

CHAPTER 239—S.F.No. 1880

An act relating to the operation of state government; crime and crime prevention; appropriating money for the judicial branch, public safety, public defense, corrections, human rights, and related purposes; increasing and prescribing criminal penalties for a variety of offenses; increasing penalties for certain controlled substance offenses; clarifying provisions of the Community Notification Act; expanding and clarifying the sex offender registration law; clarifying and expanding crime victim rights; providing additional protections to children; providing for increased access by peace officers to juvenile records; creating a statewide criminal gang council and a criminal gang strike force to improve the investigation and prosecution of gang-related crime; increasing protections for correctional employees who are assaulted by inmates; clarifying the powers of the ombudsman for corrections; restricting certain computer uses by inmates; clarifying laws relating to probation; providing an action for an order for protection against a minor; amending Minnesota Statutes 1996, sections 13.99, by adding a subdivision; 144.761, subdivisions 5 and 7; 144.762, subdivision 2, and by adding a subdivision; 144.765; 144.767, subdivision 1; 152.01, subdivision 18, and by adding a subdivision; 152.02, subdivisions 2 and 5; 152.021, subdivisions 1 and 2; 152.022, subdivisions 1 and 2; 152.023, subdivisions 1, 2, and 3; 152.024, subdivision 1; 152.029; 169.042, subdivision 1; 169.20, subdivision 5; 169.797, subdivision 3; 171.29, subdivision 2; 241.01, subdivisions 3a and 3b; 241.42, subdivision 2; 241.44, subdivision 1, and by adding a subdivision; 242.19, subdivision 3; 242.32, by adding a subdivision; 243.166, subdivisions 2, 3, and 4; 243.51, subdivisions 1, 3, and by adding a subdivision; 244.05, subdivision 8; 244.052, subdivisions 3, 4, 5, and 6; 244.17, subdivision 2; 256E.03, subdivision 2; 256F.09, subdivisions 2 and 3; 257.071, subdivisions 3, 4, and by adding subdivisions; 257.072, subdivision 1; 259.41; 259.59, by adding a subdivision; 259.67, subdivision 2; 260.012; 260.015, subdivisions 2a and 29; 260.131, subdivisions 1 and 2; 260.155, subdivisions 1a, 2, 3, 4, and 8; 260.161, subdivisions 1, 1a, 2, 3, and by adding a subdivision; 260.165, subdivisions 1 and 3; 260.171, subdivision 2; 260.1735; 260.191, subdivisions 1, 3a, 3b, as amended, and 4; 260.192; 260.221, subdivisions 1 and 5; 260.241, subdivisions 1 and 3; 260.311, subdivision 1; 299A.61, subdivision 1; 299A.63, subdivision 4; 299C.065, subdivision 1; 299C.095; 299C.10, subdivisions 1 and 4; 299C.13; 299C.65, by adding a subdivision; 299D.07; 299F.051; 299F.06, subdivisions 1 and 3; 326.3321, subdivision 1; 326.3386, subdivision 3, and by adding subdivisions; 357.021, subdivision 1a; 363.02, subdivision 1; 363.073, subdivision 1; 388.23, subdivision 1; 401.13; 480.30, subdivision 1; 504.181, subdivision 1; 518.10; 518.175, subdivision 5, and by adding a subdivision; 518.179, subdivision 2; 518B.01, subdivisions 4, 8, 14, 17, and 18; 566.05; 566.18, subdivision 6; 609.02, by adding a subdivision; 609.035, subdivision 1, and by adding a subdivision; 609.10; 609.101, subdivision 5; 609.115, subdivision 1; 609.125; 609.135, subdivisions 1, 2, and by adding a subdivision; 609.15, subdivision 1; 609.221; 609.2231, subdivision 3; 609.2244; 609.2245, subdivision 2; 609.347, subdivision 7; 609.487, subdivision 3; 609.495, subdivision 1; 609.498, by adding subdivisions; 609.52, subdivision 2; 609.684, subdivision 4; 609.746, subdivision 1; 609.748, subdivision 1; 609.78; 609.902, subdivision 4; 611.27, subdivision 4, and by adding a subdivision; 611A.01; 611A.035; 611A.038; 611A.039, subdivision 1; 611A.04, by adding a subdivision; 611A.045, subdivision 1; 611A.25, subdivision 3; 611A.361, subdivision 3; 611A.52, subdivisions 6 and 8; 611A.53, subdivision 1b; 611A.675; 611A.71, subdivisions 5 and 7; 611A.74, subdivisions 1, 3, and by adding a subdivision; 611A.75; 617.82; 617.85; 626.843, subdivision 1; 629.725; 631.07; 631.52, subdivision 2; and 641.12; Laws 1995, chapter 226, article 2, section 37, subdivision 2; 3, section 60, subdivision 4; Laws 1996, chapter 408, article 8, sections 21; 22, subdivision 1; and 24; Laws 1997, chapter 112, section 3; proposing coding for new law in Minnesota Statutes, chapters 241; 242; 243; 244; 257; 299A; 299C; 299F; 609; 611A; and 626; repealing Minnesota Statutes 1996, sections 119A.30; 145.406; 244.06; 244.09, subdivision 11a; 259.33; 299A.01, sub-

New language is indicated by underline, deletions by strikeout.

division 6; 299F.07; and 609.684, subdivision 2; Minnesota Rules, parts 7419.0100; 7419.0200; 7419.0300; 7419.0400; 7419.0500; 7419.0600; 7419.0700; and 7419.0800.

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

ARTICLE 1

APPROPRIATIONS

Section 1. CRIMINAL JUSTICE APPROPRIATIONS.

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "1997," "1998," and "1999," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1997, June 30, 1998, or June 30, 1999, respectively.

SUMMARY BY FUND

	1997	1998	1999	TOTAL
General	\$ 1,393,000	\$ 481,929,000	\$ 496,133,000	\$ 979,455,000
Special Revenue		7,254,000	7,479,000	14,733,000
State Government				
Special Revenue		7,000	7,000	14,000
Environmental		42,000	43,000	85,000
Trunk Highway		1,557,000	1,587,000	3,144,000
TOTAL	\$ 1,393,000	\$ 490,789,000	\$ 500,249,000	\$ 997,431,000

APPROPRIATIONS
Available for the Year
Ending June 30

1998 1999

Sec. 2. SUPREME COURT

Subdivision 1. Total
Appropriation

\$ 21,730,000 \$ 21,642,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Supreme Court Operations
4,052,000 4,141,000

\$2,500 the first year and \$2,500 the second year are for a contingent account for expenses necessary for the normal operation of

the court for which no other reimbursement is provided.

Subd. 3. Civil Legal Services
5,607,000 5,607,000

This appropriation is for legal services to low-income clients and for family farm legal assistance under Minnesota Statutes, section 480.242. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium. A qualified legal services program, as defined in Minnesota Statutes, section 480.24, subdivision 3, may provide legal services to persons eligible for family farm legal assistance under Minnesota Statutes, section 480.242.

Subd. 4. Family Law Legal Services
877,000 877,000

This appropriation is to improve the access of low-income clients to legal representation in family law matters and must be distributed under Minnesota Statutes, section 480.242, to the qualified legal services programs described in Minnesota Statutes, section 480.242, subdivision 2, paragraph (a). Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

Subd. 5. State Court Administration
9,191,000 8,993,000

\$120,000 the first year is for grants to develop projects that use innovative and cost-effective means of providing services to children within the child protection system, including legal counsel, guardians ad litem, and other child and welfare services. Projects may include those that facilitate the coordination of public and private resources and the use of volunteers and existing community programs and services to reduce the cost of services. This sum is available until June 30, 1999. This is a one-time appropriation.

\$180,000 the first year is to develop and provide training programs and materials for

guardians ad litem. This sum is available until June 30, 1999. This is a one-time appropriation.

\$1,386,000 the first year and \$1,386,000 the second year are to begin development and implementation of the infrastructure for a coordinated and integrated statewide criminal and juvenile justice information system; and for implementation of the judicial branch justice information network. This appropriation must be included in the budget base for the 2000-2001 biennium.

Subd. 6. Community Dispute Resolution
110,000 110,000

Subd. 7. Victim Offender Mediation Grants
170,000 170,000

Subd. 8. Law Library Operations
1,723,000 1,744,000

\$20,000 the first year and \$20,000 the second year are to supplement law library resources.

Sec. 3. COURT OF APPEALS 6,088,000 6,180,000

\$60,000 the first year and \$40,000 the second year are for a staff attorney, a photocopier, and ergonomic chairs.

In purchasing ergonomic chairs, reasonable efforts shall be made to purchase chairs that were made as part of an industrial and commercial activity authorized under Minnesota Statutes, section 241.27.

\$70,000 the first year and \$30,000 the second year are to implement a video hearing project.

Sec. 4. DISTRICT COURTS 71,038,000 72,184,000

\$75,000 the second year is for increased administrative support.

\$374,000 the first year and \$374,000 the second year are for increased judicial support through (1) increased salaries for existing law clerks and (2) the hiring of additional law clerks.

\$450,000 the first year and \$450,000 the second year are for operational overhead in the

Eighth Judicial District. Of this appropriation, \$46,000 the first year and \$47,000 the second year must be used to hire a Spanish interpreter.

\$741,000 the first year and \$30,000 the second year are for a video hearing pilot project in the Ninth Judicial District.

Sec. 5. BOARD ON JUDICIAL STANDARDS	303,000	228,000
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\$80,000 the first year is to award costs and attorney fees to eligible judges. This sum is available until June 30, 1999.

Sec. 6. TAX COURT	974,000	645,000
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Sec. 7. PUBLIC SAFETY

Subdivision 1. Total Appropriation	40,957,000	38,755,000
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Summary by Fund

	1998	1999
General	37,543,000	35,309,000
Special Revenue	1,808,000	1,809,000
Trunk Highway	1,557,000	1,587,000
Environmental	42,000	43,000
State Government		
Special Revenue	7,000	7,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Emergency Management

Summary by Fund

General	3,372,000	3,396,000
Environmental	42,000	43,000

Subd. 3. Criminal Apprehension

Summary by Fund

General	23,596,000	21,768,000
Special Revenue	1,808,000	1,809,000
State Government		
Special Revenue	7,000	7,000
Trunk Highway	1,557,000	1,587,000

The commissioner of finance shall reduce the appropriations for the division of the Bureau of Criminal Apprehension from the general fund as necessary to reflect legislation enacted in 1997 that (1) reduces state

contributions for pensions for employees under the division of the Bureau of Criminal Apprehension from the general fund, or (2) provides money for those pensions from police state aid.

\$4,494,000 the first year and \$2,560,000 the second year are to begin development and implementation of the infrastructure for a coordinated and integrated statewide criminal and juvenile justice information system. Of this appropriation, \$1,554,000 the first year and \$1,350,000 the second year are to be transferred to the supreme court for the judicial branch justice network. This transfer appropriation must be included in the budget base for the 2000–2001 biennium.

\$100,000 the first year and \$100,000 the second year from the Bureau of Criminal Apprehension account in the special revenue fund are for grants to local officials for the cooperative investigation of cross-jurisdictional criminal activity. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

\$408,000 the first year and \$409,000 the second year from the Bureau of Criminal Apprehension account in the special revenue fund are for laboratory activities.

\$50,000 the first year and \$50,000 the second year are for the Bureau of Criminal Apprehension to hire an additional forensic scientist.

\$75,000 the first year is for a grant to Hennepin county and \$75,000 the first year is for a grant to the city of Minneapolis. These appropriations must be used for costs associated with the drugfire program.

\$3,936,000 the first year and \$3,936,000 the second year are:

(1) for grants under Minnesota Statutes, section 299C.065, subdivisions 1 and 1a;

(2) for the grants authorized in Minnesota Statutes, section 299A.627, subdivisions 1 and 2, and to fund the organization and operation of the criminal gang oversight coun-

cil and strike force described in Minnesota Statutes, section 299A.625;

- (3) to hire five new agents to replace those assigned to the criminal gang strike force;
- (4) to develop the criminal gang investigative data system;
- (5) to hire ten new agents to fill existing vacancies statewide; and
- (6) for overtime expenses for the Bureau of Criminal Apprehension.

Money expended for the purposes described in clauses (1) to (4) and (6), shall not be included in the agency's base budget for the 2000-2001 biennium.

The commissioner may use part of the appropriation described in clause (2) to procure necessary equipment and pay other expenses deemed necessary by the criminal gang oversight council. However, the commissioner shall seek to minimize expenses related to equipment by encouraging local entities to contribute equipment and other support to the strike force.

The appropriation to hire additional agents under clause (3) may not be used to purchase or lease vehicles.

If new agents are hired under clause (5), the superintendent shall cooperate with the department of corrections in capturing fugitives.

Subd. 4. Fire Marshal
2,969,000 2,979,000

\$225,000 the first year and \$125,000 the second year may be used to:

- (1) hire an additional fire investigator to be assigned to northern Minnesota;
- (2) retain mechanical, electrical, engineering, or technical experts to assist with determining the cause of fires;
- (3) reimburse members of the arson strike force for their overtime, travel, subsistence, and related costs and to obtain professional expert services or technical equipment that

are beyond the capabilities of the strike force members;

- (4) establish the arson training unit;
- (5) establish the standardized arson training curriculum;
- (6) develop a fire scene preservation video for distribution to fire departments statewide;
- (7) purchase an arson training trailer equipped for use in training events and available as a resource to the arson strike force at major fires;
- (8) develop and maintain an arson resource library collection;
- (9) communicate the importance of arson training to law enforcement, fire service, and prosecuting agencies;
- (10) provide financial incentives to encourage firefighters and peace officers to participate in arson training;
- (11) establish and staff the statewide juvenile firesetter intervention network;
- (12) develop and distribute the comprehensive injury prevention education curriculum;
- (13) provide initial funding for the annual training forum on juvenile firesetting behavior and intervention strategies;
- (14) assist local fire departments in collecting relevant data on juvenile-related fire incidents for inclusion in the fire incident reporting system;
- (15) provide the laboratory instruments and training needed to process arson evidence samples; and
- (16) provide the supporting equipment and services needed to use arson evidence sample processing instruments.

By February 15, 1999, the fire marshal shall report to the chairs of the senate and house divisions having jurisdiction over criminal justice funding on how this appropriation was spent.

Subd. 5. Alcohol and Gambling Enforcement

Summary by Fund		
General	1,682,000	1,716,000
Subd. 6. Crime Victims Services		
2,147,000	2,155,000	

\$100,000 the first year and \$100,000 the second year are for grants to the crime victim and witness advisory council to be used by the council for the purposes specified in Minnesota Statutes, section 611A.675.

Subd. 7. Crime Victims Ombudsman
374,000 375,000

Subd. 8. Law Enforcement and Community Grants
3,260,000 2,745,000

The appropriations in this subdivision are one-time appropriations.

\$2,250,000 each year is to provide funding for:

(1) grants under Minnesota Statutes, section 299A.62, subdivision 1, clause (2), to enable local law enforcement agencies to assign overtime officers to high crime areas within their jurisdictions. These grants shall be distributed as provided in subdivision 2 of that section. Up to \$23,000 may be used to administer grants awarded under this clause; and

(2) weed and seed grants under Minnesota Statutes, section 299A.63.

This appropriation shall be divided in equal parts between the two programs.

Money not expended in the first year is available for grants during the second year.

By February 1, 1998, the commissioner shall report to the chairs of the senate and house divisions having jurisdiction over criminal justice funding, on grants made under clauses (1) and (2).

\$50,000 the first year is for Ramsey county to continue the special unit enforcing the state nuisance laws.

\$50,000 the first year is for one or more grants to community-based programs to

conduct research on street gang culture and, based on this research, develop effective prevention and intervention techniques to help youth avoid or end their street gang involvement. Each program receiving a grant shall provide a report to the criminal gang oversight council that contains the following information:

- (1) the results of the program's research on street gang culture;
- (2) the program's plans for additional research on street gang culture, if any; and
- (3) the prevention and intervention techniques developed by the program.

An interim report must be provided to the council six months after a program is awarded a grant. A final report must be provided to the council by February 1, 1999. A copy of each report also must be provided to the commissioner of public safety.

Each program receiving a grant also must provide information and recommendations on gang culture to the criminal gang oversight council and criminal gang strike force, as requested by the council or strike force.

\$40,000 the first year shall be transferred as a grant to a nonprofit organization to be used to meet one-half of the state match requirement if the organization receives federal funding to: (1) acquire interactive multimedia equipment for courtroom presentations to aid in the prosecution of complex homicide and child fatality cases; and (2) retain a forensic pathologist skilled in making such presentations to serve as a consultant to prosecutors statewide for one year. This grant is available only if the organization obtains funds for the remainder of the state match from other sources.

\$175,000 the first year is for grants to the Council on Black Minnesotans to continue the program established in Laws 1996, chapter 408, article 2, section 13.

\$250,000 each year is for grants to local governmental units that have incurred costs implementing Minnesota Statutes, section

244.052 or 244.10, subdivision 2a. Local governmental units shall detail the costs they have incurred along with any other information required by the commissioner. The commissioner shall award grants in a manner that reimburses local governmental units demonstrating the greatest need. Of this appropriation, up to \$40,000 may be used for educational equipment and training to be used for sex offender notification meetings by law enforcement agencies around the state.

\$120,000 each year is for a grant to the northwest Hennepin human services council to administer the northwest community law enforcement project, to be available until June 30, 1999.

\$75,000 each year is for grants to Hennepin and Ramsey counties to administer the community service grant pilot project program.

\$100,000 the first year is for grants to the city of St. Paul to be used by the city to acquire and renovate a building for a joint use police storefront and youth activity center in the north end area of St. Paul.

\$25,000 the first year is for the criminal alert network to disseminate data regarding the use of fraudulent checks and the coordination of security and antiterrorism efforts with the Federal Bureau of Investigation. This money is available only if the commissioner determines the expansion is feasible. If the commissioner determines that one or both of the uses are not feasible, the commissioner shall reduce the amount spent accordingly.

\$75,000 the first year is for a grant to the Fourth Judicial District to plan for a family violence coordinating council.

Subd. 9. Administration and Related Services

143,000	175,000
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This appropriation is to be deposited in the public safety officer's benefit account. This money is available for reimbursements under Minnesota Statutes, section 299A.465.

\$40,000 the first year is for purposes of the firefighter training study committee. This is a one-time appropriation.

Sec. 8. BOARD OF PRIVATE DETECTIVE AND PROTECTIVE AGENT SERVICES	130,000	132,000
Sec. 9. BOARD OF PEACE OFFICER STANDARDS AND TRAINING	3,581,000	3,801,000

This appropriation is from the peace officers training account in the special revenue fund. Any receipts credited to the peace officer training account in the special revenue fund in the first year in excess of \$3,581,000 must be transferred and credited to the general fund. Any receipts credited to the peace officer training account in the special revenue fund in the second year in excess of \$3,801,000 must be transferred and credited to the general fund.

\$30,000 the first year is from the special revenue fund for DARE officer training.

\$312,000 the second year shall be expended as follows: (1) up to \$30,000 for administrative law judge costs; (2) up to \$16,000 for minority recruitment; (3) up to \$10,000 for computer training and support; (4) up to \$30,000 for DARE officer training; (5) \$100,000 for a law enforcement library at metropolitan state university; (6) up to \$25,000 for hiring a consultant to develop a screening examination for admission to a law enforcement skills program. If there are sufficient funds remaining after developing the screening examination, the consultant may develop a new reciprocity examination; and (7) up to \$101,000 for increased reimbursements to local law enforcement for the cost of administering board-approved continuing education to peace officers.

By July 1, 1998, and each July 1 thereafter, the board shall report to the chairs of the senate and house divisions having jurisdiction over criminal justice funding on the activities of the minority recruiter and the outcomes attributable to that position.

The commissioner of finance shall ensure that the base budget for the 2000-2001 fiscal

biennium for the POST board includes the \$850,000 each year that was transferred in fiscal year 1997 from the POST board to the Minnesota state colleges and universities system.

The board shall provide education and training to peace officers and other criminal justice personnel on early intervention and reduction of possible HIV seroconversion for persons who have experienced a significant exposure, as defined in Minnesota Statutes, section 144.761. The POST board shall work in cooperation with the commissioners of public safety and corrections in providing this training. A portion of this appropriation shall be awarded as grants to professional employers of emergency medical services personnel as defined in Minnesota Statutes, section 144.761, subdivision 5, clause (2), to demonstrate effective education and training services and procedures for implementing the protocol described in Minnesota Statutes, section 144.762.

Sec. 10. BOARD OF PUBLIC DEFENSE

Subdivision 1. Total

Appropriation	41,658,000	41,972,000
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None of this appropriation shall be used to pay for lawsuits against public agencies or public officials to change social or public policy.

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. State Public

Defender		
	3,250,000	3,315,000

Subd. 3. Board of Public

Defense		
	900,000	915,000

Subd. 4. District Public

Defense		
	37,508,000	37,742,000

\$969,000 the first year and \$969,000 the second year are for grants to the five existing public defense corporations under Minnesota Statutes, section 611.216.

Sec. 11. AUTO THEFT PREVENTION BOARD

Subdivision 1. Total Appropriation	1,865,000	1,869,000
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This appropriation is from the automobile theft prevention account in the special revenue fund.

The board is encouraged to use a portion of this appropriation to (1) design intervention measures to prevent and combat automobile theft activity by gangs; and (2) implement strategies to increase apprehension of gang members involved in automobile theft activity.

Sec. 12. CORRECTIONS

Subdivision 1. Total Appropriation	296,892,000	312,215,000
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The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Any unencumbered balances remaining in the first year do not cancel but are available for the second year of the biennium.

Positions and administrative money may be transferred within the department of corrections as the commissioner considers necessary, upon the advance approval of the commissioner of finance.

For the biennium ending June 30, 1999, the commissioner of corrections may, with the approval of the commissioner of finance, transfer funds to or from salaries.

The department may use up to \$320,000 of dedicated receipts to design, construct, furnish, and equip a new building for Thistle-dew Camp's new wilderness endeavors program. The building must provide a ten bed training and juvenile dorm area, plus storage.

Subd. 2. Correctional
Institutions

179,965,000	189,823,000
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The commissioner may expend federal grant money in an amount up to \$1,000,000 to supplement the renovation of the buildings at the

Brainerd regional center for use as a correctional facility.

The commissioner may open the Brainerd facility on or after May 1, 1999.

If the commissioner deems it necessary to reduce staff positions during the biennium ending June 30, 1999, the commissioner must reduce at least the same percentage of management and supervisory personnel as line and support personnel in order to ensure employee safety, inmate safety, and facility security.

During the biennium ending June 30, 1999, if it is necessary to reduce services or staffing within a correctional facility, the commissioner or the commissioner's designee shall meet with affected exclusive representatives. The commissioner shall make every reasonable effort to retain correctional officer and prison industry employees should reductions be necessary.

During the biennium ending June 30, 1999, the commissioner must consider ways to reduce the per diem in adult correctional facilities. As part of this consideration, the commissioner must consider reduction in management and supervisory personnel levels in addition to line staff levels within adult correctional institutions, provided this objective can be accomplished without compromising safety and security.

The commissioner shall develop criteria to designate geriatric and disabled inmates eligible for transfer to nursing facilities, including state-operated facilities. Upon certification by the commissioner that a nursing facility can meet necessary security requirements, the commissioner may contract with the facility for the placement and housing of eligible geriatric and disabled inmates. Inmates placed in a nursing facility must meet the criteria specified in Minnesota Statutes, section 244.05, subdivision 8, and are considered to be on conditional medical release.

\$700,000 the first year and \$1,500,000 the second year are to operate a work program at

Camp Ripley under Minnesota Statutes, section 241.277.

Subd. 3. Juvenile Services

17,070,000	17,790,000
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\$500,000 each year is to plan for and establish a weekend camp program at Camp Ripley designed for first- or second-time male juvenile offenders ages 11 to 14. The commissioner shall develop eligibility standards for the program. The camp shall be a highly structured program and teach work skills, such as responsibility, organization, time management, and follow-through. The juvenile offenders will each develop a community service plan that will be implemented upon return to the community. The program shall receive referrals from youth service agencies, police, school officials, parents, and the courts. By January 15, 1998, the commissioner shall report to the chairs of the house and senate criminal justice funding divisions a proposed budget for this camp program for the second year of the fiscal biennium and shall include a description of the proposed outcomes for the program.

\$100,000 the first year is to conduct planning for and evaluation of additional camp programs and aftercare services for juvenile offenders, including, but not limited to, the Vision Quest program and a three-week work camp.

\$500,000 the first year is to renovate two cottages at the Minnesota correctional facility—Red Wing.

\$1,021,000 the second year is to transfer the sex offender program from the Minnesota correctional facility—Sauk Centre and operate it at the Minnesota correctional facility—Red Wing.

\$333,000 the second year is for housing and programming for female juvenile offenders committed to the commissioner of corrections.

\$130,000 the first year and \$130,000 the second year are to improve aftercare services for

juveniles released from correctional facilities by adding two professional and one clerical positions.

The commissioner shall design the juvenile support network to provide aftercare services for these offenders. The network must coordinate support services in the community for returning juveniles. Counties, communities, and schools must develop and implement the network. The commissioner shall require aftercare programs to be incorporated into Community Corrections Act plans.

Subd. 4. Community Services

80,387,000	84,824,000
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\$225,000 each year is for school-based probation pilot programs. Of this amount, \$150,000 each year is for Dakota county and \$75,000 each year is for Anoka county. This is a one-time appropriation.

\$50,000 each year is for the Ramsey county enhanced probation pilot project. The appropriation may not be used to supplant law enforcement or county probation officer positions, or correctional services or programs. This is a one-time appropriation.

\$200,000 the first year is for the gang intervention pilot project. This is a one-time appropriation.

\$50,000 the first year and \$50,000 the second year are for grants to local communities to establish and implement pilot project restorative justice programs.

\$95,000 the first year is for the Dakota county family group conferencing pilot project established in Laws 1996, chapter 408, article 2, section 9. This is a one-time appropriation.

All money received by the commissioner of corrections pursuant to the domestic abuse investigation fee under Minnesota Statutes, section 609.2244, is available for use by the commissioner and is appropriated annually to the commissioner of corrections for costs related to conducting the investigations.

\$750,000 each year is for an increase in community corrections act subsidy funding. The funding shall be distributed according to the community corrections aid formula in Minnesota Statutes, section 401.10.

\$4,000,000 the second year is for juvenile residential treatment grants to counties to defray the cost of juvenile residential treatment. Eighty percent of this appropriation must be distributed to noncommunity corrections act counties and 20 percent must be distributed to community corrections act counties. The commissioner shall distribute the money according to the formula contained in Minnesota Statutes, section 401.10. By January 15, counties must submit a report to the commissioner describing the purposes for which the grants were used.

\$60,000 the first year and \$60,000 the second year are for the electronic alcohol monitoring of DWI and domestic abuse offenders pilot program.

\$123,000 each year shall be distributed to the Dodge-Fillmore-Olmsted community corrections agency and \$124,000 each year shall be distributed to the Arrowhead regional corrections agency for use in a pilot project to expand the agencies' productive day initiative programs, as defined in Minnesota Statutes, section 241.275, to include juvenile offenders who are 16 years of age and older. This is a one-time appropriation.

\$2,000,000 the first year and \$2,000,000 the second year are for a statewide probation and supervised release caseload and workload reduction grant program. Counties that deliver correctional services through Minnesota Statutes, chapter 260, and that qualify for new probation officers under this program shall receive full reimbursement for the officers' salaries and reimbursement for the officers' benefits and support as set forth in the probations standards task force report, not to exceed \$70,000 per officer annually. Positions funded by this appropriation may not supplant existing services. Position control

numbers for these positions must be annually reported to the commissioner of corrections.

The commissioner shall distribute money appropriated for state and county probation officer caseload and workload reduction, increased intensive supervised release and probation services, and county probation officer reimbursement according to the formula contained in Minnesota Statutes, section 401.10. These appropriations may not be used to supplant existing state or county probation officer positions or existing correctional services or programs. The money appropriated under this provision is intended to reduce state and county probation officer caseload and workload overcrowding and to increase supervision of individuals sentenced to probation at the county level. This increased supervision may be accomplished through a variety of methods, including but not limited to: (1) innovative technology services, such as automated probation reporting systems and electronic monitoring; (2) prevention and diversion programs; (3) intergovernmental cooperation agreements between local governments and appropriate community resources; and (4) traditional probation program services.

