

Section 1 is effective the day following final enactment.

Presented to the governor May 23, 1995

Signed by the governor May 25, 1995, 9:17 a.m.

CHAPTER 244—H.F.No. 980

An act relating to crime; clarifying language relating to controlled substance and certain other crimes; clarifying the elements of murder in the first degree, witness tampering, and burglary in the first degree; providing that a motor vehicle is subject to forfeiture if it was used to flee a peace officer in violation of law; providing procedures for prosecuting attorneys to follow when filing complaints against owners whose buildings are alleged nuisances; amending the elements of manslaughter in the first degree, manslaughter in the second degree, and receiving profits from prostitution; requiring reports on wounds received from gunshots; expanding the definition of electronic incapacitation device and increasing the penalty for its unauthorized use; authorizing sentencing courts to order the payment of restitution to victim assistance programs; providing penalties for engaging in certain acts relating to civil disorders; clarifying the definition of "theft"; clarifying the prerequisites for obtaining a search warrant; adding a fine provision to the terroristic threats crime; authorizing peace officers to detain probationers based on an order from the chief executive officer of a community corrections agency; requiring certain information to be gathered from crime victims and presented at bail hearings; requiring notification to certain victims of bail hearings; requiring notification to local law enforcement agencies of the pretrial release of certain defendants; codifying the establishment of a criminal alert network; prohibiting the dissemination of false or misleading information on the criminal alert network; clarifying procedures governing disposition of seized animals; providing penalties; amending Minnesota Statutes 1994, sections 152.021, subdivision 3; 152.022, subdivision 3; 152.023, subdivision 3; 152.024, subdivision 3; 152.025, subdivision 3; 343.235; 343.29, subdivision 1; 401.02, subdivision 4; 609.10; 609.125; 609.185; 609.20; 609.205; 609.323, subdivisions 2, 3, and by adding a subdivision; 609.498, subdivision 1; 609.52, subdivision 1; 609.5312, by adding a subdivision; 609.582, subdivision 1; 609.713, subdivisions 1 and 2; 617.80, subdivisions 2, 4, 5, 8, and by adding a subdivision; 617.81, subdivision 2, and by adding a subdivision; 617.82; 617.85; 624.731, subdivisions 1 and 8; 626.13; 626.53; and 629.715, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 299A; 609; and 629; repealing Minnesota Statutes 1994, sections 617.81, subdivisions 2a and 3.

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

Section 1. Minnesota Statutes 1994, section 152.021, subdivision 3, is amended to read:

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.

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

(c) In a prosecution under subdivision 1 involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

Sec. 2. Minnesota Statutes 1994, section 152.022, subdivision 3, is amended to read:

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 committed to the commissioner of corrections for not less than three years nor more than 40 years ~~or~~ and, in addition, may be sentenced to payment of a fine of not more than \$500,000; ~~or both.~~

(c) In a prosecution under subdivision 1 involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

Sec. 3. Minnesota Statutes 1994, section 152.023, subdivision 3, is amended to read:

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 committed to the commissioner of corrections for not less than two years nor more than 30 years ~~or~~ and, in addition, may be sentenced to payment of a fine of not more than \$250,000; ~~or both.~~

Sec. 4. Minnesota Statutes 1994, section 152.024, subdivision 3, is amended to read:

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 committed to the commissioner of corrections or to a local correctional authority for not less than one year nor more than 30 years ~~or~~ and, in addition, may be sentenced to payment of a fine of not more than \$100,000; ~~or both.~~

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Sec. 5. Minnesota Statutes 1994, section 152.025, subdivision 3, is amended to read:

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 committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years ~~or~~ and, in addition, may be sentenced to payment of a fine of not more than \$20,000; ~~or both.~~

Sec. 6. [299A.61] **CRIMINAL ALERT NETWORK.**

The commissioner of public safety, in cooperation with the commissioner of administration, shall develop and maintain an integrated criminal alert network to facilitate the communication of crime prevention information by electronic means among state agencies, law enforcement officials, and the private sector. The network shall disseminate data regarding the commission of crimes, including information on missing and endangered children, and attempt to reduce theft and other crime by the use of electronic transmission of information.

Sec. 7. Minnesota Statutes 1994, section 343.235, is amended to read:

343.235 **DISPOSITION OF SEIZED ANIMALS.**

Subdivision 1. **GENERAL RULE.** An animal taken into custody under section 343.22 or 343.29 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ~~seven ten~~ days after the animal is taken into custody, provided that the procedures in subdivision 3 are followed. An animal raised for food or fiber products may not be seized or disposed of without prior examination by a licensed veterinarian pursuant to a warrant issued by a judge.

