in cases of arrests for violation of subdivision 1 or any other provision of law.

Sec. 3. Minnesota Statutes 1988, section 169.121, subdivision 3, is amended to read:

Subd. 3. **CRIMINAL PENALTIES.** (a) A person who violates this section or an ordinance in conformity with it is guilty of a misdemeanor.

The following persons are guilty of a gross misdemeanor:

(a) (b) A person is guilty of a gross misdemeanor who violates this section or an ordinance in conformity with it within five years of a prior impaired driving conviction under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them; and

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~~(b) A person who violates this section or an ordinance in conformity with it, or within ten years of two or more prior impaired driving convictions under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them. For purposes of this subdivision paragraph, a prior impaired driving conviction is a prior conviction under this section, section 84.91, subdivision 1, paragraph (a), section 169.129, section 361.12, subdivision 1, section 609.21, subdivision 1, clause (2) or (3), 609.21, subdivision 2, clause (2) or (3), 609.21, subdivision 3, clause (2) or (3), 609.21, subdivision 4, clause (2) or (3), or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior impaired driving conviction also includes a prior juvenile adjudication under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them is a prior conviction that would have been a prior impaired driving conviction if committed by an adult.~~

(c) A person who violates subdivision 1a is guilty of a gross misdemeanor.

(d) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to ~~previous prior impaired driving convictions under this section~~ from a court, the court must furnish the information without charge.

Sec. 4. Minnesota Statutes 1988, section 169.121, subdivision 3b, is amended to read:

Subd. 3b. **HABITUAL OFFENDERS; CHEMICAL USE TREATMENT.** If a person has been convicted under ~~this section~~ subdivision 1, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them, and if the person is then convicted of violating ~~this section~~ subdivision 1, section 169.129, or an ordinance in conformity with either of them (1) once within five years of the first conviction or (2) two or more times within ten years after the first conviction, the court must order the person to submit to the level of care recommended in the chemical use assessment required under section 169.126.

If a person is convicted under section 169.121, subdivision 1a, the court shall order the person to submit to the level of care recommended in the chemical use assessment required under section 169.126.

Sec. 5. Minnesota Statutes 1988, section 169.123, subdivision 2, is amended to read:

Subd. 2. **IMPLIED CONSENT; CONDITIONS; ELECTION AS TO TYPE OF TEST.** (a) Any person who drives, operates, or is in physical control of a

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motor vehicle within this state or upon the ice of any boundary water of this state consents, subject to the provisions of this section and section 169.121, to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence of alcohol or a controlled substance. The test shall be administered at the direction of a peace officer. The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and one of the following conditions exist: (1) the person has been lawfully placed under arrest for violation of section 169.121, or an ordinance in conformity with it; or (2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death; or (3) the person has refused to take the screening test provided for by section 169.121, subdivision 6; or (4) the screening test was administered and recorded an alcohol concentration of 0.10 or more.

(b) At the time a test is requested, the person shall be informed:

(1) that Minnesota law requires the person to take a test to determine if the person is under the influence of alcohol or a controlled substance;

(2) that if testing is refused, the person may be subject to criminal penalties, and the person's right to drive will be revoked for a minimum period of one year or, if the person is under the age of 18 years, for a period of one year or until the person reaches the age of 18 years, whichever is greater;

(3) that if a test is taken and the results indicate that the person is under the influence of alcohol or a controlled substance, the person will be subject to criminal penalties and the person's right to drive may be revoked for a minimum period of 90 days or, if the person is under the age of 18 years, for a period of six months or until the person reaches the age of 18 years, whichever is greater;

(4) that after submitting to testing, the person has the right to consult with an attorney and to have additional tests made by someone of the person's own choosing; and

(5) that if the person refuses to take a test, the refusal will be offered into evidence against the person at trial.

(c) The peace officer who requires a test pursuant to this subdivision may direct whether the test shall be of blood, breath, or urine. Action may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

Sec. 6. Minnesota Statutes 1988, section 169.126, subdivision 4, is amended to read:

Subd. 4. **CHEMICAL USE ASSESSMENT.** (a) Except as otherwise pro-

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vided in paragraph (d), when an alcohol problem screening shows that the defendant has an identifiable chemical use problem, the court shall require the defendant to undergo a comprehensive chemical use assessment conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. Notwithstanding section 13.82, the assessor shall have access to any police reports, laboratory test results, and other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. An assessor providing a chemical use assessment for the court may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the court may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An appointment for the defendant to undergo the chemical use assessment shall be made by the court, a court services probation officer, or the court administrator as soon as possible but in no case more than one week after the defendant's court appearance. The comprehensive chemical use assessment must be completed no later than ~~two~~ three weeks after the appointment date defendant's court appearance. If the assessment is not performed within this time limit, the county where the defendant is to be sentenced shall perform the assessment. The county of financial responsibility shall be determined under chapter 256G.