\$700,000 the first year and \$700,000 the second year are for grants to judicial districts for the implementation of innovative projects to improve the administration of justice, including, but not limited to, drug courts, night courts, community courts, family courts, and projects emphasizing early intervention and coordination of justice system resources in the resolution of cases. Of this amount, up to \$25,000 may be used to develop a gun education curriculum under article 2. This is a one-time appropriation.

During fiscal year 1998, up to \$500,000 of unobligated funds available under Minnesota Statutes, section 401.10, subdivision 2, from fiscal year 1997 may be used for a court services tracking system for the counties. Notwithstanding Minnesota Statutes, section 401.10, subdivision 2, these funds are

available for use in any county using the court services tracking system.

Before the commissioner uses money that would otherwise cancel to the general fund for the court services tracking system, the proposal for the system must be reviewed by the criminal and juvenile justice information policy group.

\$52,500 of the amount appropriated to the commissioner in Laws 1995, chapter 226, article 1, section 11, subdivision 3, for the criterion-related cross-validation study is available until January 1, 1998. The study must be completed by January 1, 1998.

Subd. 5. Crime Victim and
Prevention Services

10,199,000	10,319,000
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\$50,000 the first year is to make grants, with the assistance of the crime victim prevention division, to organizations or local units of government providing support services to women leaving systems of prostitution. Grantees must provide an equal funding match. This is a one-time appropriation.

\$103,000 the second year is to provide funding for one existing battered women's shelter in Washington county that currently is not funded; and \$104,000 the second year is for one existing battered women's shelter in Goodhue county that currently is not funded.

During the biennium ending June 30, 1999, when awarding grants for victim's programs and services, the commissioner shall give priority to geographic areas that are unserved or underserved by programs or services.

\$30,000 each year is for grants to the city of St. Paul to provide support services to the surviving family members of homicide, suicide, and accidental death victims. This is a one-time appropriation.

\$55,000 the first year is for grants to the Hennepin and Ramsey county attorneys' offices to improve the education of landlords and tenants on best practices in the rental market. This is a one-time appropriation.

The commissioner of corrections shall use dedicated receipts to implement a victim notification system designed to reduce the probability of further harassment of the victim. The system must allow the victim to make toll-free calls to a call center and obtain information about inmates regarding their current status and location.

Subd. 6. Management Services

	9,271,000	9,459,000	
Sec. 13. CORRECTIONS OMBUDSMAN			565,000 580,000
Sec. 14. SENTENCING GUIDELINES COMMISSION			435,000 445,000
Sec. 15. HUMAN RIGHTS			
Subdivision 1. Total			
Appropriation			3,763,000 3,790,000

By July 1, 1997, and every six months thereafter, the commissioner shall report the following information to the chairs of the senate and house divisions having jurisdiction over criminal justice funding and the chairs of the senate judiciary committee and the house civil and family law division:

- (1) the number of cases filed and the percentage still open;
- (2) the distribution of filed cases by alleged area and basis of discrimination;
- (3) the number of open cases in the department's inventory and an inventory breakdown by case age;
- (4) the average caseload per full-time enforcement officer;
- (5) the number of cases closed during the preceding six months;
- (6) the breakdown of closed cases, including the percentages that were dismissed, withdrawn, closed after a probable cause determination, closed after no probable cause was found, or settled;
- (7) the average length of time to dismiss a case;
- (8) the average length of time to issue a probable cause determination;

(9) the number and percentage of filed cases in the preceding six months recommended for ADR;

(10) the number of cases resolved in ADR and the average length of time in ADR; and

(11) the number of cases returned from ADR for department investigation.

Subd. 2. Contract Compliance
386,000 395,000

Subd. 3. Complaint Processing
2,675,000 2,679,000

\$50,000 the first year is for a program for testing whether the Human Rights Act, Minnesota Statutes, chapter 363, is being complied with in the area of rental housing. The program must include tests to determine the frequency of incidents of racial discrimination. The department shall report to the chairs of the senate and house divisions having jurisdiction over criminal justice funding and the chairs of the senate judiciary committee and house civil and family law division by January 1, 1998, on the results and effectiveness of the program. This is a one-time appropriation.

Subd. 4. Management Services and Administration

702,000 716,000

Sec. 16. UNIFORM LAWS COMMISSION	35,000	36,000
Sec. 17. ECONOMIC SECURITY	650,000	650,000

\$650,000 the first year and \$650,000 the second year are for grants to cities of the first class and to cities that are contiguous to cities of the first class in greater Minnesota, that demonstrate a need for creating and expanding curfew enforcement, truancy prevention, and pretrial diversion programs. Programs funded under this provision must have clearly established neighborhood, community, and family outcome measures of success and must report to the commissioner on the achievement of these outcomes on or before June 30, 1999. This appropriation may not be added to the department's budget base for the 2000-2001 biennium.

Sec. 18. ATTORNEY GENERAL 125,000 125,000

\$125,000 each year is for a grant to the DARE advisory council to be used to continue existing education programs in elementary schools and to expand the program into junior and senior high schools. This is a one-time appropriation.

Sec. 19. DEFICIENCY APPROPRIATION

Fiscal Year 1997

General 1,393,000

This appropriation for fiscal year 1997 is added to the appropriation in Laws 1995, chapter 226, article 1, section 7, subdivision 2, to provide matching funds for federal emergency management assistance funds received for natural disaster assistance payments.

Sec. 20. **PLAN FOR FUNDING CRIME VICTIM SERVICES.**

The commissioners of the departments of corrections and public safety will provide a report to the chairs of the house judiciary finance division and the senate crime prevention and judiciary finance division by February 1, 1998. The report will contain a comprehensive coordinated plan for establishing and funding statewide services for battered women, sexual assault, and general crime victims.

Sec. 21. **YEAR 2000 READY.**

Any computer software or hardware that is purchased with money appropriated in this article must be year 2000 ready.

ARTICLE 2

CRIME PREVENTION AND COMMUNITY SAFETY PROGRAMS

Section 1. Minnesota Statutes 1996, section 299C.065, subdivision 1, is amended to read:

Subdivision 1. **GRANTS.** The commissioner of public safety shall make grants to local officials for the following purposes:

- (1) the cooperative investigation of cross jurisdictional criminal activity relating to the possession and sale of controlled substances;
- (2) receiving or selling stolen goods;
- (3) participating in gambling activities in violation of section 609.76;

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(4) violations of section 609.322, 609.323, or any other state or federal law prohibiting the recruitment, transportation, or use of juveniles for purposes of prostitution; and

(5) for partial reimbursement of local costs associated with unanticipated, intensive, long-term, multijurisdictional criminal investigations that exhaust available local resources, except that the commissioner may not reimburse the costs of a local investigation involving a child who is reported to be missing and endangered unless the law enforcement agency complies with section 299C.53 and the agency's own investigative policy; and

(6) for partial reimbursement of local costs associated with criminal investigations into the activities of violent criminal gangs and gang members.

Sec. 2. Laws 1995, chapter 226, article 2, section 37, subdivision 2, is amended to read:

Subd. 2. PILOT PROGRAM ESTABLISHED. In cooperation with the conference of chief judges, the state court administrator, and the commissioner of public safety, the commissioner of corrections shall establish a three-year pilot program to evaluate the effectiveness of using breath analyzer units to monitor DWI and domestic abuse offenders who are ordered to abstain from alcohol use as a condition of pretrial release, supervised release, or probation. The pilot program must include procedures ensuring that violators of this condition of release receive swift consequences for the violation.

The commissioner of corrections shall select at least two judicial districts to participate in the pilot program. Offenders who are ordered to use a breath analyzer unit shall also be ordered to pay the per diem cost of the monitoring unless the offender is indigent. The commissioner of corrections shall reimburse the judicial districts for any costs the districts incur in participating in the program.

After three years, the commissioner of corrections shall evaluate the effectiveness of the program and shall report the results of this evaluation to the conference of chief judges, the state court administrator, the commissioner of public safety, and the chairs of the house of representatives and senate committees having jurisdiction over criminal justice policy and finance.

Sec. 3. GANG INTERVENTION SERVICES; PILOT GRANT PROGRAM.

Subdivision 1. GANG INTERVENTION. The commissioner of corrections shall develop and administer a gang intervention pilot grant program to provide services to young persons who are interested in terminating their gang affiliation. This program shall assist local organizations engaged in helping gang members separate themselves from their gang affiliation by providing services to former members of criminal gangs. The commissioner shall develop a grant application that specifies the eligibility criteria for receiving grants and sets a formula for the match requirement.

Subd. 2. ELIGIBILITY FOR GRANTS. A local organization must meet the following criteria to be eligible for a grant under the program:

(1) it must be a private, nonprofit organization or a local public agency;

(2) it must offer and provide to clients of the program services to help gang members terminate their affiliation with gangs, including educational opportunities, job skill development, life skills, community service, medical services, and counseling; and

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(3) it must provide matching funds or in-kind services in compliance with the formula set by the commissioner of corrections.

Subd. 3. ELIGIBILITY FOR SERVICES. A person who seeks to receive services under this section must meet the following criteria:

(1) at the time the person is accepted into the program, the person must not be older than 25 years of age or be under the custody of the commissioner of corrections;

(2) the person must not have received substantially similar services previously from the grant program or any other publicly funded program;

(3) the person must be employable, as determined by the grantee organization; and

(4) the person must agree to comply with all of the program participation requirements established by the grantee organization, including performing any required community service.

Subd. 4. REPORT TO LEGISLATURE. On or before January 15, 1999, the commissioner of corrections shall submit a report to the chairs of the senate and house divisions having jurisdiction over criminal justice funding evaluating the operating of the pilot grant program established in this section.

Sec. 4. ENHANCED PROBATION PILOT PROJECT; RAMSEY COUNTY.

Subdivision 1. ESTABLISHMENT. A pilot project is created in Ramsey county to establish and implement an enhanced probation law enforcement community partnership program. This program will provide intensive monitoring and coordination between juvenile probation officers, local law enforcement personnel, and culturally specific community nonprofit agencies to best deal with juvenile probationers who have committed or who are at risk to commit violent crimes, especially likely to involve weapons, and who are associated with gang and drug activities in Ramsey county.

Subd. 2. PILOT PROJECT. (a) The pilot project is a local Ramsey county community-based program designed to discourage young people from involvement in unlawful drug or street gang activities usually involving violence and weapons. It will provide a bridge among the law enforcement, corrections, and culturally-specific, community-based programs designed to provide a more intensive intervention effort, including during evenings and weekends, with juvenile offenders on probation who are identified as likely to engage in repeated criminal activity in the future unless intervention is undertaken through intensive surveillance, accountable consequences for probation violations, and the use of culturally-sensitive treatment programs that are innovative and that encourage substantial involvement by members of the community served by the program.

(b) This is a pilot project for Ramsey county, the city of St. Paul, and other local law enforcement agencies along with nonprofit community-based entities who may apply for a grant by submitting an application to Ramsey county for a portion of the state funding.

(c) The applicant nonprofit community-based entities must specify the following in their applications:

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

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(2) intended outcomes and performance indicators for the program;

(3) a description of the planning process that identifies local community needs, surveys existing programs, provides for coordination with existing programs, and involves all affected sectors of the community;

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

(5) the culturally-specific group to be served.

Subd. 3. REPORT ON PILOT PROJECT. Ramsey county shall provide a summary of how the grant funds are spent and the extent to which the objectives of the program are achieved. The summary is to be submitted to the chairs of the committees of the senate and house of representatives with jurisdiction over criminal justice policy and funding of crime prevention programs, by March 1 each year, based on the information provided by applicants under this section and the results of the enforcement efforts of the joint police-probation officer teams.

Sec. 5. PILOT PROJECT FOR SCHOOL-BASED PROBATION IN DAKOTA AND ANOKA COUNTIES.

Subdivision 1. PILOT PROJECT ESTABLISHED. By July 1, 1997, the commissioner of corrections shall establish school-based probation pilot projects in Dakota and Anoka counties.

Subd. 2. PROGRAM DESIGN AND IMPLEMENTATION. Dakota and Anoka counties shall each select one middle or junior high school and one high school to participate in the school-based probation pilot project. Each county may select one additional middle, junior high, or high school for a total of no more than three schools in each county. Each county shall select as participating schools those schools which are able to provide necessary support for the program, such as office space, access to the building during nonschool hours, and a willingness to develop alternative disciplinary responses. Each school-based probation program established shall contain a probation officer located at the school who is available to help the school address behavioral incidents in the school by probationers. The probation officer shall help in:

(1) conducting cognitive/behavioral group sessions along with school personnel providing cofacilitation assistance;

(2) developing and administering alternatives to school discipline actions such as suspension, which may include mediation, community service, or home confinement;

(3) working more closely with the school and communicating with and engaging the family's support of the juvenile's school work and behavior; and

(4) referring and brokering with other schools' services to align the probationer and the probationer's family with needed services.

Subd. 3. DATA PRACTICES. Data created, collected, used, or maintained by school-based probation officers and school officials participating in this pilot project are private data on individuals as defined in Minnesota Statutes, section 13.02, subdivision 12, and may be disseminated among personnel working with the school-based probation project and as follows:

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- (1) pursuant to Minnesota Statutes, section 13.05;
- (2) pursuant to a valid court order;
- (3) pursuant to a statute specifically authorizing access to the private data;
- (4) as allowed in Code of Federal Regulations, title 34, part 99; or
- (5) within the participating school district or educational entity as necessary to protect persons or property or to address the educational and other needs of students.

Subd. 4. **REPORT REQUIRED.** By January 15, 1999, the commissioner of corrections shall report to the chairs of the senate and house of representatives committees having jurisdiction over criminal justice policy on the effectiveness of the pilot project and any school-based probation programs created under this section. The report shall address the effectiveness of the pilot project by measuring reduction in school suspensions, improvement in grades, reduction of truant behavior, reduction in number and severity of delinquent behaviors, increase in number who return to school, and increase in number who succeed in school.

Sec. 6. **WORKING GROUP ON RESTITUTION.**

Subdivision 1. **CREATION; DUTIES.** A working group is created to study methods to improve the collection of restitution and the enforcement of restitution orders for repeat offenders. The working group must consider the feasibility of:

(1) incarcerating offenders who have been convicted two or more times of committing an offense for which restitution to a victim, as defined in Minnesota Statutes, section 611A.01, or to society is owed or should be paid, including but not limited to violations of Minnesota Statutes, sections 169.121 (DWI) or 169.129 (aggravated DWI); 609.375 (nonpayment of child support); 609.52 (theft); 609.561 to 609.563 (arson); or 609.582 (burglary);

(2) requiring these inmates to work at a fair market wage; and

(3) enabling inmates to first pay restitution to their victims, after satisfying any outstanding or ongoing child support or spousal maintenance obligations, and secondly, to pay the operating costs of their confinement, including the costs of any privileges, treatment, or services received by the inmates in the facility.

Subd. 2. **MEMBERSHIP.** The working group consists of the following 14 members:

(1) the commissioner of corrections or the commissioner's designee;

(2) two district court judges appointed by the chief justice, one from the metropolitan area, and one from outside the metropolitan area;

(3) the ombudsman for crime victims;

(4) the ombudsman for corrections;

(5) a representative of the Minnesota association of community corrections act counties appointed by the president of the association;

(6) a representative of the Minnesota association of county probation officers appointed by the president of the association;

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(7) two members of the house of representatives appointed by the speaker, and two members of the senate appointed by the subcommittee on committees. These appointments must be made in a manner that ensures a fair representation of viewpoints on business and labor issues;

(8) one crime victim appointed by the crime victim and witness advisory council;

(9) one representative of the business community appointed by the commissioner of corrections after consultation with the Minnesota business partnership and the Minnesota chamber of commerce; and

(10) one representative of labor unions appointed by the commissioner of corrections after consultation with public and private labor organizations from the affiliated membership of the Minnesota AFL-CIO.

The commissioner of corrections or the commissioner's designee shall chair and provide necessary staff support to the working group.

Subd. 3. ADDITIONAL DUTIES. (a) The working group shall study the feasibility of and develop recommendations concerning guidelines for sentencing courts to use when sentencing offenders to incarceration and when ordering offenders to pay restitution to crime victims or to the public.

(b) The working group shall investigate whether it would be feasible for the state to enter into a long-term contract with one or more business entities under which the business entity would employ inmates at a fair market wage. The commissioner of corrections would ensure that inmates use the wages they earn to pay restitution to their victims according to restitution guidelines approved by the chairs of the house and senate committees and divisions having jurisdiction over criminal justice funding and policy, and to pay the costs of their confinement. Based on this investigation, the working group shall make recommendations to the legislature by February 1, 1998, regarding the type of business entity or entities with which the state could contract to operate an industry program.

(c) The working group shall examine current methods of collecting restitution and determine whether there are better ways of collecting restitution and enforcing restitution orders within the current criminal justice system.

Sec. 7. PILOT PROGRAM; JUVENILE GUN OFFENDERS.

A pilot program is established in Hennepin county for juveniles who are found delinquent for illegally possessing a pistol. Under this pilot program, judges may order that these juveniles be committed to a local county correctional facility for not less than 30 days, and that 23 days of this commitment be stayed on condition that the juvenile reside in a juvenile correctional facility for at least seven days and successfully complete a 40-hour course on gun education provided by the facility. The court must revoke the stay of commitment if the juvenile fails to complete the gun education course. The county shall submit a report to the legislature by January 1, 1999, evaluating the pilot program.

Sec. 8. HENNEPIN AND RAMSEY COUNTIES COMMUNITY SERVICE GRANT PROGRAM PILOT PROJECTS.

Subdivision 1. GRANT PROGRAM. Hennepin and Ramsey counties shall each establish and administer a pilot project grant program to fund community-based pro-

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grams in high-crime areas that provide opportunities for children under age 16 to volunteer for and perform community service. Programs qualifying for grants must encourage responsibility and good citizenship on the part of participating children and discourage them from engaging in illegal activities or associating with criminal gangs. Programs receiving grants may provide children who perform community service with appropriate nonmonetary rewards including, but not limited to, partial scholarships for post-secondary education, gift certificates, tickets for entertainment, parties, and group outings.

Subd. 2. ELIGIBILITY CRITERIA. Hennepin and Ramsey counties shall establish criteria for determining the community-based programs eligible for grants under subdivision 1. Eligible programs must:

(1) have a broad network of established economic and social relationships within the community and with local governmental units;

(2) represent a broad range of diversity;

(3) have demonstrated an ability to administer community-based programs and have a history of successful community organizing;

(4) have a proven history of properly supervising and successfully interacting with juveniles; and

(5) have demonstrated an ability to work with parents of juveniles and schools.

Sec. 9. FIREFIGHTER TRAINING STUDY COMMITTEE.

Subdivision 1. MEMBERSHIP; CHAIR. (a) The firefighter training study committee consists of:

(1) two representatives of the Minnesota state fire chiefs association, appointed by the president of the association;

(2) two representatives of the Minnesota professional firefighters, appointed by the president of the organization;

(3) four representatives of the Minnesota state fire department association, at least two of whom are volunteer firefighters serving a city or area with a population under 10,000 outside the seven-county metropolitan area, appointed by the president of the organization;

(4) two representatives of the league of Minnesota cities, appointed by the president of the league;

(5) the director of the Minnesota state colleges and universities FIRE/EMS center, or the director's designee;

(6) a public member, appointed by the governor;

(7) an employee of the department of labor and industry whose responsibilities include fire-related occupational safety and health activities, appointed by the commissioner of labor and industry;

(8) the commissioner of public safety or the commissioner's designee;

(9) two members of the house of representatives, one from each caucus; one representing a district within the metropolitan area as defined in Minnesota Statutes, section

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473.121, subdivision 2, and the other representing a district outside the metropolitan area, appointed by the speaker; and

(10) two members of the senate, one from each caucus; one representing a district within the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2, and the other representing a district outside the metropolitan area, appointed by the subcommittee on committees of the committee on rules and administration.

(b) The committee shall elect a chair from the members.

Subd. 2. ADMINISTRATIVE SUPPORT. The commissioner of public safety shall provide necessary administrative and staff support to the committee.

Subd. 3. COMPENSATION. Committee members who are not public officials or employees are entitled to reimbursement for expenses in accordance with Minnesota Statutes, section 15.059, subdivision 6. Legislative members are entitled to compensation in accordance with rules of the house of representatives and the senate.

Subd. 4. DUTIES. (a) The committee shall:

(1) review findings and recommendations of the joint advisory training committee formed by the Minnesota state fire department association, the Minnesota state fire chiefs association, and the Minnesota professional firefighters;

(2) conduct further study of firefighter training needs and options;

(3) consider current funding for firefighter training, determine any need for additional funding, and recommend possible sources of the funding;

(4) consider the current delivery system for firefighter training, including statewide coordinating of training, and any needed improvements;

(5) consider the selection and evaluation of training instructors and any needed improvements;

(6) study levels of service delivery and any need for standardized training;

(7) consider federal and state laws and standards that affect firefighter training;

(8) determine a fair system for reimbursing local jurisdictions for training programs;

and

(9) consider the need for centralized administrative direction of training programs.

(b) The committee shall conduct at least three, but no more than five, public meetings around the state to gather public input relevant to paragraph (a). Before submitting the report required by subdivision 5, the committee shall prepare and disseminate a draft report and seek public comment on it. A record of comment received must be kept and submitted along with the report required by subdivision 5. At least one-half of the meetings must take place outside the seven-county metropolitan area.

Subd. 5. REPORT. The committee shall submit a report and its recommendations to the chairs of the senate and house committees or divisions having jurisdiction over criminal justice policy and funding by February 1, 1998. The report must identify any changes in statutes required to implement the committee's recommendations. The committee expires upon submission of the report.

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Subd. 6. LOCAL COOPERATION. Local government units shall cooperate with the committee in the preparation of the report required by subdivision 5.

Sec. 10. BOARD ON JUDICIAL STANDARDS; AWARD OF COSTS AND ATTORNEY FEES.

Subdivision 1. AWARD. The board on judicial standards may award reasonable costs and attorney fees to a judge if:

(1) a formal hearing under the Minnesota Rules of the Board on Judicial Standards, rule 10, was held on the charges against the judge;

(2) the findings and recommendations of the panel concluded that the judge did not use the judicial office to advance a personal or private goal and that the judge was acting on matters of concern to the judge in the judge's official capacity;

(3) the findings and recommendations of the panel concluded that the case served a public purpose by increasing public awareness of the judicial system and the problems with which it is faced; and

(4) the board dismissed the charges and found that the judge did not violate the rules of judicial conduct, judicial standards, or professional conduct.

Subd. 2. APPLICATION. A judge against whom charges have previously been dismissed may apply to the board on judicial standards for an award of costs and attorney fees under subdivision 1.

Sec. 11. RESTORATIVE JUSTICE PROGRAMS.

A local governmental unit may establish a restorative justice program. A restorative justice program is a program that provides forums that may be an alternative to prosecution where certain individuals charged with having committed a crime meet with the victim; the victim's family members or other supportive persons, if appropriate; the offender's family members or other supportive persons, if appropriate; a law enforcement official or prosecutor when appropriate; and members of the community, in order to:

(1) discuss the impact of the offense on the victim and the community;

(2) assign an appropriate sanction to the offender; and

(3) provide methods for reintegrating the offender into the community when the offender is from the community.

Sec. 12. FAMILY VIOLENCE COORDINATING COUNCILS.

Subdivision 1. ESTABLISHMENT; PURPOSE. A judicial district may establish a family violence coordinating council for the purpose of promoting innovative efforts to deal with family violence issues. A coordinating council shall establish and promote interdisciplinary programs and initiatives to coordinate public and private legal and social services and law enforcement, prosecutorial, and judicial activities.

Subd. 2. MEMBERSHIP. The chief judge shall appoint the members of a family violence coordinating council. Members must include representatives of the following groups:

(1) judges, court administrators, and probation authorities;

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(2) domestic abuse advocates and others who provide social services to adult and child victims of domestic abuse and perpetrators of domestic abuse;

(3) health care and mental health care providers;

(4) law enforcement and prosecutors;

(5) public defenders and legal aid;

(6) educators and child protection workers; and

(7) public officials and other public organizations.

Subd. 3. **PLAN.** A family violence coordinating council shall develop a plan for coordinating activities of its membership relating to family violence issues and improving activities and services, including:

(1) interdisciplinary training and systemic approaches to family violence issues;

(2) identification of current weaknesses in the system and areas where additional resources are needed, and ways to improve those components;

(3) promoting public and private partnerships in the delivery of services and the use of volunteer services;

(4) identification of differences in approaches and needs in different demographic populations;

(5) developing protocols for investigation and prosecution of domestic abuse, including issues related to victim cooperation and interviewing and investigative techniques;

(6) coordination of city and county prosecutorial efforts, including standards for referral of cases, coordinated prosecutions, and cross-deputization of prosecutors;

(7) evaluation of dismissal, conviction, and sentencing levels and practices and relationship to reported incidents of domestic abuse, cases investigated and prosecuted, and severity of abuse; and

(8) coordination of family, juvenile, and criminal court proceedings involving family violence issues.

Subd. 4. **EVALUATION.** A family violence coordinating council shall develop a system for evaluating the effectiveness of its initiatives and programs in improving the coordination of activities and delivery of services and shall focus on identifiable goals and outcomes. An evaluation must include data components as well as input from individuals involved in family violence activities and services, victims, and perpetrators.

Sec. 13. FOURTH JUDICIAL DISTRICT FAMILY VIOLENCE COORDINATING COUNCIL PILOT PROGRAM.

The commissioner of public safety shall make a grant to the fourth judicial district for the planning of a family violence coordinating council under section 12. The grant may be made to develop a plan and evaluation system under section 12, subdivisions 3 and 4. By July 1 of each year, the district shall report on the activities of the council to the commissioner. By January 15, 2000, the commissioner shall report to the chairs of the

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senate and house divisions having jurisdiction over criminal justice funding on the pilot program, including recommendations for legislation.

ARTICLE 3

GENERAL CRIME PROVISIONS

Section 1. Minnesota Statutes 1996, section 169.20, subdivision 5, is amended to read:

Subd. 5. **EMERGENCY VEHICLE.** (a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle and, except where otherwise not required by law, when the driver is giving audible signal by siren, the driver of each other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the highway clear of any intersection, and shall stop and remain in this position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. The driver of another vehicle on a one-way roadway shall drive to the closest edge or curb and stop. The driver of an authorized emergency vehicle escorting the movement of a vehicle or load which is oversize or overweight need not sound an audible signal by siren but shall exhibit the light required by this paragraph. The driver of each other vehicle then shall yield the right-of-way, as required by this paragraph, to the emergency vehicle escorting the vehicle or load which is oversize or overweight.

(b) Upon the approach of an authorized emergency vehicle the driver of each street car and the operator of each trackless trolley car shall immediately stop such car clear of any intersection and keep it in this position and keep the doors and gates of the street car or trackless trolley car closed until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(c) A peace officer may arrest the driver of a motor vehicle if the peace officer has probable cause to believe that the driver has operated the vehicle in violation of paragraph (a) within the four-hour period following the termination of the emergency incident.

(d) This subdivision shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons using the highways.

Sec. 2. Minnesota Statutes 1996, section 169.797, subdivision 3, is amended to read:

Subd. 3. **VIOLATION BY DRIVER.** Any other person who operates a vehicle upon a public highway, street, or road in this state who knows or has reason to know that the owner does not have security complying with the terms of section 65B.48 in full force and effect is guilty of a crime and shall be sentenced as provided in subdivision 4.