Subd. 2. **SECURITY.** A person claiming an interest in an animal in custody under subdivision 1 may prevent disposition of the animal by posting a ~~bond~~ or security in an amount sufficient to provide for the animal's actual costs of care and keeping ~~for at least 30 days, inclusive of the date on which the animal was taken into custody. Even if a bond or security is posted, the authority having custody of the animal may humanely dispose of the animal at the end of the time for which expenses of care and keeping are covered by the bond or security, unless there is a court order prohibiting the disposition. The order must provide for a bond or other security in the amount necessary to protect the authority having custody of the animal from any cost of the care, keeping, or disposal of the animal. The security must be posted within ten days of the seizure inclusive of the date of the seizure.~~

Subd. 3. **NOTICE; RIGHT TO HEARING.** (a) The authority taking cus-

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tody of an animal under section 343.22 or 343.29 shall give notice of this section by delivering or mailing it to a person claiming an interest in the animal or by posting a copy of it at the place where the animal is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

(1) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, telephone number, and contact person where the animal is kept;

(2) a statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(3) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing under this subdivision.

(b) Upon request of a person claiming an interest in the animal, which request must be made within ten days of the date of seizure, a hearing must be held within five business days of the request, to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under section 343.22, the hearing must be conducted by the judge who issued the warrant. If the seizure was done under section 343.29, the municipality taking custody of the animal or, in the case of a humane society, the municipality from which the animal was seized, may either (1) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party or (2) use the services of a hearing officer to conduct the hearing. A person claiming an interest in the animal who is aggrieved by a decision of a hearing officer under this subdivision may seek a court order governing the seizure or impoundment within five days of notice of the order.

(c) The judge or hearing officer may authorize the return of the animal, if the judge or hearing officer finds that:

(1) the animal is physically fit; and

(2) the person claiming an interest in the animal can and will provide the care required by law for the animal.

(d) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justi-

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fied by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before return of the animal to the person.

Sec. 8. Minnesota Statutes 1994, section 343.29, subdivision 1, is amended to read:

Subdivision 1. **DELIVERY TO SHELTER.** Any peace officer, animal control officer, or agent of the federation or county or district societies for the prevention of cruelty, may remove, shelter, and care for any animal which is not properly sheltered from cold, hot, or inclement weather or any animal not properly fed and watered, or provided with suitable food and drink in circumstances that threaten the life of the animal. When necessary, a peace officer, animal control officer, or agent may deliver the animal to another person to be sheltered and cared for, and furnished with suitable food and drink. In all cases, the owner, if known, shall be immediately notified as provided in section 343.235, subdivision 3, and the person having possession of the animal, shall have a lien thereon for its actual costs of care and keeping and the expenses of the notice. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ~~seven~~ ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in section 343.235.

Sec. 9. Minnesota Statutes 1994, section 401.02, subdivision 4, is amended to read:

Subd. 4. **DETAINING PERSON ON CONDITIONAL RELEASE OR PROBATION.** (a) The written order of the chief executive officer or designee of a community corrections agency established under this chapter is sufficient authority for peace officers and probation officers serving the district and juvenile courts of participating counties participating in the subsidy program established by this chapter may, without order or warrant, when it appears necessary to prevent escape or enforce discipline, to take and detain a probationer, or any person on conditional release and bring that person before the court or the commissioner of corrections or a designee, whichever is appropriate, for disposition. No probationer or other person on conditional release shall be detained more than 72 hours, exclusive of legal holidays, Saturdays and Sundays, pursuant to this subdivision without being provided with the opportunity for a hearing before the court or the commissioner of corrections or a designee.

(b) The written order of the chief executive officer or designee of a community corrections agency established under this chapter is sufficient authority for probation officers serving the district and juvenile courts of participating counties to release within 72 hours, exclusive of legal holidays, Saturdays, and Sundays, without appearance before the court or the commissioner of corrections or a designee, any person detained pursuant to paragraph (a).

(c) When providing supervision and other correctional services to persons conditionally released pursuant to sections 241.26, 242.19, 243.05, 243.16,

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244.05, and 244.065, including intercounty transfer of persons on conditional release, and the conduct of presentence investigations, participating counties shall comply with the policies and procedures relating thereto as prescribed by the commissioner of corrections.