(b) The chemical use assessment report must include a recommended level of care for the defendant in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3.

(c) The state shall reimburse the county for the entire cost of each chemical use assessment and report at a rate established by the department of human services up to a maximum of \$100 in each case. The county may not be reimbursed for the cost of any chemical use assessment or report not completed within the time limit provided in this subdivision. Reimbursement to the county must be made from the special account established in subdivision 4a.

(d) If the preliminary alcohol problem screening is conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3, consists of a comprehensive chemical use assessment of the defendant, and complies with the chemical use assessment report requirements of paragraph (b), it is a chemical use assessment for the purposes of this section and the court may not require the defendant to undergo a second chemical use assessment under paragraph (a). The state shall reimburse counties for the cost of alcohol problem screenings that qualify as chemical use assessments under this paragraph in the manner provided in paragraph (c) in lieu of the reimbursement provisions of section 169.124, subdivision 3.

Sec. 7. Minnesota Statutes 1988, section 609.21, is amended to read:

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**609.21 CRIMINAL VEHICULAR OPERATION.**

Subdivision 1. **RESULTING IN DEATH.** Whoever causes the death of a human being not constituting murder or manslaughter as a result of operating a vehicle as defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in death and may be sentenced to imprisonment for not more than ~~five~~ ten years or to payment of a fine of not more than ~~\$10,000~~ \$20,000, or both.

Subd. 2. **RESULTING IN INJURY.** Whoever causes great bodily harm to another, as defined in section 609.02, subdivision 8, not constituting attempted murder or assault as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in injury and may be sentenced to imprisonment for not more than ~~three~~ five years or the payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

Subd. 3. **RESULTING IN DEATH TO AN UNBORN CHILD.** Whoever causes the death of an unborn child as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more, is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ~~five~~ ten years or to payment of a fine of not more than ~~\$10,000~~ \$20,000, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4. **RESULTING IN INJURY TO UNBORN CHILD.** Whoever causes great bodily harm, as defined in section 609.02, subdivision 8, to an unborn child who is subsequently born alive, as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more, is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than ~~three~~ five years or to payment of a fine of not more than ~~\$5,000~~ \$10,000, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 8. **EFFECTIVE DATE.**

Sections 1 to 7 are effective August 1, 1989, and apply to crimes committed and violations occurring on or after that date.

ARTICLE 11

COMMUNITY RESOURCE PROGRAM

Section 1. [466A.01] **DEFINITIONS.**

Subdivision 1. SCOPE. The definitions in this section apply to sections 1 to 8.

Subd. 2. CITY. "City" means a city of the first class as defined in section 410.01.

Subd. 3. CITY COUNCIL. "City council" means the city council of a city as defined in subdivision 2.

Subd. 4. COMMUNITY RESOURCE PROGRAM. "Community resource program" or "program" means a community resource program adopted according to section 3.

Subd. 5. TARGETED NEIGHBORHOOD. "Targeted neighborhood" means an area including one or more census tracts as determined and measured by the Bureau of Census of the United States Department of Commerce that a city council determines by resolution meets the criteria of section 2, subdivision 2, and any additional area designated under section 2.

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**Subd. 6. ASSISTED HOUSING.** “Assisted housing” means:

(1) the housing is either owned or under the control of a housing agency and is used in a manner authorized by sections 469.001 to 469.047;

(2) the housing is defined as an emergency shelter or transitional housing under section 272.02, clause (12) or (19);

(3) the housing is classified as class 5c property under section 273.13, subdivision 25, paragraph (c), clause (4); or

(4) the housing is a building that receives a low-income housing credit under section 242 of the Internal Revenue Code of 1986; or which meets the requirements of that section, and was under construction or rehabilitation prior to May 1, 1988.

**Sec. 2. [466A.02] DESIGNATION OF TARGETED NEIGHBORHOODS.**

**Subdivision 1. CITY AUTHORITY.** A city may by resolution designate targeted neighborhoods within its borders after adopting detailed findings that the neighborhoods meet the eligibility requirements in subdivision 2 or 3.