Sec. 3. Minnesota Statutes 1996, section 388.23, subdivision 1, is amended to read:

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Subdivision 1. **AUTHORITY.** The county attorney, or any deputy or assistant county attorney whom the county attorney authorizes in writing, has the authority to subpoena and require the production of any records of telephone companies, cellular phone companies, paging companies, the names and addresses of subscribers of private computer networks including Internet service providers or computer bulletin board systems, electric companies, gas companies, water utilities, chemical suppliers, hotels and motels, pawn shops, airlines, buses, taxis, and other entities engaged in the business of transporting people, and freight companies, warehousing companies, self-service storage facilities, package delivery companies, and other entities engaged in the businesses of transport, storage, or delivery, and records of the existence of safe deposit box account numbers and customer savings and checking account numbers maintained by financial institutions and safe deposit companies, insurance records relating to the monetary payment or settlement of claims, and wage and employment records of an applicant or recipient of public assistance who is the subject of a welfare fraud investigation relating to eligibility information for public assistance programs. Subpoenas may only be issued for records that are relevant to an ongoing legitimate law enforcement investigation. Administrative subpoenas may only be issued in welfare fraud cases if there is probable cause to believe a crime has been committed. This provision applies only to the records of business entities and does not extend to private individuals or their dwellings. Subpoenas may only be served by peace officers as defined by section 626.84, subdivision 1, paragraph (c).

Sec. 4. Minnesota Statutes 1996, section 609.101, subdivision 5, is amended to read:

Subd. 5. **WAIVER PROHIBITED; REDUCTION AND INSTALLMENT PAYMENTS.** (a) The court may not waive payment of the minimum fine, surcharge, or assessment required by this section. ~~The court may reduce the amount of the minimum fine, surcharge, or assessment~~

(b) If the defendant qualifies for the services of a public defender or the court makes written findings on the record that the convicted person is indigent or that immediate payment of the fine, surcharge, or assessment would create undue hardship for the convicted person or that person's immediate family, the court may reduce the amount of the minimum fine to not less than \$50.

(c) The court also may authorize payment of the fine, surcharge, or assessment in installments.

Sec. 5. **[609.113] SENTENCE TO WORK PROGRAM FOR CERTAIN OFFENDERS.**

Subdivision 1. **MANDATORY SENTENCE.** (a) Except as provided in paragraph (b), if a court stays the imposition or execution of sentence under section 609.135 for an adult male who is convicted of a first- or second-time nonviolent felony offense, and who has never been previously convicted of or adjudicated for committing an offense against the person, the court, in addition to any other intermediate sanctions ordered and as a condition of probation, shall order the person to satisfactorily complete the work program for the period of time specified in subdivision 4, paragraph (a).

If the work program is full at the time of sentencing, the court may sentence the person to any sentence authorized in section 609.10 or 609.135. The court may sentence the person to the program and require that the person be placed in the program when an opening occurs.

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

(b) If the court determines, based on substantial and compelling reasons, that a person described in paragraph (a) would receive a more appropriate sanction and level of care through an alternative disposition using local correctional resources, the court may sentence the person to a disposition not involving the work program notwithstanding paragraph (a). This sentence must include a sanction of equivalent or greater severity as the work program.

If a court sentences a person under this paragraph, the court shall make written findings as to the reasons for not using the work program. The court shall forward these findings, including the alternative sentence imposed, to the sentencing guidelines commission.

Subd. 2. PERMISSIVE SENTENCE. A court may sentence a person who has never previously been convicted of or adjudicated for committing an offense against the person to satisfactorily complete the work program for a period of time authorized in subdivision 4, paragraph (b), if the person:

(1) is convicted of a nonviolent felony offense other than a first- or second-time nonviolent felony offense and the court is staying the imposition or execution of sentence under section 609.135; or

(2) is convicted of a nonviolent gross misdemeanor offense.

This sentence may be in addition to any other sanctions ordered by the court.

Subd. 3. OFFENDERS INELIGIBLE FOR PROGRAM. A person is ineligible to be sentenced to the work program if:

(1) the court determines that the person has a debilitating chemical dependency or serious mental health problem; or

(2) the person has been convicted of a nonviolent felony or gross misdemeanor offense after having initially been charged with committing a crime against the person.

Subd. 4. LENGTH OF SENTENCE. (a) If the court determines that the offense is the person's first nonviolent felony offense, the court shall sentence the person to the work program for 60 days. If the court determines that the offense is the person's second nonviolent felony offense, the court shall sentence the person to the work program for 90 days.

(b) The court may sentence a person described in subdivision 2 as follows:

(1) if the person is convicted of a nonviolent felony offense, the court may sentence the person to the work program for up to 90 days; or

(2) if the person is convicted of a nonviolent gross misdemeanor offense, the court may sentence the person to the work program for up to 30 days.

(c) The person shall be placed in the work program as soon as possible after the sentencing to ensure swift consequences for the offense.

Subd. 5. REPORT. By January 15, 1999, and each year thereafter, the sentencing guidelines commission shall issue a report to the chairs of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding summarizing the information received from courts under subdivision 1, paragraph (b).

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

Subd. 6. DEFINITIONS. For purposes of this section, "nonviolent felony offense" and "nonviolent gross misdemeanor offense" do not include crimes against the person.

Sec. 6. Minnesota Statutes 1996, 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; or
- (6) to perform work service in a restorative justice program 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.

In controlled substance crime cases, "restitution" also includes payment of compensation to a government entity that incurs loss as a direct result of the controlled substance crime.

Sec. 7. Minnesota Statutes 1996, section 609.135, subdivision 1, is amended to read:

Subdivision 1. **TERMS AND CONDITIONS.** (a) Except when a sentence of life imprisonment is required by law, or when a mandatory minimum sentence is required by section 609.11, any court may stay imposition or execution of sentence and:

~~(a)~~ (1) may order intermediate sanctions without placing the defendant on probation; or

(b) (2) may place the defendant on probation with or without supervision and on the terms the court prescribes, including intermediate sanctions when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person. No intermediate sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them.

(b) For purposes of this subdivision, subdivision 6, and section 609.14, the term "intermediate sanctions" includes but is not limited to incarceration in a local jail or work-

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house, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, work service in a restorative justice program, work in lieu of or to work off fines and, with the victim's consent, work in lieu of or to work off restitution.

(c) A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169.121.

Sec. 8. Minnesota Statutes 1996, section 609.15, subdivision 1, is amended to read:

Subdivision 1. CONCURRENT, CONSECUTIVE SENTENCES; SPECIFICATION REQUIREMENT. (a) When separate sentences of imprisonment are imposed on a defendant for two or more crimes, whether charged in a single indictment or information or separately, or when a person who is under sentence of imprisonment in this state is being sentenced to imprisonment for another crime committed prior to or while subject to such former sentence, the court in the later sentences shall specify whether the sentences shall run concurrently or consecutively. If the court does not so specify, the sentences shall run concurrently.

(b) When a court imposes sentence for a misdemeanor or gross misdemeanor offense and specifies that the sentence shall run consecutively to any other sentence, the court may order the defendant to serve time in custody for the consecutive sentence in addition to any time in custody the defendant may be serving for any other offense, including probationary jail time or imprisonment for any felony offense.

Sec. 9. [609.153] INCREASED PENALTIES FOR CERTAIN MISDEMEANORS.

Subdivision 1. APPLICATION. This section applies to the following misdemeanor-level crimes: sections 609.324 (prostitution); 609.546 (motor vehicle tampering); 609.595 (damage to property); and 609.66 (dangerous weapons); and violations of local ordinances prohibiting the unlawful sale or possession of controlled substances.

Subd. 2. CUSTODIAL ARREST. Notwithstanding Rule 6.01 of the Rules of Criminal Procedure, a peace officer acting without a warrant who has decided to proceed with the prosecution of a person for committing a crime described in subdivision 1, may arrest and take the person into custody if the officer has reason to believe the person has a prior conviction for any crime described in subdivision 1.

Subd. 3. INCREASED PENALTY. Notwithstanding the statutory maximum penalty otherwise applicable to the offense, a person who commits a misdemeanor-level crime described in subdivision 1 is guilty of a gross misdemeanor if the court determines at the time of sentencing that the person has two or more prior convictions in this or any other state for any of the crimes described in subdivision 1.

Subd. 4. NOTICE TO COMPLAINING WITNESS. A prosecuting authority who is responsible for filing charges against or prosecuting a person arrested under the circumstances described in subdivision 2 shall make reasonable efforts to notify the complaining witness of the final outcome of the criminal proceeding that resulted from the arrest including, where appropriate, the decision to dismiss or not file charges against the arrested person.

New language is indicated by underline, deletions by strikeout.

Sec. 10. Minnesota Statutes 1996, section 609.221, is amended to read:

609.221 ASSAULT IN THE FIRST DEGREE.

Subdivision 1. GREAT BODILY HARM. Whoever assaults another and inflicts great bodily harm may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$30,000, or both.

Subd. 2. USE OF DEADLY FORCE AGAINST PEACE OFFICER OR CORRECTIONAL EMPLOYEE. (a) Whoever assaults a peace officer or correctional employee by using or attempting to use deadly force against the officer or employee while the officer or employee is engaged in the performance of a duty imposed by law, policy, or rule, may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$30,000, or both.

(b) A person convicted of assaulting a peace officer or correctional employee as described in paragraph (a) shall be committed to the commissioner of corrections for not less than ten years, nor more than 20 years. A defendant convicted and sentenced as required by this paragraph is not eligible for probation, parole, discharge, work release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135. Notwithstanding section 609.135, the court may not stay the imposition or execution of this sentence.

(c) As used in this subdivision:

(1) "correctional employee" means an employee of a public or private prison, jail, or workhouse;

(2) "deadly force" has the meaning given in section 609.066, subdivision 1; and

(3) "peace officer" has the meaning given in section 626.84, subdivision 1.

Sec. 11. Minnesota Statutes 1996, section 609.2245, subdivision 2, is amended to read:

Subd. 2. **PERMITTED ACTIVITIES.** A surgical procedure is not a violation of subdivision 1 if the procedure:

(1) is necessary to the health of the person on whom it is performed and is performed by: (i) a physician licensed under chapter 147 or; (ii) a physician in training under the supervision of a licensed physician; or (iii) a certified nurse midwife practicing within the nurse midwife's legal scope of practice; or

(2) is performed on a person who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth: (i) by a physician licensed under chapter 147 or; (ii) a physician in training under the supervision of a licensed physician; or (iii) a certified nurse midwife practicing within the nurse midwife's legal scope of practice.

Sec. 12. **[609.2336] DECEPTIVE OR UNFAIR TRADE PRACTICES; ELDERLY OR HANDICAPPED VICTIMS.**

Subdivision 1. DEFINITIONS. As used in this section:

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

(1) "charitable solicitation law violation" means a violation of sections 309.50 to 309.61;

(2) "consumer fraud law violation" means a violation of sections 325F.68 to 325F.70;

(3) "deceptive trade practices law violation" means a violation of sections 325D.43 to 325D.48;

(4) "false advertising law violation" means a violation of section 325F.67;

(5) "handicapped person" means a person who has an impairment of physical or mental function or emotional status that substantially limits one or more major life activities;

(6) "major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; and

(7) "senior citizen" means a person who is 65 years of age or older.

Subd. 2. **CRIME.** It is a gross misdemeanor for any person to commit a charitable solicitation law violation, a consumer fraud law violation, a deceptive trade practices law violation, or a false advertising law violation if the person knows or has reason to know that the person's conduct:

(1) is directed at one or more handicapped persons or senior citizens; and

(2) will cause or is likely to cause a handicapped person or a senior citizen to suffer loss or encumbrance of a primary residence, principal employment or other major source of income, substantial loss of property set aside for retirement or for personal or family care and maintenance, substantial loss of pension, retirement plan, or government benefits, or substantial loss of other assets essential to the victim's health or welfare.

Subd. 3. **PROSECUTORIAL JURISDICTION.** The attorney general has state-wide jurisdiction to prosecute violations of this section. This jurisdiction is concurrent with that of the local prosecuting authority responsible for prosecuting gross misdemeanors in the place where the violation was committed.

Sec. 13. Minnesota Statutes 1996, section 609.487, subdivision 3, is amended to read:

Subd. 3. **FLEEING AN OFFICER.** Whoever by means of a motor vehicle flees or attempts to flee 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, 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. Whoever violates this subdivision a second or subsequent time is guilty of a felony and may be sentenced to imprisonment for not more than one year three years and one day or to payment of a fine of not more than \$3,000 \$5,000, or both.

Sec. 14. Minnesota Statutes 1996, section 609.495, subdivision 1, is amended to read:

Subdivision 1. (a) Whoever harbors, conceals, or aids another known by the actor to have committed a felony under the laws of this or another state or of the United States

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with intent that such offender shall avoid or escape from arrest, trial, conviction, or punishment, 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) Whoever knowingly harbors, conceals, or aids a person who is on probation, parole, or supervised release because of a felony level conviction and for whom an arrest and detention order has been issued, with intent that the person evade or escape being taken into custody under the order, 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. As used in this paragraph, "arrest and detention order" means a written order to take and detain a probationer, parolee, or supervised releasee that is issued under section 243.05, subdivision 1; 260.311, subdivision 3a; or 401.02, subdivision 4.

Sec. 15. Minnesota Statutes 1996, section 609.498, is amended by adding a subdivision to read:

Subd. 1b. AGGRAVATED FIRST-DEGREE WITNESS TAMPERING. (a) A person is guilty of aggravated first-degree witness tampering if the person causes or, by means of an implicit or explicit credible threat, threatens to cause great bodily harm or death to another in the course of committing any of the following acts intentionally:

(1) preventing or dissuading or attempting to prevent or dissuade a person who is or may become a witness from attending or testifying at any criminal trial or proceeding;

(2) coercing or attempting to coerce a person who is or may become a witness to testify falsely at any criminal trial or proceeding;

(3) retaliating against a person who was summoned as a witness at any criminal trial or proceeding within a year following that trial or proceeding or within a year following the actor's release from incarceration, whichever is later;

(4) preventing or dissuading or attempting to prevent or dissuade a person from providing information to law enforcement authorities concerning a crime;

(5) coercing or attempting to coerce a person to provide false information concerning a crime to law enforcement authorities; or

(6) retaliating against any 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.

(b) A person convicted of committing any act prohibited by paragraph (a) may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$30,000, or both.

Sec. 16. Minnesota Statutes 1996, section 609.498, is amended by adding a subdivision to read:

Subd. 4. NO BAR TO CONVICTION. Notwithstanding sections 609.035 or 609.04, a prosecution for or conviction of the crime of aggravated first-degree witness tampering is not a bar to conviction of or punishment for any other crime.

Sec. 17. Minnesota Statutes 1996, section 609.52, subdivision 2, is amended to read:

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

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(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 of 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) (i) 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) (ii) 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) (iii) 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

(d) (iv) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 which intentionally and falsely states the costs of or actual treatment or supplies provided; or

(e) (v) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 for treatment or supplies that the provider knew were medically unnecessary, inappropriate, or excessive; or

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

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

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

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

(c) (iii) 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

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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

(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 knowing or having reason to know 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

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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

(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, knowing or having reason to know that the owner or an authorized agent of the owner did not give consent.

Sec. 18. Minnesota Statutes 1996, section 609.684, subdivision 4, is amended to read:

Subd. 4. **NOTICE REQUIRED.** (a) A business establishment that offers for sale at retail any toxic substance must display a conspicuous sign that contains the following, or substantially similar, language:

“NOTICE

~~It is unlawful for a person to sell glue, cement, or aerosol paint containing intoxicating substances, to a person under 18 years of age, except as provided by law. This offense is a misdemeanor. It is also a misdemeanor for a person to use or possess glue, cement, aerosol paint, with the intent of inducing intoxication, excitement, or stupefaction of the central nervous system. This use can be harmful or fatal.”~~

(b) A business establishment may omit from the required notice references to any toxic substance that is not offered for sale by that business establishment.

(c) A business establishment that does not sell any toxic substance listed in subdivision 1 other than butane or butane lighters shall post a sign stating that it is illegal to sell

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butane or butane lighters to anyone under the age of 18. This sign shall fulfill the requirements under this subdivision is not required to post a notice under paragraph (a).

Sec. 19. Minnesota Statutes 1996, section 609.78, is amended to read:

609.78 EMERGENCY TELEPHONE CALLS AND COMMUNICATIONS.

Subdivision 1. MISDEMEANOR OFFENSES. Whoever does the following is guilty of a misdemeanor:

(1) Refuses to relinquish immediately a coin-operated telephone or a telephone line consisting of two or more stations when informed that the line is needed to make an emergency call for medical or ambulance service or for assistance from a police or fire department or for other service needed in an emergency to avoid serious harm to person or property, and an emergency exists;

(2) Secures a relinquishment of a coin-operated telephone or a telephone line consisting of two or more stations by falsely stating that the line is needed for an emergency;

(3) Publishes telephone directories to be used for telephones or telephone lines and the directories do not contain a copy of this section;

(4) Makes an emergency call for medical or ambulance service, knowing that no medical emergency exists; or

(5) Interrupts, disrupts, impedes, or otherwise interferes with the transmission of a citizen's band radio channel communication the purpose of which is to inform or inquire about a medical emergency or an emergency in which property is or is reasonably believed to be in imminent danger of damage or destruction.

Subd. 2. INTERFERENCE WITH A 911 CALL; GROSS MISDEMEANOR OFFENSE. A person who intentionally interrupts, disrupts, impedes, or otherwise interferes with a 911 call or who prevents or hinders another from placing a 911 call, and whose conduct does not result in a violation of section 609.498, is guilty of a gross misdemeanor 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.

Sec. 20. Minnesota Statutes 1996, section 609.902, subdivision 4, is amended to read:

Subd. 4. **CRIMINAL ACT.** "Criminal act" means conduct constituting, or a conspiracy or attempt to commit, a felony violation of chapter 152, or a felony violation of section 297D.09; 299F.79; 299F.80; 299F.82; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.228; 609.235; 609.245; 609.25; 609.27; 609.322; 609.323; 609.342; 609.343; 609.344; 609.345; 609.42; 609.48; 609.485; 609.495; 609.496; 609.497; 609.498; 609.52, subdivision 2, if the offense is punishable under subdivision 3, clause (3)(b) or clause 3(d)(v) or (vi); section 609.52, subdivision 2, clause (4); 609.53; 609.561; 609.562; 609.582, subdivision 1 or 2; 609.668, subdivision 6, paragraph (a); 609.67; 609.687; 609.713; 609.86; 609.894, subdivision 3 or 4; 624.713; or 624.74; or 626A.02, subdivision 1, if the offense is punishable under section 626A.02, subdivision 4, paragraph (a). "Criminal act" also includes conduct constituting, or a conspiracy or attempt to commit, a felony violation of section 609.52, subdivision 2, clause (3), (4), (15), or (16), if the violation involves an insurance

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company as defined in section 60A.02, subdivision 4, a nonprofit health service plan corporation regulated under chapter 62C, a health maintenance organization regulated under chapter 62D, or a fraternal benefit society regulated under chapter 64B.

Sec. 21. Minnesota Statutes 1996, section 631.07, is amended to read:

631.07 ORDER OF FINAL ARGUMENT.

When the giving of evidence is concluded in a criminal trial, unless the case is submitted on both sides without argument, the prosecution may make a closing argument to the jury. The defense may then make its closing argument to the jury. ~~On the motion of the prosecution, The court may shall permit the prosecution to reply in rebuttal if the court determines that the defense has made in its closing argument a, which shall be limited to a response to any misstatement of law or fact or a statement that is inflammatory or prejudicial made by the defense in its closing argument. The rebuttal must be limited to a direct response to the misstatement of law or fact or the inflammatory or prejudicial statement.~~

Sec. 22. RULE SUPERSEDED.

Minnesota Rules of Criminal Procedure, rule 26.03, subdivision 11, is superseded to the extent it conflicts with Minnesota Statutes, section 631.07.

Sec. 23. REPORT.

By January 15, 1999, and each year thereafter, the supreme court is requested to report to the chairs of the senate and house committees having jurisdiction over criminal justice policy on prosecutorial rebuttals under Minnesota Statutes, section 631.07. The report must contain information on:

- (1) the number of rebuttals requested by prosecutors;
- (2) the number of rebuttals permitted by courts; and
- (3) the circumstances involving instances in which rebuttals were not permitted.

Sec. 24. COST OF CRIME STUDY.

The legislative audit commission is requested to direct the legislative auditor to conduct a study of the costs that criminal activity places on the state and local communities. The study shall include not only the direct costs to state and local governments of responding to, prosecuting, and punishing criminal offenders, but also the indirect economic and social costs that criminal activity places on local communities and their residents.

If the commission directs the auditor to conduct this study, the auditor shall report findings to the chairs of the senate crime prevention and house judiciary committees by February 15, 1998.

Sec. 25. REPEALER.

Minnesota Statutes 1996, sections 119A.30; 145.406; 244.09, subdivision 11a; and 609.684, subdivision 2, are repealed.

Sec. 26. EFFECTIVE DATE.

Sections 1 to 20, and 25 are effective August 1, 1997, and apply to crimes committed on or after that date. Sections 21 to 23 are effective August 1, 1997, and apply to proceedings conducted on or after that date. Section 24 is effective July 1, 1997.

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

ARTICLE 4

CONTROLLED SUBSTANCES

Section 1. Minnesota Statutes 1996, section 152.01, subdivision 18, is amended to read:

Subd. 18. **DRUG PARAPHERNALIA.** (a) Except as otherwise provided in paragraph (b), "drug paraphernalia" means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under this chapter or the Uniform Controlled Substances Act, which are knowingly or intentionally used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, (3) testing the strength, effectiveness, or purity of a controlled substance, or (4) enhancing the effect of a controlled substance.

(b) "Drug paraphernalia" does not include the possession, manufacture, delivery, or sale of hypodermic needles or syringes in accordance with section 151.40, subdivision 2.

Sec. 2. Minnesota Statutes 1996, section 152.01, is amended by adding a subdivision to read:

Subd. 22. **DRUG TREATMENT FACILITY.** "Drug treatment facility" means any facility in which a residential rehabilitation program licensed under Minnesota Rules, parts 9530.4100 to 9530.4450, is located, and includes any property owned, leased, or controlled by the facility.

Sec. 3. Minnesota Statutes 1996, section 152.02, subdivision 2, is amended to read:

Subd. 2. The following items are listed in Schedule I:

(1) Any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alpha-methadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylambutene; Dimenoxadol; Dimepheptanol; Dimethylambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxadine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacilmorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Racemoramide; Trimeperidine.

(2) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Acetylcodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyl-desorphine; Methylhydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.

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(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: 3,4-methylenedioxy amphetamine; 4-bromo-2,5-dimethoxyamphetamine; 2,5-dimethoxyamphetamine; 4-methoxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 3,4,5-trimethoxy amphetamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; marijuana; Mescaline; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; 1-(1-(2-thienyl) cyclohexyl) piperidine; n-ethyl-1-phenylcyclohexylamine; 1-(1-phenylcyclohexyl) pyrrolidine.

(4) Peyote, providing the listing of peyote as a controlled substance in schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the American Indian Church, and members of the American Indian Church are exempt from registration. Any person who manufactures peyote for or distributes peyote to the American Indian Church, however, is required to obtain federal registration annually and to comply with all other requirements of law.

(5) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Mecloqualone;

Flunitrazepam.

(6) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Cathinone;

Methcathinone.

Sec. 4. Minnesota Statutes 1996, section 152.02, subdivision 5, is amended to read:

Subd. 5. (a) The following items are listed in Schedule IV: Anabolic substances; Barbitol; Butorphanol; Carisoprodol; Chloral betaine; Chloral hydrate; Chlordiazepoxide; Clonazepam; Clorazepate; Diazepam; Diethylpropion; Ethchlorvynol; Ethinamate; Fenfluramine; Flurazepam; Mebutamate; Methohexital; Meprobamate except when in combination with the following drugs in the following or lower concentrations: conjugated estrogens, 0.4 mg; tridihexethyl chloride, 25mg; pentaerythritol tetranitrate, 20 mg; Methylphenobarbital; Oxazepam; Paraldehyde; Pemoline; Petrichloral; Phenobarbital; and Phentermine.

(b) For purposes of this subdivision, "anabolic substances" means the naturally occurring androgens or derivatives of androstane (androsterone and testosterone); testos-

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terone and its esters, including, but not limited to, testosterone propionate, and its derivatives, including, but not limited to, methyltestosterone and growth hormones, except that anabolic substances are not included if they are: (1) expressly intended for administration through implants to cattle or other nonhuman species; and (2) approved by the United States Food and Drug Administration for that use.

Sec. 5. Minnesota Statutes 1996, section 152.021, subdivision 1, is amended to read:

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 of a total weight of ten grams or more containing cocaine or heroin;

(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 other than cocaine or heroin;

(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 50 kilograms or more containing marijuana or Tetrahydrocannabinols, or one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols in a school zone, a park zone, or a public housing zone, or a drug treatment facility.

Sec. 6. Minnesota Statutes 1996, section 152.021, subdivision 2, is amended to read:

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 of a total weight of 25 grams or more containing cocaine or heroin;

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

(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.

Sec. 7. Minnesota Statutes 1996, section 152.022, subdivision 1, is amended to read:

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 of a total weight of three grams or more containing cocaine or heroin;

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(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 other than cocaine or heroin;

(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 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 25 kilograms or more containing marijuana or Tetrahydrocannabinols;

(5) the person unlawfully sells any amount of a schedule I or II narcotic drug 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

(6) the person unlawfully sells any of the following in a school zone, a park zone, or a public housing zone, or a drug treatment facility:

(i) any amount of a schedule I or II narcotic drug, or lysergic acid diethylamide (LSD);

(ii) one or more mixtures containing methamphetamine or amphetamine; or

(iii) one or more mixtures of a total weight of five kilograms or more containing marijuana or Tetrahydrocannabinols.

Sec. 8. Minnesota Statutes 1996, section 152.022, subdivision 2, is amended to read:

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 of a total weight of six grams or more containing cocaine or heroin;

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

(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.

Sec. 9. Minnesota Statutes 1996, section 152.023, subdivision 1, is amended to read:

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;

(2) on one or more occasions within a 90-day period 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;

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(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, to a person under the age of 18;

(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; or

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

Sec. 10. Minnesota Statutes 1996, section 152.023, subdivision 2, is amended to read:

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

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

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

(3) on one or more occasions within a 90-day period 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;

(4) on one or more occasions within a 90-day period the person unlawfully possesses any amount of a schedule I or II narcotic drug or five or more dosage units of lysergic acid diethylamide (LSD) in a school zone, a park zone, ~~or~~ a public housing zone, or a drug treatment facility;

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

(6) the person unlawfully possesses one or more mixtures containing methamphetamine or amphetamine in a school zone, a park zone, ~~or~~ a public housing zone, or a drug treatment facility.

Sec. 11. Minnesota Statutes 1996, 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 and, in addition, may be sentenced to payment of a fine of not more than \$250,000.

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

(c) In a prosecution under subdivision 1 or 2 involving sales or acts of possession by the same person in two or more counties within a 90-day period, the person may be prosecuted in any county in which one of the sales or acts of possession occurred.

Sec. 12. Minnesota Statutes 1996, section 152.024, subdivision 1, is amended to read:

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;

(2) 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;

(3) 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; or

(4) the person unlawfully sells any amount of marijuana or Tetrahydrocannabinols in a school zone, a park zone, or a public housing zone, or a drug treatment facility, except a small amount for no remuneration.

Sec. 13. Minnesota Statutes 1996, section 152.029, is amended to read:

152.029 PUBLIC INFORMATION: SCHOOL ZONES, PARK ZONES, AND PUBLIC HOUSING ZONES, AND DRUG TREATMENT FACILITIES.

The attorney general shall disseminate information to the public relating to the penalties for committing controlled substance crimes in park zones, school zones, and public housing zones, and drug treatment facilities. The attorney general shall draft a plain language version of sections 152.022 and 152.023 and relevant provisions of the sentencing guidelines, that describes in a clear and coherent manner using words with common and everyday meanings the content of those provisions. The attorney general shall publicize and disseminate the plain language version as widely as practicable, including distributing the version to school boards, local governments, and administrators and occupants of drug treatment facilities and public housing.

Sec. 14. **EXTENSION OF EXPIRATION DATE.**

Notwithstanding Minnesota Statutes, section 15.059, the advisory council on drug abuse resistance education expires on June 30, 2001.

Sec. 15. **EFFECTIVE DATE.**

Section 4 is effective August 1, 1998, and applies to acts committed on or after that date. Sections 1 to 3 and 5 to 13 are effective August 1, 1997, and apply to acts committed on or after that date. Section 14 is effective the day following final enactment.

New language is indicated by underline, deletions by strikeout.