~~(b)~~ (d) The written order of the chief executive officer or designee of a community corrections agency established under this chapter is sufficient authority for any peace officer or county probation officer to take and place in actual custody any person under sentence or on probation who:

(1) fails to report to serve a sentence at a local correctional facility, as defined in section 241.021, subdivision 1;

(2) fails to return from furlough or authorized temporary release from a local correctional facility;

(3) escapes from a local correctional facility; or

(4) absconds from court-ordered home detention.

~~(e)~~ (e) The written order of the chief executive officer or designee of a community corrections agency established under this chapter is sufficient authority for any peace officer or county probation officer to take and place in actual custody any person on a court authorized pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release.

Sec. 10. Minnesota Statutes 1994, section 609.10, is amended to read:

609.10 SENTENCES AVAILABLE.

Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

(1) to life imprisonment; or

(2) to imprisonment for a fixed term of years set by the court; or

(3) to both imprisonment for a fixed term of years and payment of a fine; or

(4) to payment of a fine without imprisonment or to imprisonment for a fixed term of years if the fine is not paid; or

(5) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(6) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

As used in this section, "restitution" includes:

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- (i) payment of compensation to the victim or the victim's family; and
(ii) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

Sec. 11. Minnesota Statutes 1994, section 609.125, is amended to read:

609.125 SENTENCE FOR MISDEMEANOR OR GROSS MISDEMEANOR.

Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

- (1) to imprisonment for a definite term; or
- (2) to payment of a fine, or to imprisonment for a specified term if the fine is not paid; or
- (3) to both imprisonment for a definite term and payment of a fine; or
- (4) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or
- (5) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

As used in this section, "restitution" includes:

- (i) payment of compensation to the victim or the victim's family; and
(ii) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

Sec. 12. Minnesota Statutes 1994, 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, escape from custody, or any felony violation of chapter 152 involving the unlawful sale of a controlled substance;

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(4) causes the death of a peace officer or a guard employed at a Minnesota state or local 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;

(5) causes the death of a minor ~~under circumstances other than those described in clause (1) or (2)~~ while committing 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; or

(6) causes the death of a human being ~~under circumstances other than those described in clause (1), (2), or (5)~~ while committing domestic abuse, when the perpetrator has engaged in a past pattern of domestic abuse upon the victim 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 the following laws of this state or any similar laws of the United States or any other state: section 609.221; 609.222; 609.223; 609.224; 609.342; 609.343; 609.344; 609.345; 609.377; 609.378; or 609.713.

For purposes of clause (6), "domestic abuse" means an act that:

(1) constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.342, 609.343, 609.344, 609.345, 609.713, or any similar laws of the United States or any other state; and

(2) is committed against the victim who is a family or household member as defined in section 518B.01, subdivision 2, paragraph (b).

Sec. 13. Minnesota Statutes 1994, section 609.20, is amended to read:

609.20 MANSLAUGHTER IN THE FIRST DEGREE.

Whoever does any of the following is guilty of manslaughter in the first degree and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both:

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

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

(3) intentionally causes the death of another person because the actor is

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

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

(5) causes the death of another in committing or attempting to commit a violation of section 609.377 (malicious punishment of a child), and murder in the first, second, or third degree is not committed thereby.

As used in this section, a "person of ordinary self-control" does not include a person under the influence of intoxicants or a controlled substance.

Sec. 14. Minnesota Statutes 1994, 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 ten years or to payment of a fine of not more than \$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 harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined; or

(5) by committing or attempting to commit a violation of section 609.378 (neglect or endangerment of a child), and murder in the first, second, or third degree is not committed thereby.

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. 15. Minnesota Statutes 1994, section 609.323, subdivision 2, is amended to read:

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Subd. 2. Whoever, ~~not related by blood, adoption, or marriage to the prostitute,~~ 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 in circumstances described in section 609.322, subdivision 2, clause (3), may be sentenced to not more than three years imprisonment or to payment of a fine of not more than \$5,000, or both.

Sec. 16. Minnesota Statutes 1994, section 609.323, subdivision 3, is amended to read:

Subd. 3. Whoever, ~~not related by blood, adoption, or marriage to the prostitute,~~ 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 18 years of age or above 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.

Sec. 17. Minnesota Statutes 1994, section 609.323, is amended by adding a subdivision to read:

Subd. 3a. EXCEPTIONS. Subdivisions 1a, 2, and 3 do not apply to a minor who is dependent on an individual acting as a prostitute and who may have benefited from or been supported by the individual's earnings derived from prostitution.