**Subd. 2. ELIGIBILITY REQUIREMENTS FOR TARGETED NEIGHBORHOODS.** An area within a city is eligible for designation as a targeted neighborhood if the area meets at least two of the following criteria:

(1) the area had an unemployment rate that was twice the unemployment rate for the Minneapolis and St. Paul standard metropolitan statistical area as determined by the 1980 federal census;

(2) the median household income in the area was no more than half the median household income for the Minneapolis and St. Paul standard metropolitan statistical area as determined by the 1980 federal census; or

(3) the area is characterized by residential dwelling units in need of substantial rehabilitation. An area qualifies under this clause if 25 percent or more of the residential dwelling units are in substandard condition as determined by the city or 70 percent or more of the residential dwelling units were built before 1940 as determined by the 1980 federal census.

**Subd. 3. ADDITIONAL AREA ELIGIBLE FOR INCLUSION IN TARGETED NEIGHBORHOOD.** (a) The city may add to the area designated as a targeted neighborhood under subdivision 2 a contiguous area of one-half mile in all directions from the designated targeted neighborhood.

(b) Assisted housing is also considered a targeted neighborhood.

**Sec. 3. [466A.03] COMMUNITY RESOURCES PROGRAMS.**

**Subdivision 1. COMMUNITY RESOURCES PROGRAM; REQUIREMENT.** A city must prepare a comprehensive community resources program.

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The program must describe the specific community resource services and means by which the city intends to pursue and implement the program objectives outlined in subdivision 2 for each targeted neighborhood served under the program and the community initiatives program described in section 4.

**Subd. 2. COMMUNITY RESOURCES PROGRAM OBJECTIVES.** A community resources program must address at least the following objectives:

- (1) increasing community safety and reducing crime;
- (2) enhancing family stability including school readiness;
- (3) providing opportunities for residents to become self-supporting; and
- (4) building the capacity of neighborhood-based organizations to create cohesiveness and stability in their communities.

**Subd. 3. COMMUNITY PARTICIPATION.** A city must adopt a process to involve the residents in targeted neighborhoods in planning, developing, and implementing the community resource program.

**Subd. 4. ADVISORY COMMITTEE.** The city council of a city requesting state financial assistance under section 5 shall establish an advisory council to assist the city in developing and implementing a community resource program. The advisory committee may include, but is not limited to: city council members, county commissioners, school board members, community service representatives, business community representatives, and resident representatives of targeted neighborhoods. The city may designate an existing entity as the advisory committee if the entity meets the membership requirements outlined in this subdivision.

**Subd. 5. PROGRAM APPROVAL.** A city may approve or modify a community resource program only after holding a public hearing. Notice of the hearing must be provided in a newspaper of general circulation in the city and in the targeted neighborhoods not less than ten days nor more than 30 days before the date of the hearing. In addition, the notice shall be published in the most widely circulated community newspaper in the targeted neighborhoods.

#### **Sec. 4. [466A.04] COMMUNITY INITIATIVES PROGRAM.**

A city may establish a community initiatives program as part of the community resource plan. No more than ten percent of the community resource money may be distributed under the community initiatives program. State money used for the community initiatives program must be used for implementing activities included in the community resources program. Financial assistance or service contracts awarded to a single nonprofit organization under this subdivision are limited to \$10,000 annually.

#### **Sec. 5. [466A.05] PAYMENT AND ALLOCATION.**

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Subdivision 1. PAYMENT OF STATE MONEY. Upon receiving from a city the certification that a community resources program has been adopted or modified, the commissioner of state planning shall, within 30 days after receiving the certification, pay to the city the amount of state money identified as necessary to implement the community resources program. State money may be paid to the city only to the extent that the appropriation limit for the city specified in subdivision 2 is not exceeded.

Subd. 2. ALLOCATION. Appropriation to each city shall be in proportion to the city's portion of the combined population of the cities. The population of each city is determined by the most recent estimates available to the commissioner.

**Sec. 6. [466A.06] ELIGIBLE USES FOR COMMUNITY RESOURCE MONEY.**

Subdivision 1. ELIGIBLE USES. The city may use up to 20 percent of the community resource money for low-income housing needs and economic development in targeted neighborhoods. Not more than 40 percent of this amount may be used to address low-income housing needs citywide.

If a resident of a targeted neighborhood is a recipient of resource services and moves to a residence in another part of the city, eligibility continues for the community resources services.

Subd. 2. WAY TO GROW. The city of Minneapolis shall spend \$350,000 of the funds received by the city under section 5 on the Minneapolis way to grow program.

**Sec. 7. [466A.07] CITY POWERS.**

A city may exercise any of its corporate powers in implementing the community resources program. In addition to the authority granted by other law, a city, through a request for proposal process, may make grants, loans, and other forms of assistance to and enter into service contracts with, individuals, for profit and nonprofit corporations, and other organizations to implement a community resources program.