ARTICLE 5

SEX OFFENDERS

Section 1. Minnesota Statutes 1996, section 243.166, subdivision 2, is amended to read:

Subd. 2. **NOTICE.** When a person who is required to register under subdivision 1, paragraph (a), is sentenced or becomes subject to a juvenile court disposition order, the court shall tell the person of the duty to register under this section. The court shall require the person to read and sign a form stating that the duty of the person to register under this section has been explained. If a person required to register under subdivision 1, paragraph (a), was not notified by the court of the registration requirement at the time of sentencing or disposition, the assigned corrections agent shall notify the person of the requirements of this section. When a person who is required to register under subdivision 1, paragraph (c), is released from commitment, the treatment facility shall notify the person of the requirements of this section. The treatment facility shall also obtain the registration information required under this section and forward it to the bureau of criminal apprehension.

Sec. 2. Minnesota Statutes 1996, section 243.166, subdivision 3, is amended to read:

Subd. 3. **REGISTRATION PROCEDURE.** (a) A person required to register under this section shall register with the corrections agent as soon as the agent is assigned to the person. If the person does not have an assigned corrections agent or is unable to locate the assigned corrections agent, the person shall register with the law enforcement agency that has jurisdiction in the area of the person's residence.

(b) At least five days before the person changes residence starts living at a new address, including changing residence to living in another state, the person shall give written notice of the address of the new residence new living address to the assigned corrections agent or to the law enforcement authority with which the person currently is registered. An offender is deemed to change residence when the offender remains at a new address for longer than three days and evinces an intent to take up residence there. If the person will be living in a new state and that state has a registration requirement, the person shall also give written notice of the new address to the designated registration agency in the new state. The corrections agent or law enforcement authority shall, within two business days after receipt of this information, forward it to the bureau of criminal apprehension. The bureau of criminal apprehension shall, if it has not already been done, notify the law enforcement authority having primary jurisdiction in the community where the person will live of the new address. If the person is leaving the state, the bureau of criminal apprehension shall notify the registration authority in the new state of the new address.

Sec. 3. Minnesota Statutes 1996, section 243.166, subdivision 4, is amended to read:

Subd. 4. **CONTENTS OF REGISTRATION.** (a) The registration provided to the corrections agent or law enforcement authority, must consist of a statement in writing signed by the person, giving information required by the bureau of criminal apprehension, a fingerprint card, and photograph of the person taken at the time of the person's release from incarceration or, if the person was not incarcerated, at the time the person initially registered under this section.

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(b) Within three days, the corrections agent or law enforcement authority shall forward the statement, fingerprint card, and photograph to the bureau of criminal apprehension. The bureau shall ascertain whether the person has registered with the law enforcement authority where the person resides. If the person has not registered with the law enforcement authority, the bureau shall send one copy to that authority.

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

(1) Each year, within 30 days of the anniversary date of the person's initial registration, the bureau of criminal apprehension shall mail a verification form to the last reported address of the person.

(2) The person shall mail the signed verification form back to the bureau of criminal apprehension within ten days after receipt of the form, stating on the form the current and last address of the person.

(3) If the person fails to mail the completed and signed verification form to the bureau of criminal apprehension within ten days after receipt of the form, the person shall be in violation of this section.

Sec. 4. Minnesota Statutes 1996, section 244.052, subdivision 3, is amended to read:

Subd. 3. **END-OF-CONFINEMENT REVIEW COMMITTEE.** (a) The commissioner of corrections shall establish and administer end-of-confinement review committees at each state correctional facility and at each state treatment facility where sex offenders are confined. The committees shall assess on a case-by-case basis:

(1) the public risk posed by sex offenders who are about to be released from confinement; and

(2) the public risk posed by sex offenders who are accepted from another state under a reciprocal agreement under the interstate compact authorized by section 243.16.

(b) Each committee shall be a standing committee and shall consist of the following members appointed by the commissioner:

(1) the chief executive officer or head of the correctional or treatment facility where the offender is currently confined, or that person's designee;

(2) a law enforcement officer;

(3) a treatment professional who is trained in the assessment of sex offenders;

(4) a caseworker experienced in supervising sex offenders; and

(5) an employee of the department of corrections from the victim's services unit.

Members of the committee, other than the facility's chief executive officer or head, shall be appointed by the commissioner to two-year terms. The chief executive officer or head of the facility or designee shall act as chair of the committee and shall use the facility's staff, as needed, to administer the committee, obtain necessary information from outside sources, and prepare risk assessment reports on offenders.

(c) The committee shall have access to the following data on a sex offender only for the purposes of its assessment and to defend the committee's risk assessment determination upon administrative review under this section:

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- (1) private medical data under section 13.42 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;
- (2) private and confidential court services data under section 13.84;
- (3) private and confidential corrections data under section 13.85; and
- (4) private criminal history data under section 13.87.

Data collected and maintained by the committee under this paragraph may not be disclosed outside the committee, except as provided under section 13.05, subdivision 3 or 4. The sex offender has access to data on the offender collected and maintained by the committee, unless the data are confidential data received under this paragraph.

(d) At least 90 days before a sex offender is to be released from confinement or accepted for supervision, the commissioner of corrections shall convene the appropriate end-of-confinement review committee for the purpose of assessing the risk presented by the offender and determining the risk level to which the offender shall be assigned under paragraph (e). The offender shall be notified of the time and place of the committee's meeting and has a right to be present and be heard at the meeting. The committee shall use the risk factors described in paragraph (g) and the risk assessment scale developed under subdivision 2 to determine the offender's risk assessment score and risk level. Offenders scheduled for release from confinement shall be assessed by the committee established at the facility from which the offender is to be released. Offenders accepted for supervision shall be assessed by whichever committee the commissioner directs.

(e) The committee shall assign to risk level I a sex offender whose risk assessment score indicates a low risk of reoffense. The committee shall assign to risk level II an offender whose risk assessment score indicates a moderate risk of reoffense. The committee shall assign to risk level III an offender whose risk assessment score indicates a high risk of reoffense.

(f) Before the sex offender is released from confinement or accepted for supervision, the committee shall prepare a risk assessment report which specifies the risk level to which the offender has been assigned and the reasons underlying the committee's risk assessment decision. The committee shall give the report to the offender and to the law enforcement agency at least 60 days before an offender is released from confinement or accepted for supervision. The committee also shall inform the offender of the availability of review under subdivision 6.

(g) As used in this subdivision, "risk factors" includes, but is not limited to, the following factors:

(1) the seriousness of the offense should the offender reoffend. This factor includes consideration of the following:

- (i) the degree of likely force or harm;
- (ii) the degree of likely physical contact; and
- (iii) the age of the likely victim;

(2) the offender's prior offense history. This factor includes consideration of the following:

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- (i) the relationship of prior victims to the offender;
- (ii) the number of prior offenses or victims;
- (iii) the duration of the offender's prior offense history;
- (iv) the length of time since the offender's last prior offense while the offender was at risk to commit offenses; and
- (v) the offender's prior history of other antisocial acts;
- (3) the offender's characteristics. This factor includes consideration of the following:
 - (i) the offender's response to prior treatment efforts; and
 - (ii) the offender's history of substance abuse;
- (4) the availability of community supports to the offender. This factor includes consideration of the following:
 - (i) the availability and likelihood that the offender will be involved in therapeutic treatment;
 - (ii) the availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location;
 - (iii) the offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and
 - (iv) the offender's lack of education or employment stability;
- (5) whether the offender has indicated or credible evidence in the record indicates that the offender will reoffend if released into the community; and
- (6) whether the offender demonstrates a physical condition that minimizes the risk of reoffense, including but not limited to, advanced age or a debilitating illness or physical condition.
- (h) Upon the request of the law enforcement agency or the offender's corrections agent, the commissioner may reconvene the end-of-confinement review committee for the purpose of reassessing the risk level to which an offender has been assigned under paragraph (e). In a request for a reassessment, the law enforcement agency or agent shall list the facts and circumstances arising after the initial assignment under paragraph (e) which support the request for a reassessment. Upon review of the request, the end-of-confinement review committee may reassign an offender to a different risk level. If the offender is reassigned to a higher risk level, the offender has the right to seek review of the committee's determination under subdivision 6.
- (i) An offender may request the end-of-confinement review committee to reassess the offender's assigned risk level after two years have elapsed since the committee's initial risk assessment and may renew the request once every two years following subsequent denials. In a request for reassessment, the offender shall list the facts and circumstances which demonstrate that the offender no longer poses the same degree of risk to the community. The committee shall follow the process outlined in paragraphs (a) to (e), and (g) in the reassessment.

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

Sec. 5. Minnesota Statutes 1996, section 244.052, subdivision 4, is amended to read:

Subd. 4. **LAW ENFORCEMENT AGENCY; DISCLOSURE OF INFORMATION TO PUBLIC.** (a) The law enforcement agency in the area where the sex offender resides, expects to reside, is employed, or is regularly found, is authorized to shall disclose information to the public any information regarding the offender contained in the report forwarded to the agency under subdivision 3, paragraph (f), if the agency determines that disclosure of the information is relevant and necessary to protect the public and to counteract the offender's dangerousness. The extent of the information disclosed and the community to whom disclosure is made must relate to the level of danger posed by the offender, to the offender's pattern of offending behavior, and to the need of community members for information to enhance their individual and collective safety.

(b) The law enforcement agency shall consider the following guidelines in determining the scope of disclosure made under this subdivision:

(1) if the offender is assigned to risk level I, the agency may maintain information regarding the offender within the agency and may disclose it to other law enforcement agencies. Additionally, the agency may disclose the information to any victims of or witnesses to the offense committed by the offender. The agency shall disclose the information to victims of the offense committed by the offender who have requested disclosure;

(2) if the offender is assigned to risk level II, the agency also may disclose the information to the following agencies and groups that the offender is likely to encounter: for the purpose of securing those institutions and protecting individuals in their care while they are on or near the premises of the institution. These agencies and groups include the staff members of public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender. The agency also may disclose the information to individuals the agency believes are likely to be victimized by the offender. The agency's belief shall be based on the offender's pattern of offending or victim preference as documented in the information provided by the department of corrections or human services;

(3) if the offender is assigned to risk level III, the agency also may disclose the information to other members of the community whom the offender is likely to encounter.

Notwithstanding the assignment of a sex offender to risk level II or III, a law enforcement agency may not make the disclosures permitted by clause (2) or (3), if: the offender is placed or resides in a residential facility that is licensed as a residential program, as defined in section 245A.02, subdivision 14, by the commissioner of human services under chapter 254A, or the commissioner of corrections under section 241.021; and the facility and its staff are trained in the supervision of sex offenders. However, if an offender is placed or resides in a licensed facility, the head of the facility shall notify the law enforcement agency before the end of the offender's placement or residence in the facility. Upon receiving this notification, commissioner of corrections or the commissioner of human services within 48 hours after finalizing the offender's approved relocation plan to a permanent residence. Within five days after receiving this notification, the appropriate commissioner shall give to the appropriate law enforcement agency all relevant information the commissioner has concerning the offender, including information on the risk factors in the offender's history and the risk level to which the offender was assigned.

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After receiving this information, the law enforcement agency may make the disclosures permitted by clause (2) or (3), as appropriate.

(c) As used in paragraph (b), clauses (2) and (3), "likely to encounter" means that:

(1) the organizations or community members are in a location or in close proximity to a location where the offender lives or is employed, or which the offender visits or is likely to visit on a regular basis, other than the location of the offender's outpatient treatment program; and

(2) the types of interaction which ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably certain.

(d) A law enforcement agency or official who decides to disclose information under this subdivision shall make a good faith effort to make the notification at least 14 days before an offender is released from confinement or accepted for supervision. If a change occurs in the release plan, this notification provision does not require an extension of the release date.

(e) A law enforcement agency or official that decides to disclose information under this subdivision shall ~~make a good faith effort to conceal~~ not disclose the identity of the ~~victim or victims of or witnesses to the offender's offense~~ offenses.

(f) A law enforcement agency may continue to disclose information on an offender under this subdivision for as long as the offender is required to register under section 243.166.

Sec. 6. Minnesota Statutes 1996, section 244.052, subdivision 5, is amended to read:

Subd. 5. **RELEVANT INFORMATION PROVIDED TO LAW ENFORCEMENT.** At least 60 days before a sex offender is released from confinement or accepted for supervision, the department of corrections or the department of human services, in the case of a person who was committed under section 253B.185 or Minnesota Statutes 1992, section 526.10, shall ~~provide~~ give to the ~~appropriate~~ law enforcement agency that investigated the offender's crime of conviction or, where relevant, the law enforcement agency having primary jurisdiction where the offender was committed, all relevant information that the departments have concerning the offender, including information on risk factors in the offender's history. Within five days after receiving the offender's approved release plan from the office of adult release, the appropriate department shall give to the law enforcement agency having primary jurisdiction where the offender plans to reside all relevant information the department has concerning the offender, including information on risk factors in the offender's history and the risk level to which the offender was assigned.

Sec. 7. Minnesota Statutes 1996, section 244.052, subdivision 6, is amended to read:

Subd. 6. **ADMINISTRATIVE REVIEW.** (a) An offender assigned or reassigned to risk level II or III under subdivision 3, paragraph (e) or (h), has the right to seek administrative review of an end-of-confinement review committee's risk assessment determination. The offender must exercise this right within 14 days of receiving notice of the committee's decision by notifying the chair of the committee. Upon receiving the request for administrative review, the chair shall notify: (1) the offender; (2) the victim or victims of the offender's offense who have requested disclosure or their designees; (3) the law

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enforcement agency, that investigated the offender's crime of conviction or, where relevant, the law enforcement agency having primary jurisdiction where the offender was committed; (4) the law enforcement agency having jurisdiction where the offender expects to reside, providing that the release plan has been approved by the office of adult release of the department of corrections; (5) and any other individuals the chair may select, of. The notice shall state the time and place of the hearing. A request for a review hearing shall not interfere with or delay the notification process under subdivision 4 or 5, unless the administrative law judge orders otherwise for good cause shown.

(b) An offender who requests a review hearing must be given a reasonable opportunity to prepare for the hearing. The review hearing shall be conducted on the record before an administrative law judge. The review hearing shall be conducted at the correctional facility in which the offender is currently confined. If the offender no longer is incarcerated, the administrative law judge shall determine the place where the review hearing will be conducted. The offender has the burden of proof to show, by a preponderance of the evidence, that the end-of-confinement review committee's risk assessment determination was erroneous. The attorney general or a designee shall defend the end-of-confinement review committee's determination. The offender has the right to be present and be represented by counsel at the hearing, to present evidence in support of the offender's position, to call supporting witnesses and to cross-examine witnesses testifying in support of the committee's determination. Counsel for indigent offenders shall be provided by the Legal Advocacy Project of the state public defender's office.

(c) After the hearing is concluded, the administrative law judge shall decide whether the end-of-confinement review committee's risk assessment determination was erroneous and, based on this decision, shall either uphold or modify the review committee's determination. The judge's decision shall be in writing and shall include the judge's reasons for the decision. The judge's decision shall be final and a copy of it shall be given to the offender, the victim, the law enforcement agency, and the chair of the end-of-confinement review committee.

(d) The review hearing is subject to the contested case provisions of chapter 14.

(e) The administrative law judge may seal any portion of the record of the administrative review hearing to the extent necessary to protect the identity of a victim of or witness to the offender's offense.

Sec. 8. Minnesota Statutes 1996, section 609.135, is amended by adding a subdivision to read:

Subd. 1c. FAILURE TO COMPLETE COURT-ORDERED TREATMENT. If the court orders a defendant to undergo treatment as a condition of probation and if the defendant fails to successfully complete treatment at least 60 days before the term of probation expires, the prosecutor or the defendant's probation officer may ask the court to hold a hearing to determine whether the conditions of probation should be changed or probation should be revoked. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (h), before the defendant's term of probation expires.

Sec. 9. Minnesota Statutes 1996, section 609.135, subdivision 2, is amended to read:

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Subd. 2. (a) If the conviction is for a felony the stay shall be for not more than four years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor violation of section 169.121 or 169.129, the stay shall be for not more than four years. The court shall provide for unsupervised probation for the last one year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last one year.

(c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay shall be for not more than two years.

(d) If the conviction is for any misdemeanor under section 169.121; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall be for not more than one year.

(f) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (g) or (h), or the defendant has already been discharged.

(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution or a fine in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution or fine the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution or a fine may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution or fine that the defendant owes.

(h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three years if it finds, at a hearing conducted under subdivision 1c, that:

(1) the defendant has failed to complete court-ordered treatment successfully; and

(2) the defendant is likely not to complete court-ordered treatment before the term of probation expires.

Sec. 10. Minnesota Statutes 1996, section 609.347, subdivision 7, is amended to read:

Subd. 7. **EFFECT OF STATUTE ON RULES.** Rule 404, paragraph (e) 412 of the Rules of Evidence is superseded to the extent of its conflict with this section.

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Sec. 11. Minnesota Statutes 1996, section 609.746, subdivision 1, is amended to read:

Subdivision 1. **SURREPTITIOUS INTRUSION; OBSERVATION DEVICE.**

(a) A person is guilty of a misdemeanor who:

- (1) enters upon another's property;
- (2) surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another; and
- (3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(b) A person is guilty of a misdemeanor who:

- (1) enters upon another's property;
- (2) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another; and
- (3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(c) A person is guilty of a misdemeanor who:

- (1) surreptitiously gazes, stares, or peeps in the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and
- (2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(d) A person is guilty of a misdemeanor who:

- (1) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and
- (2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(e) A person is guilty of a gross misdemeanor if the person:

- (1) violates this subdivision after a previous conviction under this subdivision or section 609.749; or

(2) violates this subdivision against a minor under the age of 16, knowing or having reason to know that the minor is present.

(f) Paragraphs (b) and (d) do not apply to law enforcement officers or corrections investigators, or to those acting under their direction, while engaged in the performance

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of their lawful duties. Paragraphs (c) and (d) do not apply to conduct in: (1) a medical facility; or (2) a commercial establishment if the owner of the establishment has posted conspicuous signs warning that the premises are under surveillance by the owner or the owner's employees.

Sec. 12. COMMUNITY NOTIFICATION CONCERNING SEX OFFENDERS CONFINED IN FEDERAL PRISONS; PLAN AND REPORT REQUIRED.

Subdivision 1. DEFINITIONS. As used in this section:

(1) "community notification" means the public disclosure of information about sex offenders by local law enforcement agencies under Minnesota Statutes, section 244.052;

(2) "federal prison" means a correctional facility administered by the federal Bureau of Prisons in which sex offenders are or may be confined; and

(3) "sex offender" means a person who has been convicted of a federal offense for which registration under Minnesota Statutes, section 243.166, is required.

Subd. 2. DEVELOPMENT OF PLAN. The commissioner of corrections shall collaborate with the federal Bureau of Prisons and the chief executive officer of any federal prison located in this state in developing a community notification plan concerning sex offenders confined in federal prisons in Minnesota who intend to reside in this state upon release. The plan shall address the following matters:

(1) the membership and operation of the end-of-confinement review committees that will operate in the federal prisons to conduct risk assessments on sex offenders who intend to reside in Minnesota upon release;

(2) the classification and use of data on sex offenders that are collected or maintained by the committees;

(3) the procedures governing the sex offender's participation in the committee's meetings;

(4) the process for a sex offender to seek review of the committee's risk assessment determination; and

(5) any other matters deemed important by the commissioner and the federal authorities.

Subd. 3. REPORT TO LEGISLATURE. On or before February 1, 1998, the commissioner of corrections shall file a report with the chairs of the house judiciary committee and the senate crime prevention committee. The report shall summarize the community notification plan agreed to by the commissioner and the federal Bureau of Prisons and shall specify the statutory changes needed to accomplish that plan.

Sec. 13. EFFECTIVE DATE.

Sections 1 to 3 are effective August 1, 1997, and apply to persons who are released from prison on or after that date, who are under supervision as of that date, or who enter this state on or after that date. Sections 4 to 7 are effective the day following final enactment and apply to offenders sentenced or released from confinement on or after that date. Sections 8, 9, and 11 are effective August 1, 1997, and apply to crimes committed on or after that date.

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ARTICLE 6

CHILD PROTECTION PROVISIONS

Section 1. Minnesota Statutes 1996, section 256E.03, subdivision 2, is amended to read:

Subd. 2. (a) "Community social services" means services provided or arranged for by county boards to fulfill the responsibilities prescribed in section 256E.08, subdivision 1, to the following groups of persons:

(1) families with children under age 18, who are experiencing child dependency, neglect or abuse, and also pregnant adolescents, adolescent parents under the age of 18, and their children, and other adolescents;

(2) persons, including adolescents, who are under the guardianship of the commissioner of human services as dependent and neglected wards;

(3) adults who are in need of protection and vulnerable as defined in section 626.5572;

(4) persons age 60 and over who are experiencing difficulty living independently and are unable to provide for their own needs;

(5) emotionally disturbed children and adolescents, chronically and acutely mentally ill persons who are unable to provide for their own needs or to independently engage in ordinary community activities;

(6) persons with mental retardation as defined in section 252A.02, subdivision 2, or with related conditions as defined in section 252.27, subdivision 1a, who are unable to provide for their own needs or to independently engage in ordinary community activities;

(7) drug dependent and intoxicated persons, including adolescents, as defined in section 254A.02, subdivisions 5 and 7, and persons, including adolescents, at risk of harm to self or others due to the ingestion of alcohol or other drugs;

(8) parents whose income is at or below 70 percent of the state median income and who are in need of child care services in order to secure or retain employment or to obtain the training or education necessary to secure employment; and

(9) children and adolescents involved in or at risk of involvement with criminal activity; and

(10) other groups of persons who, in the judgment of the county board, are in need of social services.

(b) Except as provided in section 256E.08, subdivision 5, community social services do not include public assistance programs known as aid to families with dependent children, Minnesota supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.09 to 145A.13.

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Sec. 2. [257.069] INFORMATION FOR CHILD PLACEMENT.

Subdivision 1. AGENCY WITH PLACEMENT AUTHORITY. An agency with legal responsibility for the placement of a child may request and shall receive all information pertaining to the child that it considers necessary to appropriately carry out its duties. That information must include educational, medical, psychological, psychiatric, and social or family history data retained in any form by any individual or entity. The agency may gather appropriate data regarding the child's parents in order to develop and implement a case plan required by section 257.071. Upon request of the court responsible for overseeing the provision of services to the child and family and for implementing orders that are in the best interest of the child, the responsible local social service agency or tribal social service agency shall provide appropriate written or oral reports from any individual or entity that has provided services to the child or family. The reports must include the nature of the services being provided the child or family; the reason for the services; the nature, extent, and quality of the child's or parent's participation in the services, where appropriate; and recommendations for continued services, where appropriate. The individual or entity shall report all observations and information upon which it bases its report as well as its conclusions. If necessary to facilitate the receipt of the reports, the court may issue appropriate orders.

Subd. 2. ACCESS TO SPECIFIC DATA. A social service agency responsible for the residential placement of a child under this section and the residential facility in which the child is placed shall have access to the following data on the child:

- (1) medical data under section 13.42;
- (2) corrections and detention data under section 13.85;
- (3) juvenile court data under section 260.161; and
- (4) health records under section 144.335.

Sec. 3. Minnesota Statutes 1996, section 257.071, is amended by adding a subdivision to read:

Subd. 1c. NOTICE BEFORE VOLUNTARY PLACEMENT. The local social service agency shall inform a parent considering voluntary placement of a child who is not developmentally disabled or emotionally handicapped of the following:

(1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;

(2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;

(3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights;

(4) if the local social service agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights, the parent would have the right to appointment of separate legal counsel and the child would have a

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right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

(5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260.191, subdivision 3b.

Sec. 4. Minnesota Statutes 1996, section 257.071, is amended by adding a subdivision to read:

Subd. 1d. **RELATIVE SEARCH; NATURE.** (a) Within six months after a child is initially placed in a residential facility, the local social service agency shall identify any relatives of the child and notify them of the possibility of a permanent out-of-home placement of the child, and that a decision not to be a placement resource at the beginning of the case may affect the relative's right to have the child placed with that relative later. The relatives must be notified that they must keep the local social service agency informed of their current address in order to receive notice of any permanent placement hearing. A relative who fails to provide a current address to the local social service agency forfeits the right to notice of permanent placement.

(b) When the agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must contain an advisory that if the relative chooses not to be a placement resource at the beginning of the case, this may affect the relative's rights to have the child placed with that relative permanently later on.

Sec. 5. Minnesota Statutes 1996, section 257.071, is amended by adding a subdivision to read:

Subd. 1e. **CHANGE IN PLACEMENT.** If a child is removed from a permanent placement disposition authorized under section 260.191, subdivision 3b, within one year after the placement was made:

(1) the child must be returned to the residential facility where the child was placed immediately preceding the permanent placement; or

(2) the court shall hold a hearing within ten days after the child is taken into custody to determine where the child is to be placed. A guardian ad litem must be appointed for the child for this hearing.

Sec. 6. Minnesota Statutes 1996, section 257.071, subdivision 3, is amended to read:

Subd. 3. **REVIEW OF VOLUNTARY PLACEMENTS.** Except as provided in subdivision 4, if the child has been placed in a residential facility pursuant to a voluntary release by the parent or parents, and is not returned home within ~~six months~~ 90 days after initial placement in the residential facility, the social service agency responsible for the placement shall:

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(1) return the child to the home of the parent or parents; or

(2) file an appropriate petition pursuant to section 260.131 or 260.231 to extend the placement for 90 days.

The case plan must be updated when a petition is filed and must include a specific plan for permanency.

If the court approves the extension, at the end of the second 90-day period, the child must be returned to the parent's home, unless a petition is filed for a child in need of protection or services.

Sec. 7. Minnesota Statutes 1996, section 257.071, subdivision 4, is amended to read:

Subd. 4. **REVIEW OF DEVELOPMENTALLY DISABLED AND EMOTIONALLY HANDICAPPED CHILD PLACEMENTS.** If a developmentally disabled child, as that term is defined in United States Code, title 42, section 6001 (7), as amended through December 31, 1979, or a child diagnosed with an emotional handicap as defined in section 252.27, subdivision 1a, has been placed in a residential facility pursuant to a voluntary release by the child's parent or parents because of the child's handicapping conditions or need for long-term residential treatment or supervision, the social service agency responsible for the placement shall bring a petition for review of the child's foster care status, pursuant to section 260.131, subdivision 1a, rather than a petition as required by ~~subdivision 3, clause (b)~~ section 260.191, subdivision 3b, after the child has been in foster care for ~~18 six months or, in the case of a child with an emotional handicap, after the child has been in a residential facility for six months.~~ Whenever a petition for review is brought pursuant to this subdivision, a guardian ad litem shall be appointed for the child.

Sec. 8. Minnesota Statutes 1996, section 257.072, subdivision 1, is amended to read:

Subdivision 1. **RECRUITMENT OF FOSTER FAMILIES.** Each authorized child-placing agency shall make special efforts to recruit a foster family from among the child's relatives, except as authorized in section 260.181, subdivision 3. Each agency shall provide for diligent recruitment of potential foster families that reflect the ethnic and racial diversity of the children in the state for whom foster homes are needed. Special efforts include contacting and working with community organizations and religious organizations and may include contracting with these organizations, utilizing local media and other local resources, conducting outreach activities, and increasing the number of minority recruitment staff employed by the agency. The requirement of special efforts to locate relatives in this section is satisfied if on the earlier of the following occasions:

(1) when the child is placed with a relative who is interested in providing a permanent placement for the child; or

(2) when the responsible child-placing agency has made appropriate special efforts for six months following the child's placement in a residential facility and the court approves the agency's efforts pursuant to section 260.191, subdivision 3a. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

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Sec. 9. Minnesota Statutes 1996, section 259.41, is amended to read:

259.41 ADOPTION STUDY.

An adoption study and written report must be completed before the child is placed in a prospective adoptive home under this chapter and the study must be completed and filed with the court at the time the adoption petition is filed. In a direct adoptive placement, the report must be filed with the court in support of a motion for temporary pre-adoptive custody under section 259.47, subdivision 3. The study and report shall be completed by a licensed child-placing agency and must be thorough and comprehensive. The study and report shall be paid for by the prospective adoptive parent, except as otherwise required under section 259.67 or 259.73.

A stepparent adoption is not subject to this section.