Sec. 18. Minnesota Statutes 1994, section 609.498, subdivision 1, is amended to read:

Subdivision 1. **TAMPERING WITH A WITNESS IN THE FIRST DEGREE.** Whoever does any of the following is guilty of tampering with a witness in the first degree and may be sentenced as provided in subdivision 1a:

(a) intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of force or threats of injury to any person or property, a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law;

(b) by means of force or threats of injury to any person or property, intentionally coerces or attempts to coerce a person who is or may become a witness to testify falsely at any trial, proceeding, or inquiry authorized by law;

(c) intentionally causes injury or threatens to cause injury to any person or property in retaliation against a person who was summoned as a witness at any trial, proceeding, or inquiry authorized by law, within a year following that trial, proceeding, or inquiry or within a year following the actor's release from incarceration, whichever is later;

(d) intentionally prevents or dissuades or attempts to prevent or dissuade, by means of force or threats of injury to any person or property, a person from providing information to law enforcement authorities concerning a crime;

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(e) by means of force or threats of injury to any person or property, intentionally coerces or attempts to coerce a person to provide false information concerning a crime to law enforcement authorities; or

(f) intentionally causes injury or threatens to cause injury to any person or property in retaliation against a person who has provided information to law enforcement authorities concerning a crime within a year of that person providing the information or within a year of the actor's release from incarceration, whichever is later.

Sec. 19. [609.5051] CRIMINAL ALERT NETWORK; DISSEMINATION OF FALSE OR MISLEADING INFORMATION PROHIBITED.

Whoever uses the criminal alert network under section 299A.61 to disseminate information regarding the commission of a crime knowing that it is false or misleading, is guilty of a misdemeanor.

Sec. 20. Minnesota Statutes 1994, section 609.52, subdivision 1, is amended to read:

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 check, draft, or other order for the payment of money, "value" means the amount of money promised or ordered to be paid under the terms of the check, draft, or other order. 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

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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 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.

Sec. 21. Minnesota Statutes 1994, section 609.5312, is amended by adding a subdivision to read:

Subd. 4. VEHICLE FORFEITURE FOR FLEEING A PEACE OFFICER.

(a) A motor vehicle is subject to forfeiture under this subdivision if it was used to commit a violation of section 609.487 and endanger life or property. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense. Except as otherwise provided in this subdivision, a forfeiture under this subdivision is governed by sections 609.531, 609.5312, 609.5313, and 609.5315, subdivision 6.

(b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance of a judicial forfeiture order, a hearing before a judge or referee must be held within 96 hours of the seizure. Notice of the hearing must be

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given to the registered owner within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of the hearing, that it has filed or intends to file charges against the alleged violator for violating section 609.487. After conducting the hearing, the court shall order that the motor vehicle be returned to the owner if:

(1) the prosecutor has failed to make the certification required by this paragraph;

(2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the owner has a defense to the forfeiture, including but not limited to the defenses contained in subdivision 2; or

(3) the court determines that seizure of the vehicle creates or would create an undue hardship for members of the owner's family.

(c) If the defendant is acquitted or the charges against the defendant are dismissed, neither the owner nor the defendant is responsible for paying any costs associated with the seizure or storage of the vehicle.

(d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180 days or less is not subject to forfeiture under this subdivision.

Sec. 22. Minnesota Statutes 1994, section 609.582, subdivision 1, is amended to read:

Subdivision 1. **BURGLARY IN THE FIRST DEGREE.** Whoever enters a building without consent and with intent to commit a crime, or enters a building without consent and commits a crime while in the building, commits burglary in the first degree and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$35,000, or both, if:

(a) the building is a dwelling and another person, not an accomplice, is present in it when the burglar enters or at any time while the burglar is in the building;

(b) the burglar possesses, when entering or at any time while in the building, any of the following: a dangerous weapon, any article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon, or an explosive; or

(c) the burglar assaults a person within the building or on the building's appurtenant property.

Sec. 23. **[609.669] CIVIL DISORDER.**

Subdivision 1. PROHIBITED ACTS. (a) A person is guilty of a gross misdemeanor who:

(1) teaches or demonstrates to any other person how to use or make any

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firearm, or explosive or incendiary device capable of causing injury or death, knowing or having reason to know that it will be unlawfully employed for use in, or in furtherance of, a civil disorder; or

(2) assembles with one or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, or explosive or incendiary device capable of causing injury or death, with the intent that it be unlawfully employed for use in, or in furtherance of, a civil disorder.

(b) This section does not apply to law enforcement officers engaged in the lawful performance of the officer's official duties.