**Sec. 8. [466A.08] ANNUAL REPORT.**

A city must provide an annual report on the status of the program implementation and analyze whether the intended objectives are being achieved. The report should be presented to the commissioner and the legislature.

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## ARTICLE 12

## MULTIDISCIPLINARY CHEMICAL ABUSE PREVENTION TEAM

## Section 1. [299A.40] MULTIDISCIPLINARY CHEMICAL ABUSE PREVENTION TEAM.

Subdivision 1. ESTABLISHMENT OF TEAM. A county, a multicounty organization of counties formed by an agreement under section 471.59, or a city with a population of no more than 50,000, may establish a multidisciplinary chemical abuse prevention team. The chemical abuse prevention team may include, but not be limited to, representatives of health, mental health, public health, law enforcement, educational, social service, court service, community education, religious, and other appropriate agencies, and parent and youth groups. For purposes of this section, "chemical abuse" has the meaning given in Minnesota Rules, part 9530.6605, subpart 6. When possible the team must coordinate its activities with existing local groups, organizations, and teams dealing with the same issues the team is addressing.

Subd. 2. DUTIES OF TEAM. (a) A multidisciplinary chemical abuse prevention team shall:

(1) assist in coordinating chemical abuse prevention and treatment services provided by various groups, organizations, and agencies in the community;

(2) disseminate information on the chemical abuse prevention and treatment services that are available within the community in which the team is established;

(3) develop and conduct educational programs on chemical abuse prevention for adults and youth within the community in which the team is established;

(4) conduct activities to address other high-risk behaviors related to chemical abuse, including, but not limited to, suicide, delinquency, and family violence; and

(5) conduct other appropriate chemical abuse prevention activities.

(b) The team, in carrying out its duties under this subdivision, must focus on chemical abuse issues and needs unique to the community in which the team is established. In defining the needs and goals of the team, the team shall consult with the governmental body of the city or county in which the team is established. When a team is established in a multicounty area, the team shall consult with representatives of the county boards of each county.

(c) The team, in carrying out its duties, shall comply with the government data practices act in chapter 13, and requirements for confidentiality of records under Code of Federal Regulations, title 42, sections 2.1 to 2.67, as amended through December 31, 1988, and section 254A.09.

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**Subd. 3. GRANTS FOR DEMONSTRATION PROGRAM.** The assistant commissioner of the office of drug policy may award a grant to a county, multicounty organization, or city, as described in subdivision 1, for establishing and operating a multidisciplinary chemical abuse prevention team. The assistant commissioner may approve up to five applications for grants under this subdivision. The grant funds must be used to establish a multidisciplinary chemical abuse prevention team to carry out the duties in subdivision 2.

**Subd. 4. ASSISTANT COMMISSIONER; ADMINISTRATION OF GRANTS.** The assistant commissioner shall develop a process for administering grants under subdivision 3. The process must be compatible with the community grant program administered by the state planning agency under the Drug Free Schools and Communities Act, Public Law Number 100-690. The process for administering the grants must include establishing criteria the assistant commissioner shall apply in awarding grants. The assistant commissioner shall issue requests for proposals for grants under subdivision 3. The request must be designed to obtain detailed information about the applicant and other information the assistant commissioner considers necessary to evaluate and select a grant recipient. The applicant shall submit a proposal for a grant on a form and in a manner prescribed by the assistant commissioner. The assistant commissioner shall award grants under this section so that 50 percent of the funds appropriated for the grants go to the metropolitan area comprised of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties, and 50 percent of the funds go to the area outside the metropolitan area. The process for administering the grants must also include procedures for monitoring the recipients' use of grant funds and reporting requirements for grant recipients.

**Sec. 2. MONITORING AND REPORT OF CHEMICAL ABUSE PREVENTION TEAMS.**

The assistant commissioner of the office of drug policy shall monitor the activities of teams funded under the demonstration program for multidisciplinary chemical abuse prevention teams under section 1, and report to the legislature on or before January 1, 1991, on the teams' operation and progress.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:40 p.m.

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**CHAPTER 291—H.F.No. 630**

*An act relating to elections; changing or clarifying provisions governing absentee voting, mail elections, election day activities, ballots, canvassing, municipal elections, school district elections, voting systems, election contests, and financial reporting; clarifying provisions relating to reports and statements of the ethical practices board; providing for a presidential primary election; regulating the selection of convention delegates; imposing penalties; amend-*

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