In the case of a licensed foster parent seeking to adopt a child who is in the foster parent's care, any portions of the foster care licensing process that duplicate requirements of the home study may be submitted in satisfaction of the relevant requirements of this section.

At a minimum, the study must include the following about the prospective adoptive parent:

(1) a check of criminal conviction data, data on substantiated maltreatment of a child under section 626.556, and domestic violence data of each person over the age of 13 living in the home. The prospective adoptive parents, the bureau of criminal apprehension, and other state, county, and local agencies, after written notice to the subject of the study, shall give the agency completing the adoption study substantiated criminal conviction data and reports about maltreatment of minors and vulnerable adults and domestic violence. The adoption study must also include a check of the juvenile court records of each person over the age of 13 living in the home. Notwithstanding provisions of section 260.161 to the contrary, the juvenile court shall release the requested information to the agency completing the adoption study. The study must include an evaluation of the effect of a conviction or finding of substantiated maltreatment on the ability to care for a child;

(2) medical and social history and current health;

(3) assessment of potential parenting skills;

(4) ability to provide adequate financial support for a child; and

(5) the level of knowledge and awareness of adoption issues including where appropriate matters relating to interracial, cross-cultural, and special needs adoptions.

The adoption study must include at least one in-home visit with the prospective adoptive parent. The adoption study is the basis for completion of a written report. The report must be in a format specified by the commissioner and must contain recommendations regarding the suitability of the subject of the study to be an adoptive parent. An adoption study report is valid for 12 months following its date of completion.

A prospective adoptive parent seeking a study under this section must authorize access by the agency to any private data needed to complete the study, must disclose any names used previously other than the name used at the time of the study, and must provide a set of fingerprints, which shall be forwarded to the bureau of criminal apprehension to facilitate the criminal conviction background check required under clause (1).

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Sec. 10. Laws 1997, chapter 112, section 3, is amended to read:

Sec. 3. **[259.58] COMMUNICATION OR CONTACT AGREEMENTS.**

If an adoptee has resided with a birth relative before being adopted, adoptive parents and that relative may enter an agreement under this section regarding communication with or contact between a minor adoptee, adoptive parents, and a birth relative. Adoptive parents and a birth relative may enter an agreement regarding communication with or contact between an adopted minor, adoptive parents, and a birth relative under this section. An agreement may be entered between:

- (1) adoptive parents and a birth relative with whom the child resided before being adopted; or
- (2) adoptive parents and any other birth relative if the child is adopted by a birth relative upon the death of both birth parents.

For purposes of this section, "birth relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of a minor adoptee. This relationship may be by blood or marriage. For an Indian child, birth relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act, United States Code, title 25, section 1903.

(a) An agreement regarding communication with or contact between minor adoptees, adoptive parents, and a birth relative is not legally enforceable unless the terms of the agreement are contained in a written court order entered in accordance with this section. An order must be sought at the same time a petition for adoption is filed. The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, a birth relative who desires to be a party to the agreement, and, if the child is in the custody of or under the guardianship of an agency, a representative of the agency. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact between the minor adoptee, the adoptive parents, and a birth relative as agreed upon and contained in the proposed order would be in the minor adoptee's best interests.

(b) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court under this section is not grounds for:

- (1) setting aside an adoption decree; or
- (2) revocation of a written consent to an adoption after that consent has become irrevocable.

(c) An agreed order entered under this section may be enforced by filing a petition or motion with the family court that includes a certified copy of the order granting the communication, contact, or visitation, but only if the petition or motion is accompanied by an affidavit that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification. The prevailing party may be awarded reasonable attorney's fees and costs. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the minor adoptee, and:

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(1) the modification is agreed to by the adoptive parent and the birth parent or parents relative; or

(2) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

Sec. 11. Minnesota Statutes 1996, section 259.59, is amended by adding a subdivision to read:

Subd. 3. COMMUNICATION OR CONTACT AGREEMENTS. This section does not prohibit birth parents and adoptive parents from entering a communication or contact agreement under section 259.58.

Sec. 12. Minnesota Statutes 1996, section 259.67, subdivision 2, is amended to read:

Subd. 2. **ADOPTION ASSISTANCE AGREEMENT.** The placing agency shall certify a child as eligible for adoption assistance according to rules promulgated by the commissioner. ~~When~~ Not later than 30 days after a parent or parents are found and approved for adoptive placement of a child certified as eligible for adoption assistance, and before the final decree of adoption is issued, a written agreement must be entered into by the commissioner, the adoptive parent or parents, and the placing agency. The written agreement must be in the form prescribed by the commissioner and must set forth the responsibilities of all parties, the anticipated duration of the adoption assistance payments, and the payment terms. The adoption assistance agreement shall be subject to the commissioner's approval, which must be granted or denied not later than 15 days after the agreement is entered.

The amount of adoption assistance is subject to the availability of state and federal funds and shall be determined through agreement with the adoptive parents. The agreement shall take into consideration the circumstances of the adopting parent or parents, the needs of the child being adopted and may provide ongoing monthly assistance, supplemental maintenance expenses related to the adopted person's special needs, nonmedical expenses periodically necessary for purchase of services, items, or equipment related to the special needs, and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support the need for adoption assistance payments. The commissioner may require periodic reevaluation of adoption assistance payments. The amount of ongoing monthly adoption assistance granted may in no case exceed that which would be allowable for the child under foster family care and is subject to the availability of state and federal funds.

Sec. 13. Minnesota Statutes 1996, section 260.012, is amended to read:

260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.

(a) If a child in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts including culturally appropriate services by the social service agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, consistent with the best interests, safety, and protection of the child. The court may, upon motion and hearing, order the cessation of reasonable efforts if the court finds that provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances. In the case of an Indian child, in pro-

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ceedings under sections 260.172, 260.191, and 260.221 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. If a child is under the court's delinquency jurisdiction, it shall be the duty of the court to ensure that reasonable efforts are made to reunite the child with the child's family at the earliest possible time, consistent with the best interests of the child and the safety of the public.

(b) "Reasonable efforts" means the exercise of due diligence by the responsible social service agency to use appropriate and available services to meet the needs of the child and the child's family in order to prevent removal of the child from the child's family; or upon removal, services to eliminate the need for removal and reunite the family. Services may include those listed under section 256F.07, subdivision 3, and other appropriate services available in the community. The social service agency has the burden of demonstrating that it has made reasonable efforts. or that provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances. Reunification of a surviving child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the surviving child; or

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent.

(c) The juvenile court, in proceedings under sections 260.172, 260.191, and 260.221 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

- (1) relevant to the safety and protection of the child;
- (2) adequate to meet the needs of the child and family;
- (3) culturally appropriate;
- (4) available and accessible;
- (5) consistent and timely; and
- (6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances.

(d) This section does not prevent out-of-home placement for treatment of a child with a mental disability when the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program.

Sec. 14. Minnesota Statutes 1996, section 260.015, subdivision 2a, is amended to read:

New language is indicated by underline, deletions by strikeout.

Subd. 2a. **CHILD IN NEED OF PROTECTION OR SERVICES.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse, or (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 24, (iii) resides with or would reside with a perpetrator of domestic child abuse or child abuse as defined in subdivision 28, or (iv) is a victim of emotional maltreatment as defined in subdivision 5a;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) has committed a delinquent act before becoming ten years old;

(11) is a runaway;

(12) is an habitual truant; or

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(13) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense; or

(14) is one whose custodial parent's parental rights to another child have been involuntarily terminated within the past five years.

Sec. 15. Minnesota Statutes 1996, section 260.015, subdivision 29, is amended to read:

Subd. 29. **EGREGIOUS HARM.** "Egregious harm" means the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care. The egregious harm need not have occurred in the state or in the county where a termination of parental rights action is otherwise properly venued. Egregious harm includes, but is not limited to:

(1) conduct towards a child that constitutes a violation of sections 609.185 to 609.21, 609.222, subdivision 2, 609.223, or any other similar law of the United States or any other state;

(2) the infliction of "substantial bodily harm" to a child, as defined in section 609.02, subdivision 8;

(3) conduct towards a child that constitutes felony malicious punishment of a child under section 609.377;

(4) conduct towards a child that constitutes felony unreasonable restraint of a child under section 609.255, subdivision 3;

(5) conduct towards a child that constitutes felony neglect or endangerment of a child under section 609.378;

(6) conduct towards a child that constitutes assault under section 609.221, 609.222, or 609.223;

(7) conduct towards a child that constitutes solicitation, inducement, or promotion of prostitution under section 609.322; ~~or~~

(8) conduct towards a child that constitutes receiving profit derived from prostitution under section 609.323; or

(9) conduct toward a child that constitutes a violation of United States Code, title 18, section 1111(a) or 1112(a).

Sec. 16. Minnesota Statutes 1996, section 260.131, subdivision 1, is amended to read:

Subdivision 1. **WHO MAY FILE; REQUIRED FORM.** (a) Any reputable person, including but not limited to any agent of the commissioner of human services, having knowledge of a child in this state or of a child who is a resident of this state, who appears to be delinquent, in need of protection or services, or neglected and in foster care, may petition the juvenile court in the manner provided in this section.

(b) A petition for a child in need of protection filed by an individual who is not a county attorney or an agent of the commissioner of human services shall be filed on a

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form developed by the state court administrator and provided to court administrators. Copies of the form may be obtained from the court administrator in each county. The court administrator shall review the petition before it is filed to determine that it is completed. The court administrator may reject the petition if it does not indicate that the petitioner has contacted the local social service agency.

An individual may file a petition under this subdivision without seeking internal review of the local social service agency's decision. The court shall determine whether there is probable cause to believe that a need for protection or services exists before the matter is set for hearing. If the matter is set for hearing, the court administrator shall notify the local social service agency by sending notice to the county attorney.

The petition must contain:

(1) a statement of facts that would establish, if proven, that there is a need for protection or services for the child named in the petition;

(2) a statement that petitioner has reported the circumstances underlying the petition to the local social service agency, and protection or services were not provided to the child;

(3) a statement whether there are existing juvenile or family court custody orders or pending proceedings in juvenile or family court concerning the child; and

(4) a statement of the relationship of the petitioner to the child and any other parties.

The court may not allow a petition to proceed under this paragraph if it appears that the sole purpose of the petition is to modify custody between the parents.

Sec. 17. Minnesota Statutes 1996, section 260.131, subdivision 2, is amended to read:

Subd. 2. The petition shall be verified by the person having knowledge of the facts and may be on information and belief. Unless otherwise provided by this section or by rule or order of the court, the county attorney shall draft the petition upon the showing of reasonable grounds to support the petition.

Sec. 18. Minnesota Statutes 1996, section 260.155, subdivision 1a, is amended to read:

Subd. 1a. **RIGHT TO PARTICIPATE IN PROCEEDINGS.** A child who is the subject of a petition, and the parents, guardian, or lawful legal custodian of the child have the right to participate in all proceedings on a petition. Official tribal representatives have the right to participate in any proceeding that is subject to the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963.

Any grandparent of the child has a right to participate in the proceedings to the same extent as a parent, if the child has lived with the grandparent within the two years preceding the filing of the petition. At the first hearing following the filing of a petition, the court shall ask whether the child has lived with a grandparent within the last two years, except that the court need not make this inquiry if the petition states that the child did not live with a grandparent during this time period. Failure to notify a grandparent of the proceedings is not a jurisdictional defect.

New language is indicated by underline, deletions by strikeout.

If, in a proceeding involving a child in need of protection or services, the local social service agency recommends transfer of permanent legal and physical custody to a relative, the relative has a right to participate as a party, and thereafter shall receive notice of any hearing in the proceedings.

Sec. 19. Minnesota Statutes 1996, section 260.155, subdivision 2, is amended to read:

Subd. 2. **APPOINTMENT OF COUNSEL.** (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court. This right does not apply to a child who is charged with a juvenile petty offense as defined in section 260.015, subdivision 21, unless the child is charged with a third or subsequent juvenile alcohol or controlled substance offense and may be subject to the alternative disposition described in section 260.195, subdivision 4.

(b) The court shall appoint counsel, or stand-by counsel if the child waives the right to counsel, for a child who is:

- (1) charged by delinquency petition with a gross misdemeanor or felony offense; or
- (2) the subject of a delinquency proceeding in which out-of-home placement has been proposed.

(c) If they desire counsel but are unable to employ it, the court shall appoint counsel to represent the child or the parents or guardian in any case in which it feels that such an appointment is desirable appropriate, except a juvenile petty offender who does not have the right to counsel under paragraph (a).

(d) Counsel for the child shall not also act as the child's guardian ad litem.

(e) In any proceeding where the subject of a petition for a child in need of protection or services is not represented by an attorney, the court shall determine the child's preferences regarding the proceedings, if the child is of suitable age to express a preference.

Sec. 20. Minnesota Statutes 1996, section 260.155, subdivision 3, is amended to read:

Subd. 3. **COUNTY ATTORNEY.** Except in adoption proceedings, the county attorney shall present the evidence upon request of the court. In representing the agency, the county attorney shall also have the responsibility for advancing the public interest in the welfare of the child.

Sec. 21. Minnesota Statutes 1996, section 260.155, subdivision 4, is amended to read:

Subd. 4. **GUARDIAN AD LITEM.** (a) The court shall appoint a guardian ad litem to protect the interests of the minor when it appears, at any stage of the proceedings, that the minor is without a parent or guardian, or that the minor's parent is a minor or incompetent, or that the parent or guardian is indifferent or hostile to the minor's interests, and in every proceeding alleging a child's need for protection or services under section 260.015, subdivision 2a, clauses ~~(1) to (10)~~. In any other case the court may appoint a guardian ad litem to protect the interests of the minor when the court feels that such an appointment is desirable. The court shall appoint the guardian ad litem on its own motion or in the manner provided for the appointment of a guardian ad litem in the district court. The court may appoint separate counsel for the guardian ad litem if necessary.

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(b) A guardian ad litem shall carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

(c) The court may waive the appointment of a guardian ad litem pursuant to clause (a), whenever counsel has been appointed pursuant to subdivision 2 or is retained otherwise, and the court is satisfied that the interests of the minor are protected.

(d) In appointing a guardian ad litem pursuant to clause (a), the court shall not appoint the party, or any agent or employee thereof, filing a petition pursuant to section 260.131.

(e) The following factors shall be considered when appointing a guardian ad litem in a case involving an Indian or minority child:

(1) whether a person is available who is the same racial or ethnic heritage as the child or, if that is not possible;

(2) whether a person is available who knows and appreciates the child's racial or ethnic heritage.

Sec. 22. Minnesota Statutes 1996, section 260.155, subdivision 8, is amended to read:

Subd. 8. **WAIVER.** (a) Waiver of any right which a child has under this chapter must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. If a child is under 12 years of age, the child's parent, guardian or custodian shall give any waiver or offer any objection contemplated by this chapter not represented by counsel, any waiver must be given or any objection must be offered by the child's guardian ad litem.

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

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court accepts the child's waiver, it shall state on the record the findings and conclusions that form the basis for its decision to accept the waiver.

Sec. 23. Minnesota Statutes 1996, section 260.161, is amended by adding a subdivision to read:

Subd. 3a. **ATTORNEY ACCESS TO RECORDS.** An attorney representing a child, parent, or guardian ad litem in a proceeding under this chapter shall be given access to records, local social service agency files, and reports which form the basis of any recommendation made to the court. An attorney does not have access under this subdivision to the identity of a person who made a report under section 626.556. The court may issue protective orders to prohibit an attorney from sharing a specified record or portion of a record with a client other than a guardian ad litem.

Sec. 24. Minnesota Statutes 1996, section 260.165, subdivision 3, is amended to read:

Subd. 3. **NOTICE TO PARENT OR CUSTODIAN.** Whenever a peace officer takes a child into custody for shelter care or relative placement pursuant to subdivision 1; section 260.135, subdivision 5; or section 260.145, the officer shall notify the parent or custodian that under section 260.173, subdivision 2, the parent or custodian may request that the child be placed with a relative or a designated caregiver under chapter 257A instead of in a shelter care facility. The officer also shall give the parent or custodian of the child a list of names, addresses, and telephone numbers of social service agencies that offer child welfare services. If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult on the premises or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent or custodian is not able to read and understand English, the officer must provide a list that is written in the language of the parent or custodian. The list shall be prepared by the commissioner of human services. The commissioner shall prepare lists for each county and provide each county with copies of the list without charge. The list shall be reviewed annually by the commissioner and updated if it is no longer accurate. Neither the commissioner nor any peace officer or the officer's employer shall be liable to any person for mistakes or omissions in the list. The list does not constitute a promise that any agency listed will in fact assist the parent or custodian.

Sec. 25. Minnesota Statutes 1996, section 260.191, subdivision 3a, is amended to read:

Subd. 3a. **COURT REVIEW OF OUT-OF-HOME PLACEMENTS.** (a) If the court places a child in a residential facility, as defined in section 257.071, subdivision 1, the court shall review the out-of-home placement at least every six months to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home. The court shall review agency efforts pursuant to section 257.072, subdivision 1, and order that the efforts continue if the agency has failed to perform the duties under that section. The court shall review the case plan and may modify the case plan as provided under subdivisions 1e and 2. If the court orders continued out-of-home placement, the court shall notify the parents of the provisions of subdivision 3b.

(b) When the court determines that a permanent placement hearing is necessary because there is a likelihood that the child will not return to a parent's care, the court may authorize the agency with custody of the child to send the notice provided in this para-

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graph to any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, any adult who has maintained a relationship or exercised visitation with the child as identified in the agency case plan for the child or demonstrated an interest in the child, and any relative who has provided a current address to the local social service agency. This notice must not be provided to a parent whose parental rights to the child have been terminated under section 260.221, subdivision 1. The notice must state that a permanent home is sought for the child and that individuals receiving the notice may indicate to the agency within 30 days their interest in providing a permanent home.

Sec. 26. Minnesota Statutes 1996, section 260.191, subdivision 3b, as amended by Laws 1997, chapter 112, section 5, is amended to read:

Subd. 3b. REVIEW OF COURT ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION. (a) If the court places a child in a residential facility, as defined in section 257.071, subdivision 1, The court shall conduct a hearing to determine the permanent status of the a child not later than 12 months after the child was is placed out of the home of the parent.

For purposes of this subdivision, the date of the child's placement out of the home of the parent is the earlier of the first court-ordered placement or the first court-approved placement under section 257.071, subdivision 3, of a child who had been in voluntary placement.

For purposes of this subdivision, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed out of the home of the parent are cumulated;

(2) if a child has been placed out of the home of the parent within the previous five years in connection with one or more prior petitions for a child in need of protection or services, the lengths of all prior time periods when the child was placed out of the home within the previous five years and under the current petition, are cumulated. If a child under this clause has been out of the home for 12 months or more, the court, if it is in the best interests of the child, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(b) Not later than ten days prior to this hearing, the responsible social service agency shall file pleadings to establish the basis for the permanent placement determination. Notice of the hearing and copies of the pleadings must be provided pursuant to section 260.141. If a termination of parental rights petition is filed before the date required for the permanency planning determination, no hearing need be conducted under this section subdivision. The court shall determine whether the child is to be returned home or, if not, what permanent placement is consistent with the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated.

(c) If the child is not returned to the home, the dispositions available for permanent placement determination are:

(1) permanent legal and physical custody to a relative pursuant to in the best interests of the child. In transferring permanent legal and physical custody to a relative, the

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juvenile court shall follow the standards and procedures applicable under chapter 257 or 518. An order establishing permanent legal or physical custody under this subdivision must be filed with the family court. The social service agency may petition on behalf of the proposed custodian;

(2) termination of parental rights and adoption; the social service agency shall file a petition for termination of parental rights under section 260.231 and all the requirements of sections 260.221 to 260.245 remain applicable. An adoption ordered completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58; or

(3) long-term foster care; transfer of legal custody and adoption are preferred permanent options for a child who cannot return home. The court may order a child into long-term foster care only if it finds that neither an award of legal and physical custody to a relative, nor termination of parental rights nor adoption is in the child's best interests. Further, the court may only order long-term foster care for the child under this section if it finds the following:

(i) the child has reached age 12 and reasonable efforts by the responsible social service agency have failed to locate an adoptive family for the child; or

(ii) the child is a sibling of a child described in clause (i) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home; or

(b) ~~The court may extend the time period for determination of permanent placement to 18 months after the child was placed in a residential facility if:~~

~~(1) there is a substantial probability that the child will be returned home within the next six months;~~

~~(2) the agency has not made reasonable, or, in the case of an Indian child, active efforts, to correct the conditions that form the basis of the out-of-home placement; or~~

~~(3) extraordinary circumstances exist precluding a permanent placement determination, in which case the court shall make written findings documenting the extraordinary circumstances and order one subsequent review after six months to determine permanent placement. A court finding that extraordinary circumstances exist precluding a permanent placement determination must be supported by detailed factual findings regarding those circumstances.~~

(4) foster care for a specified period of time may be ordered only if:

(i) the sole basis for an adjudication that a child is in need of protection or services is that the child is a runaway, is an habitual truant, or committed a delinquent act before age ten; and

(ii) the court finds that foster care for a specified period of time is in the best interests of the child.

~~(e) (d) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.~~

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(d) ~~(e)~~ Once a permanent placement determination has been made and permanent placement has been established, further reviews are only necessary if the placement is made under paragraph (c), clause (4), review is otherwise required by federal law, an adoption has not yet been finalized, or there is a disruption of the permanent or long-term placement. If required, reviews must take place no less frequently than every six months.

(e) ~~(f)~~ An order under this subdivision must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts, to reunify the child with the parent or parents;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement;

(4) whether the conditions which led to the out-of-home placement have been corrected so that the child can return home; and

(5) if the child cannot be returned home, whether there is a substantial probability of the child being able to return home in the next six months.

~~(f)~~ ~~(g)~~ An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social service agency is a party to the proceeding and must receive notice. An order for long-term foster care is reviewable upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child.

Sec. 27. Minnesota Statutes 1996, section 260.191, subdivision 4, is amended to read:

Subd. 4. **CONTINUANCE OF CASE.** ~~When~~ It is in the best interests of the child or the child's parents to do so and when either if the allegations contained in the petition have been admitted, or when a hearing has been held as provided in section 260.155 and the allegations contained in the petition have been duly proven, before the entry of a finding of need for protection or services or a finding that a child is neglected and in foster care has been entered, the court may continue the case for a period not to exceed 90 days on any one order. Such a continuance may be extended for one additional successive period not to exceed 90 days and only after the court has reviewed the case and entered its order for an additional continuance without a finding that the child is in need of protection or services or neglected and in foster care. During this continuance the court may enter any order otherwise permitted under the provisions of this section. Following the 90-day continuance:

(1) if both the parent and child have complied with the terms of the continuance, the case must be dismissed without an adjudication that the child is in need of protection or services or that the child is neglected and in foster care; or

(2) if either the parent or child has not complied with the terms of the continuance, the court shall adjudicate the child in need of protection or services or neglected and in foster care.

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Sec. 28. Minnesota Statutes 1996, section 260.192, is amended to read:

260.192 DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS.

Upon a petition for review of the foster care status of a child, the court may:

(a) In the case of a petition required to be filed under section 257.071, subdivision 3, find that the child's needs are being met, that the child's placement in foster care is in the best interests of the child, and that the child will be returned home in the next six months, in which case the court shall approve the voluntary arrangement and continue the matter for six months to assure the child returns to the parent's home.

(b) In the case of a petition required to be filed under section 257.071, subdivision 4, find that the child's needs are being met and that the child's placement in foster care is in the best interests of the child, in which case the court shall approve the voluntary arrangement. The court shall order the social service agency responsible for the placement to bring a petition under section 260.131, subdivision 1 or 1a, as appropriate, within two years 12 months.

(c) Find that the child's needs are not being met, in which case the court shall order the social service agency or the parents to take whatever action is necessary and feasible to meet the child's needs, including, when appropriate, the provision by the social service agency of services to the parents which would enable the child to live at home, and order a disposition under section 260.191.

(d) Find that the child has been abandoned by parents financially or emotionally, or that the developmentally disabled child does not require out-of-home care because of the handicapping condition, in which case the court shall order the social service agency to file an appropriate petition pursuant to sections 260.131, subdivision 1, or 260.231.

Nothing in this section shall be construed to prohibit bringing a petition pursuant to section 260.131, subdivision 1 or 2, sooner than required by court order pursuant to this section.

Sec. 29. Minnesota Statutes 1996, section 260.221, subdivision 1, is amended to read:

Subdivision 1. **VOLUNTARY AND INVOLUNTARY.** The juvenile court may upon petition, terminate all rights of a parent to a child in the following cases:

(a) With the written consent of a parent who for good cause desires to terminate parental rights; or

(b) If it finds that one or more of the following conditions exist:

(1) that the parent has abandoned the child. Abandonment is presumed when:

(i) the parent has had no contact with the child on a regular basis and no demonstrated, consistent interest in the child's well-being for six months; and

(ii) the social service agency has made reasonable efforts to facilitate contact, unless the parent establishes that an extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from making contact with the child. This presumption does not apply to children whose custody has been determined under chapter 257 or 518. The court is not prohibited from finding abandonment in the absence of this presumption; or

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(2) that the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship, including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able, and reasonable efforts by the social service agency have failed to correct the conditions that formed the basis of the petition; or

(3) that a parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause. This clause shall not be construed to state a grounds for termination of parental rights of a non-custodial parent if that parent has not been ordered to or cannot financially contribute to the support of the child or aid in the child's birth; or

(4) that a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that:

(i) the child was adjudicated in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); and

(ii) ~~within the three-year period immediately prior to that adjudication,~~ the parent's parental rights to one or more other children were involuntarily terminated under clause (1), (2), (4), or (7), or under clause (5) if the child was initially determined to be in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); or

(5) that following upon a determination of neglect or dependency, or of a child's need for protection or services, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the determination. It is presumed that reasonable efforts under this clause have failed upon a showing that:

(i) a child has resided out of the parental home under court order for a cumulative period of more than one year within a five-year period following an adjudication of dependency, neglect, need for protection or services under section 260.015, subdivision 2a, clause (1), (2), (3), (6), (8), or (9), or neglected and in foster care, and an order for disposition under section 260.191, including adoption of the case plan required by section 257.071;

(ii) conditions leading to the determination will not be corrected within the reasonably foreseeable future. It is presumed that conditions leading to a child's out-of-home placement will not be corrected in the reasonably foreseeable future upon a showing that the parent or parents have not substantially complied with the court's orders and a reasonable case plan, and the conditions which led to the out-of-home placement have not been corrected; and

(iii) reasonable efforts have been made by the social service agency to rehabilitate the parent and reunite the family.

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This clause does not prohibit the termination of parental rights prior to one year after a child has been placed out of the home.

It is also presumed that reasonable efforts have failed under this clause upon a showing that:

(i) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;

(ii) the parent has been required by a case plan to participate in a chemical dependency treatment program;

(iii) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;

(iv) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and

(v) the parent continues to abuse chemicals.

Provided, that this presumption applies only to parents required by a case plan to participate in a chemical dependency treatment program on or after July 1, 1990; or

(6) that a child has experienced egregious harm in the parent's care which is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care; or

(7) that in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled to notice of an adoption hearing under section 259.49 and either the person has not filed a notice of intent to retain parental rights under section 259.51 or that the notice has been successfully challenged; or

(8) that the child is neglected and in foster care.

In an action involving an American Indian child, sections 257.35 to 257.3579 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws; or

(9) that the parent has been convicted of a crime listed in section 260.012, paragraph (b), clauses (1) to (3).

Sec. 30. Minnesota Statutes 1996, section 260.221, subdivision 5, is amended to read:

Subd. 5. **FINDINGS REGARDING REASONABLE EFFORTS.** In any proceeding under this section, the court shall make specific findings:

(1) regarding the nature and extent of efforts made by the social service agency to rehabilitate the parent and reunite the family;

(2) that provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances; or

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(3) that reunification is not required because the parent has been convicted of a crime listed in section 260.012, paragraph (b), clauses (1) to (3).

Sec. 31. Minnesota Statutes 1996, section 260.241, subdivision 1, is amended to read:

Subdivision 1. If, after a hearing, the court finds by clear and convincing evidence that one or more of the conditions set out in section 260.221 exist, it may terminate parental rights. Upon the termination of parental rights all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support existing between the child and parent shall be severed and terminated and the parent shall have no standing to appear at any further legal proceeding concerning the child. Provided, however, that a parent whose parental rights are terminated:

(1) shall remain liable for the unpaid balance of any support obligation owed under a court order upon the effective date of the order terminating parental rights; and

(2) may be a party to a communication or contact agreement under section 259.58.