Subd. 2. DEFINITIONS. For purposes of this section, the following terms have the meanings given them:

(1) "civil disorder" means any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual;

(2) "firearm" means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon;

(3) "explosive or incendiary device" has the meaning given in section 609.668, subdivision 1; and

(4) "law enforcement officer" means any officer or employee of the United States, the state, or any political subdivision of the state, and specifically includes members of the National Guard and members of the armed forces of the United States.

Sec. 24. Minnesota Statutes 1994, section 609.713, subdivision 1, is amended to read:

Subdivision 1. Whoever threatens, directly or indirectly, to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly, vehicle or facility of public transportation or otherwise to cause serious public inconvenience, or in a reckless disregard of the risk of causing such terror or inconvenience 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. As used in this subdivision, "crime of violence" has the meaning given "violent crime" in section 609.152, subdivision 1, paragraph (d).

Sec. 25. Minnesota Statutes 1994, section 609.713, subdivision 2, is amended to read:

Subd. 2. Whoever communicates to another with purpose to terrorize another or in reckless disregard of the risk of causing such terror, that explosives or an explosive device or any incendiary device is present at a named place or location, whether or not the same is in fact present, may be sentenced to impris-

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onment for not more than three years or to payment of a fine of not more than \$3,000, or both.

Sec. 26. Minnesota Statutes 1994, section 617.80, subdivision 2, is amended to read:

Subd. 2. **BUILDING.** "Building" means a structure suitable for human shelter, a commercial structure that is maintained for business activities that involve human occupation, ~~or any portion of such structures~~ the structure, or the land surrounding the structure. If the building is a multiunit dwelling, a hotel or motel, or a commercial or office building, the term "building," for purposes of sections 617.80 to 617.87, means only the portion of the building within or outside the structure in which a nuisance is maintained or permitted, such as a dwelling unit, room, suite of rooms, office, common area, storage area, garage, or parking area.

Sec. 27. Minnesota Statutes 1994, section 617.80, subdivision 4, is amended to read:

Subd. 4. **PROSTITUTION.** "Prostitution" or "prostitution-related ~~offenses activity~~" means ~~the conduct defined in that would violate~~ sections 609.321 to 609.324.

Sec. 28. Minnesota Statutes 1994, section 617.80, subdivision 5, is amended to read:

Subd. 5. **GAMBLING.** "Gambling" or "gambling-related ~~offenses activity~~" means ~~the conduct described in that would violate~~ sections 609.75 to 609.762.

Sec. 29. Minnesota Statutes 1994, section 617.80, subdivision 8, is amended to read:

Subd. 8. **INTERESTED PARTY.** "Interested party₁" for purposes of sections 617.80 to 617.87₁ means any known lessee or tenant of a building or affected portion of a building ~~and~~₂ any known agent of an owner, lessee₂ or tenant; or any other person who maintains or permits a nuisance and is known to the city attorney, county attorney, or attorney general.

Sec. 30. Minnesota Statutes 1994, section 617.80, is amended by adding a subdivision to read:

Subd. 9. PROSECUTING ATTORNEY. "Prosecuting attorney" means the attorney general, county attorney, city attorney, or attorney serving the jurisdiction where the nuisance is located.

Sec. 31. Minnesota Statutes 1994, section 617.81, subdivision 2, is amended to read:

Subd. 2. **ACTS CONSTITUTING A NUISANCE.** (a) For purposes of sections 617.80 to 617.87₁ a public nuisance exists upon proof of ~~three or more~~

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~~misdemeanor convictions or two or more convictions; of which at least one is a gross misdemeanor or felony; within the previous two years for two or more separate behavioral incidents of one or more of the following, committed within the previous 12 months within the building, or if the building contains more than one rental unit: (1) within a single rental unit; or (2) within two or more rental units leased or controlled by the same person:~~

(1) ~~acts of prostitution or prostitution-related offenses~~ activity committed within the building;

(2) ~~acts of gambling or gambling-related offenses~~ activity committed within the building;

(3) keeping or permitting a disorderly house within the building;

(4) ~~unlawful sale or, possession, storage, delivery, giving, manufacture, cultivation, or use~~ of controlled substances committed within the building;

(5) unlicensed sales of alcoholic beverages committed within the building in violation of section 340A.401;

(6) unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building in violation of section 340A.503, subdivision 2, clause (1); or

(7) unlawful use or possession of a firearm in violation of section 609.66, subdivision 1a, 609.67, or 624.713, committed within the building.