Sec. 32. Minnesota Statutes 1996, section 260.241, subdivision 3, is amended to read:

Subd. 3. (a) A certified copy of the findings and the order terminating parental rights, and a summary of the court's information concerning the child shall be furnished by the court to the commissioner or the agency to which guardianship is transferred. The orders shall be on a document separate from the findings. The court shall furnish the individual to whom guardianship is transferred a copy of the order terminating parental rights.

(b) The court shall retain jurisdiction in a case where adoption is the intended permanent placement disposition. The guardian ad litem and counsel for the child shall continue on the case until an adoption decree is entered. A hearing must be held every 90 days following termination of parental rights for the court to review progress toward an adoptive placement.

(c) The court shall retain jurisdiction in a case where long-term foster care is the permanent disposition. The guardian ad litem and counsel for the child must be dismissed from the case on the effective date of the permanent placement order. However, the foster parent and the child, if of sufficient age, must be informed how they may contact a guardian ad litem if the matter is subsequently returned to court.

Sec. 33. UNIFORM PRIVATE CHIPS PETITION.

The state court administrator shall prepare and make available to court administrators in each county the private CHIPS petition form required by Minnesota Statutes, section 260.131, subdivision 1.

Sec. 34. JUVENILE CODE RECODIFICATION.

The revisor of statutes shall reorganize Minnesota Statutes, chapter 260, and other laws relating to child protection and child welfare services to create separate, comprehensible areas of law dealing with child protection and delinquency in the form of a bill for introduction at the 1998 regular legislative session.

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Sec. 35. ADOPTIVE AND FOSTER FAMILY RECRUITMENT.

The commissioner of human services shall explore strategies and incentives to facilitate recruitment of foster and adoptive families. The commissioner shall report to the supreme court and the chairs of the committees on the judiciary and on health and human services in the house of representatives and the senate by February 1, 1998, on an action proposal and whether any legislation is needed to implement it.

Sec. 36. COURT CONTINUITY AND CASE MANAGEMENT.

The chief judges of the district courts, in consultation with the state court administrator, shall develop case management systems so that one judge hears all phases of a proceeding on a child in need of protection or services, including permanent placement or adoption, if any. The chief judges shall consider the "one judge, one family" model and the experience of the Ramsey county pilot project.

Sec. 37. SOCIAL SERVICE CONTINUITY.

Whenever feasible, managers and directors of local social service agencies should promote continuity and reduce delays in a case by assigning one person until it concludes in reunification or a permanent placement plan.

Sec. 38. REPEALER.

Minnesota Statutes 1996, section 259.33, is repealed.

Sec. 39. EFFECTIVE DATE; APPLICATION.

Section 26, paragraph (a), clause (2), applies to children who were first placed outside the home on or after August 1, 1995.

ARTICLE 7**CRIME VICTIMS**

Section 1. Minnesota Statutes 1996, section 169.042, subdivision 1, is amended to read:

Subdivision 1. **NOTIFICATION.** A The law enforcement agency that originally received the report of a vehicle theft shall make a reasonable and good-faith effort to notify the victim of a the reported vehicle theft within 48 hours after the agency recovers the vehicle recovering the vehicle or receiving notification that the vehicle has been recovered. The notice must specify when the recovering law enforcement agency expects to release the vehicle to the owner and how where the owner may pick up the vehicle. The law enforcement agency that recovers the vehicle must promptly inform the agency that received the theft report that the vehicle is recovered, where the vehicle is located, and when the vehicle can be released to the owner.

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Sec. 2. Minnesota Statutes 1996, section 256F.09, subdivision 2, is amended to read:

Subd. 2. **FUNDING.** The commissioner may award grants to create or maintain family visitation centers.

In awarding grants to maintain a family visitation center, the commissioner may award a grant to a center that can demonstrate a 35 percent local match, provided the center is diligently exploring and pursuing all available funding options in an effort to become self-sustaining, and those efforts are reported to the commissioner.

In awarding grants to create a family visitation center, the commissioner shall give priority to:

- (1) areas of the state where no other family visitation center or similar facility exists;
- (2) applicants who demonstrate that private funding for the center is available and will continue; and
- (3) facilities that are adapted for use to care for children, such as day care centers, religious institutions, community centers, schools, technical colleges, parenting resource centers, and child care referral services.

In awarding grants to create or maintain a family visitation center, the commissioner shall require the proposed center to meet standards developed by the commissioner to ensure the safety of the custodial parent and children.

Sec. 3. Minnesota Statutes 1996, section 256F.09, subdivision 3, is amended to read:

Subd. 3. **ADDITIONAL SERVICES.** Each family visitation center may provide parenting and child development classes, and offer support groups to participating custodial parents and hold regular classes designed to assist children who have experienced domestic violence and abuse. Each family visitation center must have available an individual knowledgeable about or experienced in the provision of services to battered women on its staff, its board of directors, or otherwise available to it for consultation.

Sec. 4. Minnesota Statutes 1996, section 260.161, subdivision 2, is amended to read:

Subd. 2. **PUBLIC INSPECTION OF RECORDS.** Except as otherwise provided in this section, and except for legal records arising from proceedings or portions of proceedings that are public under section 260.155, subdivision 1, none of the records of the juvenile court and none of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, shall be open to public inspection or their contents disclosed except (a) by order of a court or, (b) as required by sections 245A.04, 611A.03, 611A.04, 611A.06, and 629.73, or (c) the name of a juvenile who is the subject of a delinquency petition shall be released to the victim of the alleged delinquent act upon the victim's request; unless it reasonably appears that the request is prompted by a desire on the part of the requester to engage in unlawful activities. The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. Court services data relating to delinquent acts that are contained in records of the juvenile court may be released as allowed under section 13.84, subdivision 5a. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court, except that this subdivision does not apply to proceedings under section 260.255, 260.261, or 260.315 when the proceeding

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involves an adult defendant. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.

When a judge of a juvenile court, or duly authorized agent of the court, determines under a proceeding under this chapter that a child has violated a state or local law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets and highways, except parking violations, the judge or agent shall immediately report the violation to the commissioner of public safety. The report must be made on a form provided by the department of public safety and must contain the information required under section 169.95.

Sec. 5. Minnesota Statutes 1996, section 260.161, subdivision 3, is amended to read:

Subd. 3. **PEACE OFFICER RECORDS OF CHILDREN.** (a) Except for records relating to an offense where proceedings are public under section 260.155, subdivision 1, peace officers' records of children who are or may be delinquent or who may be engaged in criminal acts shall be kept separate from records of persons 18 years of age or older and are private data but shall be disseminated: (1) by order of the juvenile court, (2) as required by section 126.036, (3) as authorized under section 13.82, subdivision 2, (4) to the child or the child's parent or guardian unless disclosure of a record would interfere with an ongoing investigation, or (5) to the Minnesota crime victims reparations board as required by section 611A.56, subdivision 2, clause (f), for the purpose of processing claims for crime victims reparations, or (6) as otherwise provided in this subdivision. Except as provided in paragraph (c), no photographs of a child taken into custody may be taken without the consent of the juvenile court unless the child is alleged to have violated section 169.121 or 169.129. Peace officers' records containing data about children who are victims of crimes or witnesses to crimes must be administered consistent with section 13.82, subdivisions 2, 3, 4, and 10. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

In the case of computerized records maintained about juveniles by peace officers, the requirement of this subdivision that records about juveniles must be kept separate from adult records does not mean that a law enforcement agency must keep its records concerning juveniles on a separate computer system. Law enforcement agencies may keep juvenile records on the same computer as adult records and may use a common index to access both juvenile and adult records so long as the agency has in place procedures that keep juvenile records in a separate place in computer storage and that comply with the special data retention and other requirements associated with protecting data on juveniles.

(b) Nothing in this subdivision prohibits the exchange of information by law enforcement agencies if the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing a criminal investigation.

(c) A photograph may be taken of a child taken into custody pursuant to section 260.165, subdivision 1, clause (b), provided that the photograph must be destroyed when the child reaches the age of 19 years. The commissioner of corrections may photograph juveniles whose legal custody is transferred to the commissioner. Photographs of juve-

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niles authorized by this paragraph may be used only for institution management purposes, case supervision by parole agents, and to assist law enforcement agencies to apprehend juvenile offenders. The commissioner shall maintain photographs of juveniles in the same manner as juvenile court records and names under this section.

(d) Traffic investigation reports are open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident. Identifying information on juveniles who are parties to traffic accidents may be disclosed as authorized under section 13.82, subdivision 4, and accident reports required under section 169.09 may be released under section 169.09, subdivision 13, unless the information would identify a juvenile who was taken into custody or who is suspected of committing an offense that would be a crime if committed by an adult, or would associate a juvenile with the offense, and the offense is not a minor traffic offense under section 260.193.

(e) A law enforcement agency shall notify the principal or chief administrative officer of a juvenile's school of an incident occurring within the agency's jurisdiction if:

(1) the agency has probable cause to believe that the juvenile has committed an offense that would be a crime if committed as an adult, that the victim of the offense is a student or staff member of the school, and that notice to the school is reasonably necessary for the protection of the victim; or

(2) the agency has probable cause to believe that the juvenile has committed an offense described in subdivision 1b, paragraph (a), clauses (1) to (3), that would be a crime if committed by an adult, regardless of whether the victim is a student or staff member of the school.

A law enforcement agency is not required to notify the school under this paragraph if the agency determines that notice would jeopardize an ongoing investigation. Notwithstanding section 138.17, data from a notice received from a law enforcement agency under this paragraph must be destroyed when the juvenile graduates from the school or at the end of the academic year when the juvenile reaches age 23, whichever date is earlier. For purposes of this paragraph, "school" means a public or private elementary, middle, or secondary school.

(f) In any county in which the county attorney operates or authorizes the operation of a juvenile prepetition or pretrial diversion program, a law enforcement agency or county attorney's office may provide the juvenile diversion program with data concerning a juvenile who is a participant in or is being considered for participation in the program.

(g) Upon request of a local social service agency, peace officer records of children who are or may be delinquent or who may be engaged in criminal acts may be disseminated to the agency to promote the best interests of the subject of the data.

(h) Upon written request, the prosecuting authority shall release investigative data collected by a law enforcement agency to the victim of a criminal act or alleged criminal act or to the victim's legal representative, except as otherwise provided by this paragraph. Data shall not be released if:

(1) the release to the individual subject of the data would be prohibited under section 13.391; or

(2) the prosecuting authority reasonably believes:

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- (i) that the release of that data will interfere with the investigation; or
(ii) that the request is prompted by a desire on the part of the requester to engage in unlawful activities.

Sec. 6. Minnesota Statutes 1996, section 480.30, subdivision 1, is amended to read:

Subdivision 1. **CHILD ABUSE; DOMESTIC ABUSE; HARASSMENT.** The supreme court's judicial education program must include ongoing training for district court judges on child and adolescent sexual abuse, domestic abuse, harassment, stalking, and related civil and criminal court issues. The program must include the following:

- (1) information about the specific needs of victims. The program must include;
- (2) education on the causes of sexual abuse and family violence and;
- (3) education on culturally responsive approaches to serving victims;
- (4) education on the impacts of domestic abuse and domestic abuse allegations on children and the importance of considering these impacts when making visitation and child custody decisions under chapter 518; and
- (5) information on alleged and substantiated reports of domestic abuse, including, but not limited to, department of human services survey data.

The program also must emphasize the need for the coordination of court and legal victim advocacy services and include education on sexual abuse and domestic abuse programs and policies within law enforcement agencies and prosecuting authorities as well as the court system.

Sec. 7. Minnesota Statutes 1996, section 518.10, is amended to read:

518.10 REQUISITES OF PETITION.

The petition for dissolution of marriage or legal separation shall state and allege:

- (a) The name and address of the petitioner and any prior or other name used by the petitioner;
- (b) The name and, if known, the address of the respondent and any prior or other name used by the respondent and known to the petitioner;
- (c) The place and date of the marriage of the parties;
- (d) In the case of a petition for dissolution, that either the petitioner or the respondent or both:
 - (1) Has resided in this state for not less than 180 days immediately preceding the commencement of the proceeding, or
 - (2) Has been a member of the armed services and has been stationed in this state for not less than 180 days immediately preceding the commencement of the proceeding, or
 - (3) Has been a domiciliary of this state for not less than 180 days immediately preceding the commencement of the proceeding;
- (e) The name at the time of the petition and any prior or other name, age and date of birth of each living minor or dependent child of the parties born before the marriage or

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born or adopted during the marriage and a reference to, and the expected date of birth of, a child of the parties conceived during the marriage but not born;

(f) Whether or not a separate proceeding for dissolution, legal separation, or custody is pending in a court in this state or elsewhere;

(g) In the case of a petition for dissolution, that there has been an irretrievable breakdown of the marriage relationship;

(h) In the case of a petition for legal separation, that there is a need for a decree of legal separation; and

(i) Any temporary or permanent maintenance, child support, child custody, disposition of property, attorneys' fees, costs and disbursements applied for without setting forth the amounts; and

(j) Whether an order for protection under chapter 518B or a similar law of another state that governs the parties or a party and a minor child of the parties is in effect and, if so, the district court or similar jurisdiction in which it was entered.

The petition shall be verified by the petitioner or petitioners, and its allegations established by competent evidence.

Sec. 8. Minnesota Statutes 1996, section 518.175, is amended by adding a subdivision to read:

Subd. 1a. DOMESTIC ABUSE; SUPERVISED VISITATION. (a) If a custodial parent requests supervised visitation under subdivision 1 or 5 and an order for protection under chapter 518B or a similar law of another state is in effect against the noncustodial parent to protect the custodial parent or the child, the judge or judicial officer must consider the order for protection in making a decision regarding visitation.

(b) The state court administrator, in consultation with representatives of custodial and noncustodial parents and other interested persons, shall develop standards to be met by persons who are responsible for supervising visitation. Either parent may challenge the appropriateness of an individual chosen by the court to supervise visitation.

Sec. 9. Minnesota Statutes 1996, section 518.175, subdivision 5, is amended to read:

Subd. 5. The court shall modify an order granting or denying visitation rights whenever modification would serve the best interests of the child. Except as provided in section 631.52, the court may not restrict visitation rights unless it finds that:

(1) the visitation is likely to endanger the child's physical or emotional health or impair the child's emotional development; or

(2) the noncustodial parent has chronically and unreasonably failed to comply with court-ordered visitation.

If the custodial parent makes specific allegations that visitation places the custodial parent or child in danger of harm, the court shall hold a hearing at the earliest possible time to determine the need to modify the order granting visitation rights. Consistent with subdivision 1a, the court may require a third party, including the local social services agency, to supervise the visitation or may restrict a parent's visitation rights if necessary to protect the custodial parent or child from harm.

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Sec. 10. Minnesota Statutes 1996, section 518.179, subdivision 2, is amended to read:

Subd. 2. **APPLICABLE CRIMES.** This section applies to the following crimes or similar crimes under the laws of the United States, or any other state:

- (1) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;
- (2) manslaughter in the first degree under section 609.20;
- (3) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- (4) kidnapping under section 609.25;
- (5) depriving another of custodial or parental rights under section 609.26;
- (6) soliciting, inducing, or promoting prostitution involving a minor under section 609.322;
- (7) receiving profit from prostitution involving a minor under section 609.323;
- (8) criminal sexual conduct in the first degree under section 609.342;
- (9) criminal sexual conduct in the second degree under section 609.343;
- (10) criminal sexual conduct in the third degree under section 609.344, subdivision 1, paragraph (c), (f), or (g);
- (11) solicitation of a child to engage in sexual conduct under section 609.352;
- (12) incest under section 609.365;
- (13) malicious punishment of a child under section 609.377; ~~or~~
- (14) neglect of a child under section 609.378;
- (15) terroristic threats under section 609.713; or
- (16) felony harassment or stalking under section 609.749, subdivision 4.

Sec. 11. Minnesota Statutes 1996, section 518B.01, subdivision 4, is amended to read:

Subd. 4. **ORDER FOR PROTECTION.** There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(a) A petition for relief under this section may be made by any family or household member personally or by a family or household member, a guardian as defined in section 524.1-201, clause (20), or, if the court finds that it is in the best interests of the minor, by a reputable adult age 25 or older on behalf of minor family or household members. A minor age 16 or older may make a petition on the minor's own behalf against a spouse or former spouse, or a person with whom the minor has a child in common, if the court determines that the minor has sufficient maturity and judgment and that it is in the best interests of the minor.

(b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

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(c) A petition for relief must state whether the petitioner has ever had an order for protection in effect against the respondent.

(d) A petition for relief must state whether there is an existing order for protection in effect under this chapter governing both the parties and whether there is a pending lawsuit, complaint, petition or other action between the parties under chapter 257, 518, 518A, 518B, or 518C. The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A subsequent order in a separate action under this chapter may modify only the provision of an existing order that grants relief authorized under subdivision 6, paragraph (a), clause (1). A petition for relief may be granted, regardless of whether there is a pending action between the parties.

(e) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

(f) The court shall advise a petitioner under paragraph (e) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.

(g) The court shall advise a petitioner under paragraph (e) of the right to serve the respondent by published notice under subdivision 5, paragraph (b), if the respondent is avoiding personal service by concealment or otherwise, and shall assist with the writing and filing of the affidavit.

(h) The court shall advise the petitioner of the right to seek restitution under the petition for relief.

(i) The court shall advise the petitioner of the right to request a hearing under subdivision 7, paragraph (c). If the petitioner does not request a hearing, the court shall advise the petitioner that the respondent may request a hearing and that notice of the hearing date and time will be provided to the petitioner by mail at least five days before the hearing.

(j) The court shall advise the petitioner of the right to request supervised visitation, as provided in section 518.175, subdivision 1a.

Sec. 12. Minnesota Statutes 1996, section 518B.01, subdivision 8, is amended to read:

Subd. 8. **SERVICE; ALTERNATE SERVICE; PUBLICATION; NOTICE.** (a) The petition and any order issued under this section shall be served on the respondent personally.

(b) When service is made out of this state and in the United States, it may be proved by the affidavit of the person making the service. When service is made outside the United States, it may be proved by the affidavit of the person making the service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties; or before an office authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

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(c) If personal service cannot be made, the court may order service of the petition and any order issued under this section by alternate means, or by publication, which publication must be made as in other actions. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Service shall be deemed complete 14 days after mailing or 14 days after court-ordered publication.

(d) A petition and any order issued under this section must include a notice to the respondent that if an order for protection is issued to protect the petitioner or a child of the parties, upon request of the petitioner in any visitation proceeding, the court shall consider the order for protection in making a decision regarding visitation.

Sec. 13. Minnesota Statutes 1996, section 518B.01, subdivision 14, is amended to read:

Subd. 14. **VIOLATION OF AN ORDER FOR PROTECTION.** (a) Whenever an order for protection is granted pursuant to this section or a similar law of another state, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor. Upon conviction, the defendant must be sentenced to a minimum of three days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. If the court stays imposition or execution of the jail sentence and the defendant refuses or fails to comply with the court's treatment order, the court must impose and execute the stayed jail sentence. A person is guilty of a gross misdemeanor who violates this paragraph during the time period between a previous conviction under this paragraph; sections 609.221 to 609.224; 609.2242; 609.713, subdivision 1 or 3; 609.748, subdivision 6; 609.749; or a similar law of another state and the end of the five years following discharge from sentence for that conviction. Upon conviction, the defendant must be sentenced to a minimum of ten days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(b) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section or a similar law of another state restraining the person or excluding the person from the residence or the petitioner's place of employment, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The person shall be held in custody for at least 36

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hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(c) A violation of an order for protection shall also constitute contempt of court and be subject to the penalties therefor.

(d) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed \$10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(e) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section or a similar law of another state, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation, or in the county in which the alleged violation occurred, if the petitioner and respondent do not reside in this state. The court also shall refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (a).

(f) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 or a similar law of another state and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year, except when the court determines a longer fixed period is appropriate.

(g) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by paragraph (b).

(h) When a person is convicted under paragraph (a) of violating an order for protection under this section and the court determines that the person used a firearm in any way

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during commission of the violation, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(i) Except as otherwise provided in paragraph (h), when a person is convicted under paragraph (a) of violating an order for protection ~~under this section~~, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(j) Except as otherwise provided in paragraph (h), a person is not entitled to possess a pistol if the person has been convicted under paragraph (a) after August 1, 1996, of violating an order for protection ~~under this section~~, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(k) If the court determines that a person convicted under paragraph (a) of violating an order for protection ~~under this section~~ owns or possesses a firearm and used it in any way during the commission of the violation, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

Sec. 14. Minnesota Statutes 1996, section 518B.01, subdivision 17, is amended to read:

Subd. 17. **EFFECT ON CUSTODY PROCEEDINGS.** In a subsequent custody proceeding the court ~~may~~ must consider, ~~but is not bound by,~~ a finding in a proceeding under this chapter or under a similar law of another state that domestic abuse has occurred between the parties.

Sec. 15. Minnesota Statutes 1996, section 518B.01, subdivision 18, is amended to read:

Subd. 18. **NOTICES.** Each order for protection granted under this chapter must contain a conspicuous notice to the respondent or person to be restrained that:

(1) violation of an order for protection is a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$700 or both;

(2) the respondent is forbidden to enter or stay at the petitioner's residence, even if invited to do so by the petitioner or any other person; in no event is the order for protection voided; and

(3) a peace officer must arrest without warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order for protection restraining the person or excluding the person from a residence; and

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(4) pursuant to the Violence Against Women Act of 1994, United States Code, title 18, section 2265, the order is enforceable in all 50 states, the District of Columbia, tribal lands, and United States territories, that violation of the order may also subject the respondent to federal charges and punishment under United States Code, title 18, sections 2261 and 2262, and that if a final order is entered against the respondent after the hearing, the respondent may be prohibited from possessing, transporting, or accepting a firearm under the 1994 amendment to the Gun Control Act, United States Code, title 18, section 922(g)(8).

Sec. 16. Minnesota Statutes 1996, section 609.10, is amended to read:

609.10 SENTENCES AVAILABLE.

Subdivision 1. 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.

Subd. 2. RESTITUTION. (a) As used in this section, "restitution" includes:

- ~~(i)~~ (1) payment of compensation to the victim or the victim's family; and
- ~~(ii)~~ (2) 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.

~~In controlled substance crime cases, "restitution" also includes payment of compensation to a government entity that incurs loss as a direct result of the controlled substance crime.~~

"Restitution" includes payment of compensation to a government entity that incurs loss as a direct result of a crime.

(b) When the defendant does not pay the entire amount of court-ordered restitution and the fine at the same time, the court may order that all restitution shall be paid before the fine is paid.

Sec. 17. Minnesota Statutes 1996, section 609.125, is amended to read:

609.125 SENTENCE FOR MISDEMEANOR OR GROSS MISDEMEANOR.

Subdivision 1. SENTENCES AVAILABLE. 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

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(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.

Subd. 2. RESTITUTION. (a) As used in this section, "restitution" includes:

(i) (1) payment of compensation to the victim or the victim's family; and

(ii) (2) 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.

~~In controlled substance crime cases, "restitution" also includes payment of compensation to a government entity that incurs loss as a direct result of the controlled substance crime.~~

"Restitution" includes payment of compensation to a government entity that incurs loss as a direct result of a crime.

(b) When the defendant does not pay the entire amount of court-ordered restitution and the fine at the same time, the court may order that all restitution shall be paid before the fine is paid.

Sec. 18. Minnesota Statutes 1996, section 609.2244, is amended to read:

609.2244 PRESENTENCE DOMESTIC ABUSE ASSESSMENTS INVESTIGATIONS.

Subdivision 1. DOMESTIC ABUSE ASSESSMENT INVESTIGATION. A presentence domestic abuse assessment investigation must be conducted and an assessment report submitted to the court by the county corrections agency responsible for administering the assessment conducting the investigation when:

(1) a defendant is convicted of an offense described in section 518B.01, subdivision 2; or

(2) a defendant is arrested for committing an offense described in section 518B.01, subdivision 2, but is convicted of another offense arising out of the same circumstances surrounding the arrest.

Subd. 2. REPORT. (a) The assessment report must contain an evaluation of the convicted defendant department of corrections shall establish minimum standards for the report, including the circumstances of the offense, impact on the victim, the defendant's prior record, characteristics and history of alcohol and chemical use problems, and amenability to domestic abuse counseling programs. The report is classified as private data on individuals as defined in section 13.02, subdivision 12. Victim impact statements are confidential.

(b) The assessment report must include:

(1) a recommendation on any limitations on contact with the victim and other measures to ensure the victim's safety;

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(2) a recommendation for the defendant to enter and successfully complete domestic abuse counseling programming and any aftercare found necessary by the assessment investigation;

(3) a recommendation for chemical dependency evaluation and treatment as determined by the evaluation whenever alcohol or drugs were found to be a contributing factor to the offense;

(4) recommendations for other appropriate remedial action or care, ~~which may consist of educational programs, one-on-one counseling, a program or type of treatment that addresses mental health concerns, or a specific explanation why no level of care or action is recommended; and~~

(5) consequences for failure to abide by conditions set up by the court.

Subd. 3. **ASSESSOR CORRECTIONS AGENTS STANDARDS; RULES; ASSESSMENT INVESTIGATION TIME LIMITS.** A domestic abuse assessment investigation required by this section must be conducted by an assessor approved by the court, the local corrections department, or the commissioner of corrections. The assessor corrections agent shall have access to any police reports or other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. An assessor providing A corrections agent conducting an assessment investigation under this section may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. An appointment for the defendant to undergo the assessment shall investigation must be made by the court, a court services probation officer, or court administrator as soon as possible but in no case more than one week after the defendant's court appearance. The assessment must be completed no later than three weeks after the defendant's court date.

Subd. 4. **DOMESTIC ABUSE ASSESSMENT INVESTIGATION FEE.** When the court sentences a person convicted of an offense described in section 518B.01, subdivision 2, the court shall impose a domestic abuse assessment investigation fee of at least \$50 but not more than \$125. This fee must be imposed whether the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the fee in installments unless it makes written findings on the record that the convicted person is indigent or that the fee would create undue hardship for the convicted person or that person's immediate family. The person convicted of the offense and ordered to pay the fee shall pay the fee to the county corrections department or other designated agencies conducting the assessment investigation.

Sec. 19. Minnesota Statutes 1996, section 611A.01, is amended to read:

611A.01 DEFINITIONS.

For the purposes of sections 611A.01 to 611A.06:

(a) "Crime" means conduct that is prohibited by local ordinance and results in bodily harm to an individual; or conduct that is included within the definition of "crime" in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state, or (ii) the act was alleged or found to have been committed by a juvenile;

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(b) "Victim" means a natural person who incurs loss or harm as a result of a crime, including a good faith effort to prevent a crime, and for purposes of sections 611A.04 and 611A.045, also includes (i) a corporation that incurs loss or harm as a result of a crime, ~~and (ii) a government entity that incurs loss or harm as a result of a crime, and (iii) any other entity authorized to receive restitution under section 609.10 or 609.125.~~ If the victim is a natural person and is deceased, "victim" means the deceased's surviving spouse or next of kin; and

(c) "Juvenile" has the same meaning as given to the term "child" in section 260.015, subdivision 2.

Sec. 20. Minnesota Statutes 1996, section 611A.035, is amended to read:

611A.035 CONFIDENTIALITY OF VICTIM'S ADDRESS.

Subdivision 1. DISCRETION OF PROSECUTOR NOT TO DISCLOSE. A prosecutor may elect not to disclose a victim's or witness's home or employment address or telephone number if the prosecutor certifies to the trial court that:

(1) the defendant or respondent has been charged with or alleged to have committed a crime;

(2) the nondisclosure is needed to address the victim's or witness's concerns about safety or security; and

(3) the victim's or witness's home or employment address or telephone number is not relevant to the prosecution's case.

If such a certification is made, the prosecutor must move at a contested hearing for the court's permission to continue to withhold this information.