~~(b) A second or subsequent conviction under paragraph (a) may be used to prove the existence of a nuisance if the conduct on which the second or subsequent conviction is based occurred within two years following the first conviction; regardless of the date of the conviction for the second or subsequent offense. Proof of a nuisance exists if each of the elements of the conduct constituting the nuisance is established by clear and convincing evidence.~~

Sec. 32. Minnesota Statutes 1994, section 617.81, is amended by adding a subdivision to read:

Subd. 4. NOTICE. (a) If a prosecuting attorney has reason to believe that a nuisance is maintained or permitted in the jurisdiction the prosecuting attorney serves, and intends to seek abatement of the nuisance, the prosecuting attorney shall provide the written notice described in paragraph (b), by personal service or certified mail, return receipt requested, to the owner and all interested parties known to the prosecuting attorney.

(b) The written notice must:

(1) state that a nuisance as defined in subdivision 2 is maintained or permitted in the building and must specify the kind or kinds of nuisance being maintained or permitted;

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(2) summarize the evidence that a nuisance is maintained or permitted in the building, including the dates on which nuisance-related activities are alleged to have occurred;

(3) inform the recipient that failure to abate the conduct constituting the nuisance or to otherwise resolve the matter with the prosecuting attorney within 30 days of service of the notice may result in the filing of a complaint for relief in district court that could, among other remedies, result in enjoining the use of the building for any purpose for one year or, in the case of a tenant, could result in cancellation of the lease; and

(4) inform the owner of the options available under section 617.85.

Sec. 33. Minnesota Statutes 1994, section 617.82, is amended to read:

617.82 TEMPORARY ORDER.

Whenever a ~~city attorney, county attorney, or the attorney general~~ prosecuting attorney has cause to believe that a nuisance described in section 617.81, subdivision 2, exists within the jurisdiction the attorney serves, ~~that the prosecuting~~ attorney may by verified petition seek a temporary injunction in district court in the county in which the alleged public nuisance exists, provided that at least 30 days have expired since service of the notice required under section 617.81, subdivision 4. No temporary injunction may be issued without a prior show cause notice of hearing to the respondents named in the petition and an opportunity for the respondents to be heard. Upon proof of a nuisance described in section 617.81, subdivision 2, the court shall issue a temporary injunction. Any temporary injunction issued must describe the conduct to be enjoined.

Sec. 34. Minnesota Statutes 1994, section 617.85, is amended to read:

617.85 NUISANCE; MOTION TO CANCEL LEASE.

Where notice is provided under section 617.81, subdivision 4, that an abatement of a nuisance is sought and the circumstances that are the basis for the requested abatement involved the acts of a commercial or residential tenant or lessee of part or all of a building, the owner of the building that is subject to the abatement proceeding may file before the court that has jurisdiction over the abatement proceeding a motion to cancel the lease or otherwise secure restitution of the premises from the tenant or lessee who has maintained or conducted the nuisance. The owner may assign to the prosecuting attorney the right to file this motion. In addition to the grounds provided in chapter 566, the maintaining or conducting of a nuisance as defined in section 617.81, subdivision 2, by a tenant or lessee, is an additional ground authorized by law for seeking the cancellation of a lease or the restitution of the premises. It is no defense to a motion under this section by the owner or the prosecuting attorney that the lease or other agreement controlling the tenancy or leasehold does not provide for eviction or cancellation of the lease upon the ground provided in this section.

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Upon a finding by the court that the tenant or lessee has maintained or conducted a nuisance in any portion of the building ~~under the control of the tenant or lessee~~, the court shall order cancellation of the lease or tenancy and grant restitution of the premises to the owner. The court must not order abatement of the premises if the court:

(a) ~~upon the motion of the building owner~~ cancels a lease or tenancy and grants restitution of that portion of the premises to the owner; and

(b) further finds that the acts constituting the nuisance as defined in section 617.81, subdivision 2, were committed ~~in a portion of the building under the control of~~ by the tenant or lessee whose lease or tenancy has been canceled pursuant to this section and the tenant or lessee was not committing the acts in conjunction with or under the control of the owner.

Sec. 35. Minnesota Statutes 1994, section 624.731, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purposes of this section:

(a) "authorized tear gas compound" means a lachrymator or any substance composed of a mixture of a lachrymator including chloroacetophenone, alpha-chloroacetophenone; phenylchloromethylketone, orthochlorobenzalmalononitrile or oleoresin capsicum, commonly known as tear gas; and

(b) "electronic incapacitation device" means a portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electric pulse or current, including devices operating by means of carbon dioxide propellant. "Electronic incapacitation device" does not include cattle prods, electric fences, or other electric devices ~~which are~~ when used in agricultural, animal husbandry, or food production activities.

Sec. 36. Minnesota Statutes 1994, section 624.731, subdivision 8, is amended to read:

Subd. 8. **PENALTIES.** (a) The following violations of this section shall be considered a felony:

(1) The possession or use of tear gas, a tear gas compound, an authorized tear gas compound, or an electronic incapacitation device by a person specified in subdivision 3, paragraph (b).

(2) Knowingly selling or furnishing of tear gas, a tear gas compound, an authorized tear gas compound, or an electronic incapacitation device to a person specified in subdivision 3, paragraph (b).

(3) The use of an electronic incapacitation device as prohibited in subdivision 4, paragraph (a).

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(4) The use of tear gas or a tear gas compound as prohibited in subdivision 4, paragraph (d).

(b) The following violation of this section shall be considered a gross misdemeanor: (1) The prohibited use of tear gas, a tear gas compound, or an authorized tear gas compound as specified in subdivision 4, paragraph (a); (2) the use of an electronic incapacitation device except as allowed by subdivision 2 or 6.

(c) The following violations of this section shall be considered a misdemeanor:

(1) The possession or use of tear gas, a tear gas compound, an authorized tear gas compound, or an electronic incapacitation device which fails to meet the requirements of subdivision 2 by any person except as allowed by subdivision 6.

(2) The possession or use of an authorized tear gas compound or an electronic incapacitation device by a person specified in subdivision 3, paragraph (a) or (c).

(3) The use of tear gas, a tear gas compound, or an authorized tear gas compound; ~~or an electronic incapacitation device~~ except as allowed by subdivision 2 or 6.

(4) Knowingly selling or furnishing an authorized tear gas compound or an electronic incapacitation device to a person specified in subdivision 3, paragraph (a) or (c).

(5) Selling or furnishing of tear gas or a tear gas compound other than an authorized tear gas compound to any person except as allowed by subdivision 6.

(6) Selling or furnishing of an authorized tear gas compound or an electronic incapacitation device on premises where intoxicating liquor is sold on an on-sale or off-sale basis or where 3.2 percent malt liquor is sold on an on-sale basis.

(7) Selling an authorized tear gas compound or an electronic incapacitation device in violation of local licensing requirements.

Sec. 37. Minnesota Statutes 1994, section 626.13, is amended to read:

626.13 SERVICE; PERSONS MAKING.

A search warrant may in all cases be served anywhere within the issuing judge's county by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on the officer's requiring it, the officer being present and acting in its execution. If the warrant is to be served by an agent of the bureau of criminal apprehension, an agent of the division of gambling enforcement, a state patrol trooper, or a conservation officer, the agent, state patrol trooper, or conservation officer shall notify the chief of police of an orga-

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nized full-time police department of the municipality or, if there is no such local chief of police, the sheriff or a deputy sheriff of the county in which service is to be made prior to execution.

Sec. 38. Minnesota Statutes 1994, section 626.53, is amended to read:

626.53 REPORT BY TELEPHONE AND LETTER.

Subdivision 1. REPORTS TO SHERIFFS AND POLICE CHIEFS. The report required by section 626.52, subdivision 2, shall be made forthwith by telephone or in person, and shall be promptly supplemented by letter, enclosed in a securely sealed, postpaid envelope, addressed to the sheriff of the county in which the wound is examined, dressed, or otherwise treated; except that, if the place in which the patient is treated for such injury or the patient's wound dressed or bandaged be in a city of the first, second, or third class, such report shall be made and transmitted as herein provided to the chief of police of such city instead of the sheriff. Except as otherwise provided in subdivision 2, the office of any such sheriff and of any such chief of police shall keep the report as a confidential communication and shall not disclose the name of the person making the same, and the party making the report shall not by reason thereof be subpoenaed, examined, or forced to testify in court as a consequence of having made such a report.

Subd. 2. REPORTS TO DEPARTMENT OF HEALTH. Upon receiving a report of a wound caused by or arising from the discharge of a firearm, the sheriff or chief of police shall forward the information contained in the report to the commissioner of health. The commissioner of health shall keep the report as a confidential communication, as provided under subdivision 1. The commissioner shall maintain a statewide, computerized record system containing summary data, as defined in section 13.02, on information received under this subdivision.