The court shall either:

(1) order the information disclosed to defense counsel, but order it not disclosed to the defendant; or

(2) order the prosecutor to arrange a confidential meeting between defense counsel, or his or her agent, and the victim or witness, at a neutral location.

This subdivision shall not be construed to compel a victim or witness to give any statement to or attend any meeting with defense counsel or defense counsel's agent.

Subd. 2. WITNESS TESTIMONY IN COURT. No victim or witness providing testimony in court proceedings may be compelled to state a home or employment address on the record in open court unless the court finds that the testimony would be relevant evidence.

Sec. 21. Minnesota Statutes 1996, section 611A.038, is amended to read:

611A.038 RIGHT TO SUBMIT STATEMENT AT SENTENCING.

(a) A victim has the right to submit an impact statement 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.

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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.

(b) A representative of the community affected by the crime may submit an impact statement in the same manner that a victim may as provided in paragraph (a). This impact statement shall describe the adverse social or economic effects the offense has had on persons residing and businesses operating in the community where the offense occurred.

(c) If the court permits the defendant or anyone speaking on the defendant's behalf to present a statement to the court, the court shall limit the response to factual issues which are relevant to sentencing.

(d) Nothing in this section shall be construed to extend the defendant's right to address the court under section 631.20.

Sec. 22. Minnesota Statutes 1996, section 611A.039, subdivision 1, is amended to read:

Subdivision 1. **NOTICE REQUIRED.** Except as otherwise provided in subdivision 2, within 15 working days after a conviction, acquittal, or dismissal in a criminal case in which there is an identifiable crime victim, the prosecutor shall make reasonable good faith efforts to provide to each affected crime victim oral or written notice of the final disposition of the case. When the court is considering modifying the sentence for a felony or a crime of violence or an attempted crime of violence, the court or its designee shall make a reasonable and good faith effort to notify the victim of the 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 notice 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 to contact for additional information; and
- (4) a statement that the victim and victim's family may provide input to the court concerning the sentence modification.

As used in this section, "crime of violence" has the meaning given 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. 23. [611A.0395] RIGHT TO INFORMATION REGARDING DEFENDANT'S APPEAL.

Subdivision 1. **PROSECUTING ATTORNEY TO NOTIFY VICTIMS.** (a) The prosecuting attorney shall make a reasonable and good faith effort to provide to each af-

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affected victim oral or written notice of a pending appeal. This notice must be provided within 30 days of filing of the respondent's brief. The notice must contain a brief explanation of the contested issues or a copy of the brief, an explanation of the applicable process, information about scheduled oral arguments or hearings, a statement that the victim and the victim's family may attend the argument or hearing, and the name and telephone number of a person that may be contacted for additional information.

(b) In a criminal case in which there is an identifiable crime victim, within 15 working days of a final decision on an appeal, the prosecuting attorney shall make a reasonable and good faith effort to provide to each affected victim oral or written notice of the decision. This notice must include a brief explanation of what effect, if any, the decision has upon the judgment of the trial court and the name and telephone number of a person that may be contacted for additional information.

Subd. 2. EXCEPTION. The notices described in subdivision 1 do not have to be given to victims who have previously indicated a desire not to be notified.

Sec. 24. Minnesota Statutes 1996, section 611A.04, is amended by adding a subdivision to read:

Subd. 4. PAYMENT OF RESTITUTION. When the court orders both the payment of restitution and the payment of a fine and the defendant does not pay the entire amount of court-ordered restitution and the fine at the same time, the court may order that all restitution shall be paid before the fine is paid.

Sec. 25. Minnesota Statutes 1996, section 611A.045, subdivision 1, is amended to read:

Subdivision 1. **CRITERIA.** (a) The court, in determining whether to order restitution and the amount of the restitution, shall consider the following factors:

(1) the amount of economic loss sustained by the victim as a result of the offense; and

(2) the income, resources, and obligations of the defendant.

(b) If there is more than one victim of a crime, the court shall give priority to victims who are not governmental entities when ordering restitution.

Sec. 26. Minnesota Statutes 1996, section 611A.25, subdivision 3, is amended to read:

Subd. 3. **TERMS; VACANCIES; EXPENSES.** Section 15.059 governs the filling of vacancies and removal of members of the sexual assault advisory council. The terms of the members of the advisory council shall be two years. No member may serve on the advisory council for more than two consecutive terms. The council expires on June 30, 2001. Council members shall receive expense reimbursement as specified in section 15.059.

Sec. 27. Minnesota Statutes 1996, section 611A.361, subdivision 3, is amended to read:

Subd. 3. **TERMS; VACANCIES; EXPENSES.** Section 15.059 governs the filling of vacancies and removal of members of the general crime victims advisory council. The

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terms of the members of the advisory council shall be two years. No member may serve on the advisory council for more than two consecutive terms. The council expires on June 30, 2001. Council members shall receive expense reimbursement as specified in section 15.059.

Sec. 28. Minnesota Statutes 1996, section 611A.52, subdivision 6, is amended to read:

Subd. 6. **CRIME.** (a) "Crime" means conduct that:

(1) occurs or is attempted anywhere within the geographical boundaries of this state, including Indian reservations and other trust lands;

(2) poses a substantial threat of personal injury or death; and

(3) is included within the definition of "crime" in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state; or (ii) the act was alleged or found to have been committed by a juvenile.

(b) A crime occurs whether or not any person is prosecuted or convicted but the conviction of a person whose acts give rise to the claim is conclusive evidence that a crime was committed unless an application for rehearing, appeal, or petition for certiorari is pending or a new trial or rehearing has been ordered.

(c) "Crime" does not include an act involving the operation of a motor vehicle, aircraft, or watercraft that results in injury or death, except that a crime includes any of the following:

(1) injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or watercraft;

(2) injury or death caused by a driver in violation of section 169.09, subdivision 1; 169.121; or 609.21; and

(3) injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which the driver knowingly and willingly participated.

(d) Notwithstanding paragraph (a), "crime" includes an act of international terrorism as defined in United States Code, title 18, section 2331, committed outside of the United States against a resident of this state.

Sec. 29. Minnesota Statutes 1996, section 611A.52, subdivision 8, is amended to read:

Subd. 8. **ECONOMIC LOSS.** "Economic loss" means actual economic detriment incurred as a direct result of injury or death.

(a) In the case of injury the term is limited to:

(1) reasonable expenses incurred for necessary medical, chiropractic, hospital, rehabilitative, and dental products, services, or accommodations, including ambulance services, drugs, appliances, and prosthetic devices;

(2) reasonable expenses associated with recreational therapy where a claimant has suffered amputation of a limb;

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(3) reasonable expenses incurred for psychological or psychiatric products, services, or accommodations, not to exceed an amount to be set by the board, where the nature of the injury or the circumstances of the crime are such that the treatment is necessary to the rehabilitation of the victim;

(4) loss of income that the victim would have earned had the victim not been injured;

(5) reasonable expenses incurred for substitute child care or household services to replace those the victim or claimant would have performed had the victim or the claimant's child not been injured. As used in this clause, "child care services" means services provided by facilities licensed under and in compliance with either Minnesota Rules, parts 9502.0315 to 9502.0445, or 9545.0510 to 9545.0670, or exempted from licensing requirements pursuant to section 245A.03. Licensed facilities must be paid at a rate not to exceed their standard rate of payment. Facilities exempted from licensing requirements must be paid at a rate not to exceed \$3 an hour per child for daytime child care or \$4 an hour per child for evening child care; and

(6) reasonable expenses actually incurred to return a child who was a victim of a crime under section 609.25 or 609.26 to the child's parents or lawful custodian. These expenses are limited to transportation costs, meals, and lodging from the time the child was located until the child was returned home.

(b) In the case of death the term is limited to:

(1) reasonable expenses actually incurred for funeral, burial, or cremation, not to exceed an amount to be determined by the board on the first day of each fiscal year;

(2) reasonable expenses for medical, chiropractic, hospital, rehabilitative, psychological and psychiatric services, products or accommodations which were incurred prior to the victim's death and for which the victim's survivors or estate are liable;

(3) loss of support, including contributions of money, products or goods, but excluding services which the victim would have supplied to dependents if the victim had lived; and

(4) reasonable expenses incurred for substitute child care and household services to replace those which the victim or claimant would have performed for the benefit of dependents if the victim or the claimant's child had lived.

Claims for loss of support for minor children made under clause (3) must be paid for three years or until the child reaches 18 years old, whichever is the shorter period. After three years, if the child is younger than 18 years old a claim for loss of support may be resubmitted to the board, and the board staff shall evaluate the claim giving consideration to the child's financial need and to the availability of funds to the board. Claims for loss of support for a spouse made under clause (3) shall also be reviewed at least once every three years. The board staff shall evaluate the claim giving consideration to the spouse's financial need and to the availability of funds to the board.

Claims for substitute child care services made under clause (4) must be limited to the actual care that the deceased victim would have provided to enable surviving family members to pursue economic, educational, and other activities other than recreational activities.

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Sec. 30. Minnesota Statutes 1996, section 611A.53, subdivision 1b, is amended to read:

Subd. 1b. **MINNESOTA RESIDENTS INJURED ELSEWHERE.** (a) A Minnesota resident who is the victim of a crime committed outside the geographical boundaries of this state but who otherwise meets the requirements of this section shall have the same rights under this chapter as if the crime had occurred within this state upon a showing that the state, territory, or United States possession in which the crime occurred does not have a crime victim reparations law covering the resident's injury or death.

(b) Notwithstanding paragraph (a), a Minnesota resident who is the victim of a crime involving international terrorism who otherwise meets the requirements of this section, has the same rights under this chapter as if the crime had occurred within this state regardless of where the crime occurred or whether the jurisdiction has a crime victims reparations law.

Sec. 31. Minnesota Statutes 1996, section 611A.675, is amended to read:

611A.675 FUND FOR EMERGENCY NEEDS OF CRIME VICTIMS.

Subdivision 1. **GRANTS AUTHORIZED.** The crime victims reparations board victim and witness advisory council shall make grants to local law enforcement agencies prosecutors and victim assistance programs for the purpose of providing emergency assistance to victims. As used in this section, "emergency assistance" includes but is not limited to:

- (1) replacement of necessary property that was lost, damaged, or stolen as a result of the crime;
- (2) purchase and installation of necessary home security devices; and
- (3) transportation to locations related to the victim's needs as a victim, such as medical facilities and facilities of the criminal justice system;
- (4) cleanup of the crime scene; and
- (5) reimbursement for reasonable travel and living expenses the victim incurred to attend court proceedings that were held at a location other than the place where the crime occurred due to a change of venue.

Subd. 2. **APPLICATION FOR GRANTS.** A city or county sheriff or the chief administrative officer of a municipal police department attorney's office or victim assistance program may apply to the board council for a grant for any of the purposes described in subdivision 1 or for any other emergency assistance purpose approved by the board council. The application must be on forms and pursuant to procedures developed by the board council. The application must describe the type or types of intended emergency assistance, estimate the amount of money required, and include any other information deemed necessary by the board council.

Subd. 3. **REPORTING BY LOCAL AGENCIES REQUIRED.** A city or county sheriff or chief administrative officer of a municipal police department who attorney's office or victim assistance program that receives a grant under this section shall report all expenditures to the board on a quarterly basis. The sheriff or chief administrative officer shall also file an annual report with the board council itemizing the expenditures made

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during the preceding year, the purpose of those expenditures, and the ultimate disposition, if any, of each assisted victim's criminal case.

Subd. 4. **REPORT TO LEGISLATURE.** On or before February 1, ~~1997~~ 1999, the ~~board~~ council shall report to the chairs of the senate crime prevention and house of representatives judiciary committees on the implementation, use, and administration of the grant program created under this section.

Sec. 32. Minnesota Statutes 1996, section 611A.71, subdivision 5, is amended to read:

Subd. 5. **DUTIES.** The council shall:

(1) review on a regular basis the treatment of victims by the criminal justice system and the need and availability of services to victims;

(2) advise the agency designated by the governor to apply for victim assistance program grants under chapter 14 of Public Law Number 98-473, in the coordination and allocation of federal funds for crime victims assistance programs;

(3) advocate necessary changes and monitor victim-related legislation;

(4) provide information, training, and technical assistance to state and local agencies and groups involved in victim and witness assistance;

(5) serve as a clearinghouse for information concerning victim and witness programs;

(6) develop guidelines for the implementation of victim and witness assistance programs and aid in the creation and development of programs;

(7) coordinate the development and implementation of policies and guidelines for the treatment of victims and witnesses, and the delivery of services to them; ~~and~~

(8) develop ongoing public awareness efforts and programs to assist victims; and

(9) administer the grant program described in section 611A.675.

Sec. 33. Minnesota Statutes 1996, section 611A.71, subdivision 7, is amended to read:

Subd. 7. **EXPIRATION.** The council expires on June 30, ~~1997~~ 2001.

Sec. 34. Minnesota Statutes 1996, section 611A.74, subdivision 1, is amended to read:

Subdivision 1. **CREATION.** The office of crime victim ombudsman for Minnesota is created. The ombudsman shall be appointed by the ~~commissioner of public safety with the advice of the advisory council, and~~ governor, shall serve in the unclassified service at the pleasure of the ~~commissioner~~ governor and shall be selected without regard to political affiliation. No person may serve as ombudsman while holding any other public office. The ombudsman is directly accountable to the commissioner of public safety and governor. The ombudsman shall have the authority to investigate decisions, acts, and other matters of the criminal justice system so as to promote the highest attainable standards of competence, efficiency, and justice for crime victims in the criminal justice system.

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Sec. 35. Minnesota Statutes 1996, section 611A.74, is amended by adding a subdivision to read:

Subd. 1a. **ORGANIZATION OF OFFICE.** (a) The ombudsman may appoint employees necessary to discharge responsibilities of the office. The ombudsman may delegate to staff members any of the ombudsman's authority or duties except the duties of formally making recommendations to appropriate authorities and reports to the office of the governor or to the legislature.

(b) The commissioner of public safety shall provide office space and administrative support services to the ombudsman and the ombudsman's staff.

Sec. 36. Minnesota Statutes 1996, section 611A.74, subdivision 3, is amended to read:

Subd. 3. **POWERS.** The crime victim ombudsman has those powers necessary to carry out the duties set out in subdivision 1 2, including:

(a) The ombudsman may investigate, with or without a complaint, any action of an element of the criminal justice system or a victim assistance program included in subdivision 2.

(b) The ombudsman may request and shall be given access to information and assistance the ombudsman considers necessary for the discharge of responsibilities. The ombudsman may inspect, examine, and be provided copies of records and documents of all elements of the criminal justice system and victim assistance programs. The ombudsman may request and shall be given access to police reports pertaining to juveniles and juvenile delinquency petitions, notwithstanding section 260.161. Any information received by the ombudsman retains its data classification under chapter 13 while in the ombudsman's possession. Juvenile records obtained under this subdivision may not be released to any person.

(c) The ombudsman may prescribe the methods by which complaints are to be made, received, and acted upon; may determine the scope and manner of investigations to be made; and subject to the requirements of sections 611A.72 to 611A.74, may determine the form, frequency, and distribution of ombudsman conclusions, recommendations, and proposals.

(d) After completing investigation of a complaint, the ombudsman shall inform in writing the complainant, the investigated person or entity, and other appropriate authorities of the action taken. If the complaint involved the conduct of an element of the criminal justice system in relation to a criminal or civil proceeding, the ombudsman's findings shall be forwarded to the court in which the proceeding occurred.

(e) Before announcing a conclusion or recommendation that expressly or impliedly criticizes an administrative agency or any person, the ombudsman shall consult with that agency or person.

Sec. 37. Minnesota Statutes 1996, section 611A.75, is amended to read:

611A.75 REPORT TO LEGISLATURE.

The commissioner of public safety shall report to the legislature biennially on the activities of crime victim programs under chapter 611A; except that the crime victim om-

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budsman shall report to the legislature biennially on the activities of the office of crime victim ombudsman.

Sec. 38. Minnesota Statutes 1996, section 629.725, is amended to read:

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 pre-trial 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 section 609.21, gross misdemeanor violations of section 609.224, and nonfelony violations of sections 518B.01, 609.2231, 609.3451, 609.748, and 609.749.

Sec. 39. Minnesota Statutes 1996, section 631.52, subdivision 2, is amended to read:

Subd. 2. **APPLICATION.** Subdivision 1 applies to the following crimes or similar crimes under the laws of the United States or any other state:

- (1) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;
- (2) manslaughter in the first degree under section 609.20;
- (3) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- (4) kidnapping under section 609.25;
- (5) depriving another of custodial or parental rights under section 609.26;
- (6) soliciting, inducing, or promoting prostitution involving a minor under section 609.322;
- (7) receiving profit from prostitution involving a minor under section 609.323;
- (8) criminal sexual conduct in the first degree under section 609.342;
- (9) criminal sexual conduct in the second degree under section 609.343;
- (10) criminal sexual conduct in the third degree under section 609.344, subdivision 1, paragraph (c), (f), or (g);

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- (11) solicitation of a child to engage in sexual conduct under section 609.352;
- (12) incest under section 609.365;
- (13) malicious punishment of a child under section 609.377; or
- (14) neglect of a child under section 609.378;
- (15) terroristic threats under section 609.713; or
- (16) felony harassment or stalking under section 609.749.

Sec. 40. **COMBINED JURISDICTION FAMILY COURT.**

(a) Notwithstanding Minnesota Statutes, sections 260.031, subdivision 4, and 484.70, subdivisions 6 and 7, paragraphs (d) and (e), the supreme court may implement pilot projects to improve the resolution of family issues, including domestic abuse, by assigning related family, probate, and juvenile court matters, other than delinquency proceedings, to a single judge. The projects must include orders for protection and related domestic abuse issues and address methods for improving continuity and consistency with respect to consideration of domestic abuse issues in different proceedings involving the same family or household members. One pilot project shall be established in the second judicial district and the other pilot project shall be established in a rural district.

(b) The supreme court is requested to report to the chairs of the senate and house judiciary committees on the effectiveness of the pilot projects in resolving family issues when the projects are completed or by January 15, 2000, whichever is earlier.

Sec. 41. **EFFECTIVE DATE; APPLICABILITY.**

Sections 2, 3, 26, 27, 31, 37, and 40 are effective July 1, 1997. Sections 1, 4 to 11, 14, 19, 20, 22, 28 to 30, and 39 are effective August 1, 1997. Sections 13, 16 to 18, 24, 25, and 38 are effective August 1, 1997, and apply to offenses committed on or after that date. Sections 12, 15, 21, and 23 are effective August 1, 1997, and apply to proceedings committed on or after that date. The individual who occupies the position of crime victim ombudsman before the effective date shall continue in that position unless replaced by the governor.

ARTICLE 8

PUBLIC SAFETY

Section 1. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 90b. **CRIMINAL GANG INVESTIGATIVE DATA SYSTEM.** Data in the criminal gang investigative data system are classified in section 299C.091.

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Sec. 2. Minnesota Statutes 1996, section 171.29, subdivision 2, is amended to read:

Subd. 2. **FEES, ALLOCATION.** (a) A person whose driver's license has been revoked as provided in subdivision 1, except under section 169.121 or 169.123, shall pay a \$30 fee before the driver's license is reinstated.

(b) A person whose driver's license has been revoked as provided in subdivision 1 under section 169.121 or 169.123 shall pay a \$250 fee plus a \$10 surcharge before the driver's license is reinstated. The \$250 fee is to be credited as follows:

(1) Twenty percent shall be credited to the trunk highway fund.

(2) Fifty-five percent shall be credited to the general fund.

(3) Eight percent shall be credited to a separate account to be known as the bureau of criminal apprehension account. Money in this account may be appropriated to the commissioner of public safety and the appropriated amount shall be apportioned 80 percent for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

(4) Twelve percent shall be credited to a separate account to be known as the alcohol-impaired driver education account. Money in the account may be appropriated to the commissioner of children, families, and learning for programs in elementary and secondary schools.

(5) Five percent shall be credited to a separate account to be known as the traumatic brain injury and spinal cord injury account. \$100,000 is annually appropriated from the account to the commissioner of human services for traumatic brain injury case management services. The remaining money in the account is annually appropriated to the commissioner of health to establish and maintain the traumatic brain injury and spinal cord injury registry created in section 144.662 and to reimburse the commissioner of economic security for the reasonable cost of services provided under section 268A.03, clause (o).

(c) ~~The \$10 surcharge shall be credited to a separate account to be known as the remote electronic alcohol monitoring pilot program account. Up to \$250,000 is annually appropriated from this account to the commissioner of corrections for a remote electronic alcohol monitoring pilot program. The unencumbered balance remaining in the first year of the biennium does not cancel but is available for the second year. The commissioner shall transfer the balance of this account to the commissioner of finance on a monthly basis for deposit in the general fund.~~

Sec. 3. Minnesota Statutes 1996, section 260.161, subdivision 3, is amended to read:

Subd. 3. **PEACE OFFICER RECORDS OF CHILDREN.** (a) Except for records relating to an offense where proceedings are public under section 260.155, subdivision 1, peace officers' records of children who are or may be delinquent or who may be engaged in criminal acts shall be kept separate from records of persons 18 years of age or older and are private data but shall be disseminated: (1) by order of the juvenile court, (2) as required by section 126.036, (3) as authorized under section 13.82, subdivision 2, (4) to the child or the child's parent or guardian unless disclosure of a record would interfere with an ongoing investigation, or (5) as otherwise provided in this subdivision. Except as provided in paragraph (c), no photographs of a child taken into custody may be taken without the consent of the juvenile court unless the child is alleged to have violated section 169.121 or 169.129. Peace officers' records containing data about children who are vic-

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tims of crimes or witnesses to crimes must be administered consistent with section 13.82, subdivisions 2, 3, 4, and 10. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

In the case of computerized records maintained about juveniles by peace officers, the requirement of this subdivision that records about juveniles must be kept separate from adult records does not mean that a law enforcement agency must keep its records concerning juveniles on a separate computer system. Law enforcement agencies may keep juvenile records on the same computer as adult records and may use a common index to access both juvenile and adult records so long as the agency has in place procedures that keep juvenile records in a separate place in computer storage and that comply with the special data retention and other requirements associated with protecting data on juveniles.

(b) Nothing in this subdivision prohibits the exchange of information by law enforcement agencies if the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing a criminal investigation for law enforcement purposes.

(c) A photograph may be taken of a child taken into custody pursuant to section 260.165, subdivision 1, clause (b), provided that the photograph must be destroyed when the child reaches the age of 19 years. The commissioner of corrections may photograph juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles authorized by this paragraph may be used only for institution management purposes, case supervision by parole agents, and to assist law enforcement agencies to apprehend juvenile offenders. The commissioner shall maintain photographs of juveniles in the same manner as juvenile court records and names under this section.

(d) Traffic investigation reports are open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident. Identifying information on juveniles who are parties to traffic accidents may be disclosed as authorized under section 13.82, subdivision 4, and accident reports required under section 169.09 may be released under section 169.09, subdivision 13, unless the information would identify a juvenile who was taken into custody or who is suspected of committing an offense that would be a crime if committed by an adult, or would associate a juvenile with the offense, and the offense is not a minor traffic offense under section 260.193.

(e) A law enforcement agency shall notify the principal or chief administrative officer of a juvenile's school of an incident occurring within the agency's jurisdiction if:

(1) the agency has probable cause to believe that the juvenile has committed an offense that would be a crime if committed as an adult, that the victim of the offense is a student or staff member of the school, and that notice to the school is reasonably necessary for the protection of the victim; or

(2) the agency has probable cause to believe that the juvenile has committed an offense described in subdivision 1b, paragraph (a), clauses (1) to (3), that would be a crime if committed by an adult, regardless of whether the victim is a student or staff member of the school.

A law enforcement agency is not required to notify the school under this paragraph if the agency determines that notice would jeopardize an ongoing investigation. Notwith-

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standing section 138.17, data from a notice received from a law enforcement agency under this paragraph must be destroyed when the juvenile graduates from the school or at the end of the academic year when the juvenile reaches age 23, whichever date is earlier. For purposes of this paragraph, "school" means a public or private elementary, middle, or secondary school.

(f) In any county in which the county attorney operates or authorizes the operation of a juvenile prepetition or pretrial diversion program, a law enforcement agency or county attorney's office may provide the juvenile diversion program with data concerning a juvenile who is a participant in or is being considered for participation in the program.

(g) Upon request of a local social service agency, peace officer records of children who are or may be delinquent or who may be engaged in criminal acts may be disseminated to the agency to promote the best interests of the subject of the data.

Sec. 4. Minnesota Statutes 1996, section 260.161, subdivision 1, is amended to read:

Subdivision 1. **RECORDS REQUIRED TO BE KEPT.** (a) The juvenile court judge shall keep such minutes and in such manner as the court deems necessary and proper. Except as provided in paragraph (b), the court shall keep and maintain records pertaining to delinquent adjudications until the person reaches the age of 28 years and shall release the records on an individual to another juvenile court that has jurisdiction of the juvenile, to a requesting adult court for purposes of sentencing, or to an adult court or juvenile court as required by the right of confrontation of either the United States Constitution or the Minnesota Constitution. The juvenile court shall provide, upon the request of any other juvenile court, copies of the records concerning adjudications involving the particular child. The court also may provide copies of records concerning delinquency adjudications, on request, to law enforcement agencies, probation officers, and corrections agents if the court finds that providing these records serves public safety or is in the best interests of the child. Until July 1, 1999, juvenile court delinquency proceeding records of adjudications, court transcripts, and delinquency petitions, including any probable cause attachments that have been filed or police officer reports relating to a petition, must be released to requesting law enforcement agencies and prosecuting authorities for purposes of investigating and prosecuting violations of section 609.229, provided that psychological or mental health reports may not be included with those records. The records have the same data classification in the hands of the agency receiving them as they had in the hands of the court.

The court shall also keep an index in which files pertaining to juvenile matters shall be indexed under the name of the child. After the name of each file shall be shown the file number and, if ordered by the court, the book and page of the register in which the documents pertaining to such file are listed. The court shall also keep a register properly indexed in which shall be listed under the name of the child all documents filed pertaining to the child and in the order filed. The list shall show the name of the document and the date of filing thereof. The juvenile court legal records shall be deposited in files and shall include the petition, summons, notice, findings, orders, decrees, judgments, and motions and such other matters as the court deems necessary and proper. Unless otherwise provided by law, all court records shall be open at all reasonable times to the inspection of any child to whom the records relate, and to the child's parent and guardian.

(b) The court shall retain records of the court finding that a juvenile committed an act that would be a felony or gross misdemeanor level offense until the offender reaches the

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age of 28. If the offender commits a felony as an adult, or the court convicts a child as an extended jurisdiction juvenile, the court shall retain the juvenile records for as long as the records would have been retained if the offender had been an adult at the time of the juvenile offense. This paragraph does not apply unless the juvenile was provided counsel as required by section 260.155, subdivision 2.

Sec. 5. Minnesota Statutes 1996, section 260.161, subdivision 1a, is amended to read:

Subd. 1a. **RECORD OF FINDINGS.** (a) The juvenile court shall forward to the bureau of criminal apprehension the following data in juvenile petitions involving felony- or gross misdemeanor-level offenses:

(1) the name and birthdate of the juvenile, including any of the juvenile's known aliases or street names;

(2) the act for which the juvenile was petitioned and date of the offense; and

(3) the date and county where the petition was filed.

(b) Upon completion of the court proceedings, the court shall forward the court's finding and case disposition to the bureau. ~~Notwithstanding section 138.17, if the petition was dismissed or the juvenile was not found to have committed a gross misdemeanor or felony-level offense, the bureau and a person who received the data from the bureau shall destroy all data relating to the petition collected under paragraph (a). The bureau shall notify a person who received the data that the data must be destroyed.~~

~~(c) The bureau shall retain data on a juvenile found to have committed a felony- or gross misdemeanor-level offense until the offender reaches the age of 28. If the offender commits a felony violation as an adult, the bureau shall retain the data for as long as the data would have been retained if the offender had been an adult at the time of the juvenile offense. The court shall specify whether:~~

~~(1) the juvenile was referred to a diversion program;~~

~~(2) the petition was dismissed, continued for dismissal, or continued without adjudication; or~~

~~(3) the juvenile was adjudicated delinquent.~~

(d) (c) The juvenile court shall forward to the bureau, the sentencing guidelines commission, and the department of corrections the following data on individuals convicted as extended jurisdiction juveniles:

(1) the name and birthdate of the offender, including any of the juvenile's known aliases or street names;

(2) the crime committed by the offender and the date of the crime;

(3) the date and county of the conviction; and

(4) the case disposition.