Sec. 39. Minnesota Statutes 1994, section 629.715, subdivision 1, is amended to read:

Subdivision 1. JUDICIAL REVIEW; RELEASE. (a) When a person is arrested for a crime against the person, the judge before whom the arrested person is taken shall review the facts surrounding the arrest and detention. If the person was arrested or detained for committing a crime of violence, as defined in section 629.725, the prosecutor or other appropriate person shall present relevant information involving the victim or the victim's family's account of the alleged crime to the judge to be considered in determining the arrested person's release. The arrested person must be ordered released pending trial or hearing on the person's personal recognizance or on an order to appear or upon the execution of an unsecured bond in a specified amount unless the judge determines that release (1) will be inimical to public safety, (2) will create a threat of bodily harm to the arrested person, the victim of the alleged crime, or another, or (3) will not reasonably assure the appearance of the arrested person at subsequent proceedings.

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

(b) If the judge determines release under paragraph (a) is not advisable, the judge may impose any conditions of release that will reasonably assure the appearance of the person for subsequent proceedings, or will protect the victim of the alleged crime, or may fix the amount of money bail without other conditions upon which the arrested person may obtain release.

Sec. 40. [629.725] NOTICE TO CRIME VICTIM REGARDING BAIL HEARING OF ARRESTED OR DETAINED PERSON.

When a person arrested or a juvenile detained for a crime of violence or an attempted crime of violence is scheduled to be reviewed under section 629.715 for release from pretrial detention, the court shall make a reasonable and good faith effort to notify the victim of the alleged crime. If the victim is incapacitated or deceased, notice must be given to the victim's family. If the victim is a minor, notice must be given to the victim's parent or guardian. The notification must include:

- (1) the date and approximate time of the review;
- (2) the location where the review will occur;
- (3) the name and telephone number of a person that can be contacted for additional information; and
- (4) a statement that the victim and the victim's family may attend the review.

As used in this section, "crime of violence" has the meaning given it in section 624.712, subdivision 5, and also includes gross misdemeanor violations of section 609.224, and nonfelony violations of sections 518B.01, 609.2231, 609.3451, 609.748, and 609.749.

Sec. 41. [629.735] NOTICE TO LOCAL LAW ENFORCEMENT AGENCY REGARDING RELEASE OF ARRESTED OR DETAINED PERSON.

When a person arrested or a juvenile detained for a crime of violence or an attempted crime of violence is about to be released from pretrial detention, the agency having custody of the arrested or detained person or its designee shall make a reasonable and good faith effort before release to inform any local law enforcement agencies known to be involved in the case, if different from the agency having custody, of the following matters:

- (1) the conditions of release, if any;
- (2) the time of release; and
- (3) the time, date, and place of the next scheduled court appearance of the arrested or detained person.

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Sec. 42. **REPEALER.**

Minnesota Statutes 1994, section 617.81, subdivisions 2a and 3, are repealed.

Sec. 43. **EFFECTIVE DATES.**

Sections 1 to 6 and 9 to 42 are effective August 1, 1995, and apply to crimes committed on or after that date.

Sections 7 (343.235) and 8 (343.29) are effective the day following final enactment.

Presented to the governor May 30, 1995

Signed by the governor June 1, 1995, 11:15 a.m.

CHAPTER 245—S.F.No. 1551

An act relating to agricultural economics; providing loans and incentives for agricultural energy resources development for family farms and cooperatives; amending Minnesota Statutes 1994, sections 41B.02, subdivision 19; 41B.046, subdivision 1, and by adding a subdivision; and 216C.41, subdivisions 1, 2, 3, 4, and 5.

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

Section 1. Minnesota Statutes 1994, section 41B.02, subdivision 19, is amended to read:

Subd. 19. **AGRICULTURAL IMPROVEMENTS.** "Agricultural improvements" means improvements to a farm, including the purchase and construction or installation of improvements to land, buildings, and other permanent structures, including equipment incorporated in or permanently affixed to the land, buildings, or structures, which are useful for and intended to be used for the purpose of farming. "Agricultural improvements" includes wind energy conversion facilities, as defined in section 216C.06, subdivision 12, each with an output capacity of one megawatt or less, as determined by the nameplate capacity. "Agricultural improvements" does not include equipment not affixed to real estate or improvements or additions to that equipment.

Sec. 2. Minnesota Statutes 1994, section 41B.046, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of this section:

(1) "Agricultural product processing facility" means land, buildings, structures, fixtures, and improvements located or to be located in Minnesota and

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