The court shall notify the bureau, the sentencing guidelines commission, and the department of corrections whenever it executes an extended jurisdiction juvenile's adult sentence under section 260.126, subdivision 5.

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(e) (d) The bureau, sentencing guidelines commission, and the department of corrections shall retain the extended jurisdiction juvenile data for as long as the data would have been retained if the offender had been an adult at the time of the offense. Data retained on individuals under this subdivision are private data under section 13.02, except that extended jurisdiction juvenile data becomes public data under section 13.87, subdivision 2, when the juvenile court notifies the bureau that the individual's adult sentence has been executed under section 260.126, subdivision 5.

Sec. 6. [299A.465] CONTINUED HEALTH INSURANCE COVERAGE TO DISABLED.

Subdivision 1. OFFICER OR FIREFIGHTER DISABLED IN LINE OF DUTY. (a) This subdivision applies when a peace officer or firefighter suffers a disabling injury that:

- (1) results in the officer's or firefighter's retirement or separation from service;
- (2) occurs while the officer or firefighter is acting in the course and scope of duties as a peace officer or firefighter; and
- (3) the officer or firefighter has been approved to receive the officer's or firefighter's duty-related disability pension.

(b) The officer's or firefighter's employer shall continue to provide health coverage for:

- (1) the officer or firefighter; and
- (2) the officer's or firefighter's dependents if the officer or firefighter was receiving dependent coverage at the time of the injury under the employer's group health plan.

(c) The employer is responsible for the continued payment of the employer's contribution for coverage of the officer or firefighter and, if applicable, the officer's or firefighter's dependents. Coverage must continue for the officer or firefighter and, if applicable, the officer's or firefighter's dependents until the officer or firefighter reaches the age of 65. However, coverage for dependents does not have to be continued after the person is no longer a dependent.

Subd. 2. OFFICER OR FIREFIGHTER KILLED IN LINE OF DUTY. (a) This subdivision applies when a peace officer or firefighter is killed while on duty and discharging the officer's or firefighter's duties as a peace officer or firefighter.

(b) The officer's or firefighter's employer shall continue to cover the deceased officer's or firefighter's dependents if the officer or firefighter was receiving dependent coverage at the time of the officer's or firefighter's death under the employer's group health plan.

(c) The employer is responsible for the employer's contribution for the coverage of the officer's or firefighter's dependents. Coverage must continue for a dependent of the officer or firefighter for the period of time that the person is a dependent up to the age of 65.

Subd. 3. COORDINATION OF BENEFITS. Health insurance benefits payable to the officer or firefighter and the officer's or firefighter's dependents from any other

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source provide the primary coverage, and coverage available under this section is secondary.

Subd. 4. PUBLIC EMPLOYER REIMBURSEMENT. A public employer subject to this section may annually apply to the commissioner of public safety for reimbursement of its costs of complying with this section. The commissioner shall provide reimbursement to the public employer out of the public safety officer's benefit account.

Subd. 5. DEFINITION. For purposes of this section:

(a) "Peace officer" or "officer" has the meaning given in section 626.84, subdivision 1, paragraph (c).

(b) "Dependent" means a person who meets the definition of dependent in section 62L.02, subdivision 11, at the time of the officer's or firefighter's injury or death. A person is not a dependent for purposes of this section during the period of time the person is covered under another group health plan.

(c) "Firefighter" has the meaning given in section 424.03, but does not include volunteer firefighters.

Sec. 7. Minnesota Statutes 1996, section 299A.61, subdivision 1, is amended to read:

Subdivision 1. ESTABLISHMENT. 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. In addition, the commissioner shall evaluate the feasibility of using the network to disseminate data regarding the use of fraudulent checks and the coordination of security and antiterrorism efforts with the Federal Bureau of Investigation. If the commissioner determines that one or both of these uses are feasible, the commissioner shall ensure that the network disseminates data in the area or areas determined to be feasible.

Sec. 8. [299A.625] CRIMINAL GANG COUNCIL AND STRIKE FORCE.

Subdivision 1. MEMBERSHIP OF COUNCIL. The criminal gang oversight council consists of the following individuals or their designees: the commissioner of public safety; the commissioner of corrections; the superintendent of the bureau of criminal apprehension; the attorney general; the chief law enforcement officers for Minneapolis, St. Paul, St. Cloud, and Duluth; a chief of police selected by the president of the Minnesota chiefs of police association; two sheriffs, one from a county in the seven-county metropolitan area other than Hennepin or Ramsey county and the other from a county outside the metropolitan area, both selected by the president of the Minnesota sheriffs association; the executive director of the Minnesota police and peace officers association; and the Hennepin, Ramsey, St. Louis, and Olmsted county sheriffs. The council may select a chair from among its members.

Subd. 2. STATEWIDE GANG STRATEGY. (a) The council shall develop an overall strategy to eliminate the harm caused to the public by criminal gangs and their

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illegal activities within the state of Minnesota. In developing the strategy, the council shall consult with representatives from the community services division of the Minnesota department of corrections and federal probation officers employed by the United States district court of Minnesota. As far as practicable, the strategy must address all criminal gangs operating in the state regardless of location or the motivation or ethnicity of the gangs' members. The strategy must address criminal gangs in both the metropolitan area and greater Minnesota. The council shall consult with and take into account the needs of law enforcement agencies and prosecutorial offices in greater Minnesota in developing the strategy. The strategy must target individuals or groups based on their criminal behavior, not their physical appearance. The strategy must take into account the rights of groups and individuals that the strike force may target and protect against abuses of these rights.

(b) In addition to developing the strategy described in paragraph (a), the council shall develop criteria and identifying characteristics for use in determining whether individuals are or may be members of gangs involved in criminal activity. The council shall also develop procedures and criteria for the investigation of criminal gangs and crimes committed by those gangs throughout the state.

Subd. 3. **CRIMINAL GANG STRIKE FORCE.** The council shall oversee the organization and deployment of a statewide criminal gang strike force. The strike force must consist of law enforcement officers, bureau of criminal apprehension agents, an assistant attorney general, and a communications and intelligence network. The council shall select the members of the strike force who shall serve at the pleasure of the council. The council shall ensure that all law enforcement officers selected to join the strike force are licensed peace officers or federal law enforcement agents found by the Minnesota board of peace officer standards and training to have equivalent qualifications. In selecting members of the strike force, the council shall consult with chiefs of local law enforcement agencies, sheriffs, and other interested parties. The council shall request these individuals to recommend willing and experienced persons under their jurisdiction who would help the strike force and to permit those persons to join it. To the greatest extent possible, entities contributing members to the strike force are encouraged to also contribute equipment and other support. The council shall attempt to ensure that these entities do so.

Subd. 4. **STRIKE FORCE DUTIES.** The strike force shall implement the strategy developed by the council and is responsible for tactical decisions regarding implementation of the strategy. In addition and upon request, the strike force shall assist and train local governmental units, law enforcement agencies, and prosecutors' offices in methods to identify criminal gangs and gang members. To the greatest extent possible, the strike force shall operate as a cohesive unit exclusively for the purposes listed in this section. If regional units are established under subdivision 7, the council shall ensure that the existence and operation of these units do not impair the overall goal of a uniform statewide strategy to combat crimes committed by gangs.

Subd. 5. **SERVICE; TRANSFERS.** To the greatest extent possible, members of the strike force shall serve on the force for the entirety of its existence. Members continue to be employed by the same entity by which they were employed before joining the strike force. While serving on the strike force, however, members are under the exclusive command of the strike force. A member who desires to be transferred back to the position the

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member held before joining the strike force may request a transfer from the council. The council shall approve and arrange for the requested transfer as soon as is practicable. The person in charge of the organization from which the member came also may request that a member be transferred back. In these instances, the council shall approve and arrange for the requested transfer immediately or as soon as is practicable. If a member is transferred from the strike force, the person in charge of the organization from which the member came shall arrange for an experienced individual, acceptable to the council, to replace the transferred person on the strike force. If this arrangement cannot be made, any grant received under section 299A.627, subdivision 1, must be repaid on a prorated basis.

Subd. 6. **COMMANDERS.** The council shall designate a member of the strike force to be its commander and may appoint an individual assigned to a regional unit established under subdivision 7 to be the commander of the regional unit.

Subd. 7. **REGIONAL UNITS.** If the council at any time determines that it would be more effective and efficient to have distinct units within the strike force concentrating on specific areas, it may establish regional units within the strike force and select their members. If the council chooses to do so, the other provisions of this section still apply to the individual units, and the council still has the duty and authority to develop necessary procedures and criteria for and to oversee the operation of each individual unit. The council may continue to alter the structure of the strike force and any units composing it in any way designed to further its effectiveness and to carry out the intent of this section.

Subd. 8. **ROLE OF ASSISTANT ATTORNEY GENERAL.** The assistant attorney general assigned to the strike force shall generally advise the council on any matters that the council deems appropriate. The council may seek advice from other attorneys and, if the council decides it would be appropriate, may retain outside counsel. The assistant attorney general shall train local prosecutors in prosecuting cases involving criminal gangs and in interviewing witnesses and victims and shall cooperate with other strike force members in developing and building strong cases.

Subd. 9. **ATTORNEY GENERAL; COMMUNITY LIAISON.** The attorney general or a designee shall serve as a liaison between the criminal gang oversight council and the councils created in sections 3.922, 3.9223, 3.9225, and 3.9226. The attorney general or the designee will be responsible for:

- (1) informing the councils of the criminal gang oversight council's plans, activities, and decisions and hearing their reactions to those plans, activities, and decisions; and
- (2) providing the criminal gang oversight council with information about the councils' position on the oversight council's plans, activities, and decisions.

In no event is the criminal gang oversight council required to disclose the names of individuals identified by it to the councils referenced in this subdivision.

Nothing in this subdivision changes the data classification of any data held by the oversight council.

Subd. 10. **REQUIRED REPORT.** By February 1 of each year, the council shall report to the chairs of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding on the activities of the council and strike force.

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Sec. 9. [299A.626] JURISDICTION AND LIABILITY.

Subdivision 1. STATEWIDE JURISDICTION. Law enforcement officers who are members of the criminal gang strike force have statewide jurisdiction to conduct criminal investigations and possess the same powers of arrest as those possessed by a sheriff.

Subd. 2. LIABILITY AND WORKERS' COMPENSATION. While operating under the scope of this section, members of the strike force are "employees of the state" as defined in section 3.736 and are considered employees of the department of public safety for purposes of chapter 176.

Sec. 10. [299A.627] GRANT PROGRAMS.

Subdivision 1. REIMBURSEMENT GRANTS AUTHORIZED. The commissioner of public safety, upon recommendation of the council, may award grants to local law enforcement agencies, sheriff's offices, and other organizations that have contributed members to the criminal gang strike force to hire new persons to replace those who have joined the force. A grant may cover a two-year period and reimburse the recipient for a maximum of 100 percent of the salary of the person contributed to the strike force. A recipient of a grant under this subdivision must use the money to hire a new person to replace the person who has joined the strike force, thus keeping its complement of employees at the same level. The money may not be used to pay for equipment or uniforms.

Subd. 2. GRANTS TO EXPAND LOCAL CAPACITY TO COMBAT CRIMINAL GANGS. (a) The commissioner of public safety, upon recommendation of the council, may award grants to local law enforcement agencies and city and county attorneys' offices to expand the agency's or office's capacity to successfully investigate and prosecute crimes committed by criminal gangs.

(b) Grant applicants under this subdivision shall submit to the commissioner and the council a detailed plan describing the uses for which the money will be put. The commissioner and the council shall evaluate grant applications and award grants in a manner that will best ensure positive results. The commissioner may award grants to purchase necessary equipment and to develop or upgrade computer systems if the commissioner determines that those uses would best aid the recipient's attempts to combat criminal gangs. The commissioner shall require recipients of grants to provide follow-up reports to the council detailing the success of the recipient in combating criminal gangs.

(c) The commissioner shall condition grants made under this subdivision to require that recipients agree to cooperate with the council and the bureau of criminal apprehension in establishing and expanding the criminal gang investigative data system described in section 299C.091 and in implementing the strategy developed by the council to combat criminal gangs. Grant recipients must agree to provide the council and bureau with any requested information regarding the activities and characteristics of criminal gangs and gang members operating within their jurisdictions.

Sec. 11. Minnesota Statutes 1996, section 299A.63, subdivision 4, is amended to read:

Subd. 4. ATTORNEY GENERAL DUTIES. (a) The attorney general may assist cities and local law enforcement officials in developing and implementing anticrime and neighborhood community revitalization strategies and may assist local prosecutors in

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prosecuting crimes occurring in the targeted neighborhoods that receive funding under this section. Upon request of the local prosecuting authority, the attorney general may appear in court in those civil and criminal cases arising as a result of this section that the attorney general deems appropriate. For the purposes of this section, the attorney general may appear in court in nuisance actions under chapter 617, and misdemeanor prosecutions under chapter 609.

(b) The attorney general shall develop may assist cities in developing appropriate applications to the United States Department of Justice for federal weed and seed grants for use in conjunction with grants awarded under this section.

Sec. 12. [299C.091] CRIMINAL GANG INVESTIGATIVE DATA SYSTEM.

Subdivision 1. ESTABLISHMENT. The bureau shall administer and maintain a computerized criminal gang investigative data system for the purpose of assisting criminal justice agencies in the investigation and prosecution of criminal activity by gang members. The system consists of data on individuals whom law enforcement agencies determine are or may be engaged in criminal gang activity. Notwithstanding section 260.161, subdivision 3, data on adults and juveniles in the system and data documenting an entry in the system may be maintained together. Data in the system must be submitted and maintained as provided in this section.

Subd. 2. ENTRY OF DATA INTO SYSTEM. (a) A law enforcement agency may submit data on an individual to the criminal gang investigative data system only if the agency obtains and maintains the documentation required under this subdivision. Documentation may include data obtained from other criminal justice agencies, provided that a record of all of the documentation required under paragraph (b) is maintained by the agency that submits the data to the bureau. Data maintained by a law enforcement agency to document an entry in the system are confidential data on individuals as defined in section 13.02, subdivision 3, but may be released to criminal justice agencies.

(b) A law enforcement agency may submit data on an individual to the bureau for inclusion in the system if the individual is 14 years of age or older and the agency has documented that:

(1) the individual has met at least three of the criteria or identifying characteristics of gang membership developed by the criminal gang oversight council under section 299A.626 as required by the council; and

(2) the individual has been convicted of a gross misdemeanor or felony or has been adjudicated or has a stayed adjudication as a juvenile for an offense that would be a gross misdemeanor or felony if committed by an adult.

Subd. 3. CLASSIFICATION OF DATA IN SYSTEM. Data in the criminal gang investigative data system are confidential data on individuals as defined in section 13.02, subdivision 3, but are accessible to law enforcement agencies and may be released to the criminal justice agencies.

Subd. 4. AUDIT OF DATA SUBMITTED TO SYSTEM. The bureau shall conduct periodic random audits of data under subdivision 2 that documents inclusion of an individual in the criminal gang investigative data system for the purpose of determining the validity, completeness, and accuracy of data submitted to the system. The bureau has access to the documenting data for purposes of conducting an audit.

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Subd. 5. **REMOVAL OF DATA FROM SYSTEM.** Notwithstanding section 138.17, the bureau shall destroy data entered into the system when three years have elapsed since the data were entered into the system, except as otherwise provided in this subdivision. If the bureau has information that the individual has been convicted as an adult, or has been adjudicated or has a stayed adjudication as a juvenile for an offense that would be a crime if committed by an adult, since entry of the data into the system, the data must be maintained until three years have elapsed since the last record of a conviction or adjudication or stayed adjudication of the individual. Upon request of the law enforcement agency that submitted data to the system, the bureau shall destroy the data regardless of whether three years have elapsed since the data were entered into the system.

Sec. 13. Minnesota Statutes 1996, section 299C.095, is amended to read:

299C.095 SYSTEM FOR IDENTIFICATION OF JUVENILE OFFENDERS.

Subdivision 1. **ACCESS.** (a) The bureau shall administer and maintain the computerized juvenile history record system based on section 260.161 and other statutes requiring the reporting of data on juveniles. The data in the system are private data as defined in section 13.02, subdivision 12, but are accessible to criminal justice agencies as defined in section 13.02, subdivision 3a, to all trial courts and appellate courts, to a person who has access to the juvenile court records as provided in section 260.161 or under court rule and to criminal justice agencies in other states in the conduct of their official duties.

(b) Except for access authorized under paragraph (a), the bureau shall only disseminate a juvenile adjudication history record in connection with a background check required by statute or rule and performed on a licensee, license applicant, or employment applicant or performed under section 624.713. A consent for release of information from an individual who is the subject of a juvenile adjudication history is not effective and the bureau shall not release a juvenile adjudication history record and shall not release information in a manner that reveals the existence of the record.

Subd. 2. **RETENTION.** (a) Notwithstanding section 138.17, the bureau shall retain juvenile history records for the time periods provided in this subdivision. Notwithstanding contrary provisions of paragraphs (b) to (e), all data in a juvenile history record must be retained for the longest time period applicable to any item in the individual juvenile history record. If, before data are destroyed under this subdivision, the subject of the data is convicted of a felony as an adult, the individual's juvenile history record must be retained for the same time period as an adult criminal history record.

(b) Juvenile history data on a child who was arrested must be destroyed six months after the arrest if the child has not been referred to a diversion program and no petition has been filed against the child by that time.

(c) Juvenile history data on a child against whom a delinquency petition was filed and subsequently dismissed must be destroyed upon receiving notice from the court that the petition was dismissed.

(d) Juvenile history data on a child who was referred to a diversion program or against whom a delinquency petition has been filed and continued for dismissal must be destroyed when the child reaches age 21.

(e) Juvenile history data on a child against whom a delinquency petition was filed and continued without adjudication, or a child who was found to have committed a felony

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or gross misdemeanor-level offense, must be destroyed when the child reaches age 28. If the offender commits a felony violation as an adult, the bureau shall retain the data for as long as the data would have been retained if the offender had been an adult at the time of the juvenile offense.

(f) The bureau shall retain extended jurisdiction juvenile data on an individual received under section 260.161, subdivision 1a, paragraph (c), for as long as the data would have been retained if the offender had been an adult at the time of the offense.

(g) Data retained on individuals under this subdivision are private data under section 13.02, except that extended jurisdiction juvenile data become public data under section 13.87, subdivision 2, when the juvenile court notifies the bureau that the individual's adult sentence has been executed under section 260.126, subdivision 5.

(h) A person who receives data on a juvenile under paragraphs (b) to (e) from the bureau shall destroy the data according to the schedule in this subdivision. The bureau shall include a notice of the destruction schedule with all data it disseminates on juveniles.

Sec. 14. Minnesota Statutes 1996, section 299C.10, subdivision 1, is amended to read:

Subdivision 1. **LAW ENFORCEMENT DUTY.** (a) It is hereby made the duty of the sheriffs of the respective counties, of the police officers in cities of the first, second, and third classes, under the direction of the chiefs of police in such cities, and of community corrections agencies operating secure juvenile detention facilities to take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, and such other identification data as may be requested or required by the superintendent of the bureau, of all the following:

- (1) persons arrested for a felony, or gross misdemeanor, of all;
- (2) juveniles committing arrested for or alleged to have committed felonies as distinguished from those committed by adult offenders, of all;
- (3) persons reasonably believed by the arresting officer to be fugitives from justice, of all;
- (4) persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes; and
- (5) juveniles referred by a law enforcement agency to a diversion program for a felony or gross misdemeanor offense.

Within 24 hours thereafter to forward such the fingerprint records and other identification data specified under this paragraph must be forwarded to the bureau of criminal apprehension on such forms and in such manner as may be prescribed by the superintendent of the bureau of criminal apprehension.

(b) Effective August 1, 1997, the identification reporting requirements shall also apply to persons committing arrested for or alleged to have committed targeted misdemeanor offenses, including violent and enhanceable crimes, and juveniles committing arrested

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for or alleged to have committed gross misdemeanors. In addition, the reporting requirements shall include any known aliases or street names of the offenders.

For purposes of this section, a targeted misdemeanor is a misdemeanor violation of section 169.121 (driving while intoxicated), 518B.01 (order for protection violation), 609.224 (fifth degree assault), 609.2242 (domestic assault), 609.746 (interference with privacy), 609.748 (harassment or restraining order violation), or 617.23 (indecent exposure).

Sec. 15. Minnesota Statutes 1996, section 299C.10, subdivision 4, is amended to read:

Subd. 4. **FEE FOR BACKGROUND CHECK; ACCOUNT; APPROPRIATION.** The superintendent shall collect a fee in an amount to cover the expense for each background check provided for a purpose not directly related to the criminal justice system or required by section 624.7131, 624.7132, or 624.714. The proceeds of the fee must be deposited in a special account. ~~Until July 1, 1997,~~ Money in the account is appropriated to the commissioner to maintain and improve the quality of the criminal record system in Minnesota.

Sec. 16. Minnesota Statutes 1996, section 299C.13, is amended to read:

299C.13 INFORMATION FURNISHED TO PEACE OFFICERS.

Upon receipt of information data as to any arrested person, the bureau shall immediately ascertain whether the person arrested has a criminal record or is a fugitive from justice, and shall at once inform the arresting officer of the facts ascertained, including references to any adult court disposition data that are not in the criminal history system. Upon application by any sheriff, chief of police, or other peace officer in the state, or by an officer of the United States or by an officer of another state, territory, or government duly authorized to receive the same and effecting reciprocal interchange of similar information with the division, it shall be the duty of the bureau to furnish all information in its possession pertaining to the identification of any person. If the bureau has a sealed record on the arrested person, it shall notify the requesting peace officer of that fact and of the right to seek a court order to open the record for purposes of law enforcement. A criminal justice agency shall be notified, upon request, of the existence and contents of a sealed record containing conviction information about an applicant for employment. For purposes of this section a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

Sec. 17. Minnesota Statutes 1996, section 299C.65, is amended by adding a subdivision to read:

Subd. 5. **REVIEW OF FUNDING REQUESTS.** The criminal and juvenile justice information policy group shall review the funding requests for criminal justice information systems from state, county, and municipal government agencies. The policy group shall review the requests for compatibility to statewide criminal justice information systems. The review shall be forwarded to the chairs of the house judiciary committee and judiciary finance division, and the chairs of the senate crime prevention committee and crime prevention and judiciary finance division.

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Sec. 18. Minnesota Statutes 1996, section 299D.07, is amended to read:

299D.07 HELICOPTERS AND FIXED WING AIRCRAFT.

The commissioner of public safety is hereby authorized to retain, acquire, maintain and operate helicopters and fixed wing aircraft for the purposes of the highway patrol and the Bureau of Criminal Apprehension and for any other law enforcement purpose that the commissioner determines is appropriate. The commissioner also is authorized to employ state patrol officer pilots as required.

Sec. 19. Minnesota Statutes 1996, section 299F.051, is amended to read:

299F.051 TRAINING LOCAL FIREFIGHTERS; PROSECUTORS; AND PEACE OFFICERS.

Subdivision 1. ~~CONTENT TRAINING UNIT.~~ An arson training unit is established within the division of fire marshal to develop and administer arson training courses throughout the state for law enforcement and fire service personnel and for prosecutors.

Subd. 1a. **CURRICULUM.** The superintendent of the arson training unit, in consultation with the bureau of criminal apprehension, after consultation with the state fire marshal, the Minnesota peace officers officer standards and training board, the county attorneys association, the attorney general, and the state advisory council on fire service education and research, shall establish the content of a standardized curriculum to be included in the training programs which shall be available to firefighters and peace officers from political subdivisions. The content standardized curriculum shall include fire scene investigation and preservation of evidence, interviewing of witnesses and suspects, constitutional limits on interrogation by sworn and nonsworn officers, and other topics deemed necessary to successful criminal investigation and prosecution. The training program offered to peace officers shall meet the applicable preservice training requirements established by the peace officer standards and training board under section 626.8456.

Subd. 2. **TRAINING LOCATIONS, INSTRUCTORS.** The arson training unit, in cooperation with the superintendent of the bureau of criminal apprehension, the board of peace officer standards and training, the county attorneys association, and the attorney general, shall provide courses at convenient locations in the state for training firefighters and, peace officers, and prosecutors in:

- (1) the conduct of investigations following the occurrence of a fire; and
- (2) the prosecution of arson cases.

For this purpose, the superintendent arson training unit may use the services and employees of the bureau, the state fire marshal, and the attorney general. In addition, after consultation with the state fire marshal, the superintendent the arson training unit is authorized to establish minimum qualifications for training course instructors, and engage part-time instructors necessary and proper to furnish the best possible instruction, subject to the limitation of funds appropriated and available for expenditure. Laws 1981, chapter 210, sections 1 to 48, shall not apply to the part-time instructors.

Subd. 3. **IN-SERVICE TRAINING.** The state fire marshal and the superintendent of arson training unit, in cooperation with the bureau of criminal apprehension, in coop-

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eration with the Minnesota board of peace officer standards and training, shall encourage the establishment of offer in-service and refresher training for firefighters and peace officers through schools administered by the state, county, school district, municipality, or joint or contractual combinations thereof. The in-service training courses offered for peace officers shall be eligible for continuing education credit from the Minnesota board of peace officers officer standards and training shall report to the governor and legislature on the progress made in this effort as provided in section 626.843.

Subd. 4. **COOPERATIVE INVESTIGATION; REIMBURSEMENT.** The state fire marshal and the superintendent of the bureau of criminal apprehension shall encourage the cooperation of local firefighters and peace officers in the investigation of violations of sections 609.561 to 609.576 or other crimes associated with reported fires in all appropriate ways, including the providing reimbursement of to political subdivisions at a rate not to exceed 50 percent of the salaries of peace officers and firefighters for time spent in attending fire investigation training courses offered by the bureau arson training unit. Volunteer firefighters from a political subdivision shall be reimbursed at the rate of \$35 per day plus expenses incurred in attending fire investigation training courses offered by the bureau arson training unit. Reimbursement shall be made only in the event that both a peace officer and a firefighter from the same political subdivision attend the same training course. The reimbursement shall be subject to the limitation of funds appropriated and available for expenditure. The state fire marshal and the superintendent also shall encourage local firefighters and peace officers to seek assistance from the arson strike force established in section 299F.058.

Sec. 20. **[299F.058] ARSON STRIKE FORCE.**

Subdivision 1. **ARSON STRIKE FORCE.** A multijurisdictional arson strike force is established to provide expert investigative and prosecutorial assistance to local agencies on request in complex or serious cases involving suspected arson.

Subd. 2. **MEMBERSHIP.** (a) The arson strike force consists of representatives from the following agencies and organizations:

- (1) the division of fire marshal;
- (2) the bureau of criminal apprehension;
- (3) the office of attorney general;
- (4) the Minnesota county attorneys association;
- (5) the Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department;
- (6) the Minneapolis police and fire arson unit;
- (7) the St. Paul police and fire arson unit;
- (8) licensed private detectives selected by the state fire marshal or the attorney general or their designees; and
- (9) any other arson experts the arson strike force deems appropriate to include.

The arson strike force, as necessary, may consult and work with representatives of property insurance agencies and organizations and any other private organizations that have expertise in arson investigations and prosecutions.

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(b) Representatives from the attorney general's office and the county attorneys association who are members of the arson strike force may assist in administering the strike force.

(c) The strike force expires June 30, 2001.

Subd. 3. INVESTIGATIVE DUTIES. (a) The arson strike force shall be available on a statewide basis to assist local public safety agencies in investigating the following types of suspected arson cases:

- (1) serial fires;
- (2) multijurisdictional fires;
- (3) fires causing death or serious injury to a public safety officer;
- (4) fires resulting in multiple deaths or injuries; or
- (5) fires causing over \$1,000,000 in damage.

(b) The arson strike force shall establish a mechanism for informing local public safety agencies that it is available to assist in the investigation of the suspected arson cases described in paragraph (a).

(c) The arson strike force shall, by means of a memorandum of understanding among the involved agencies, develop and implement a protocol for the strike force's activation and operation in local cases of suspected arson.

(d) The arson strike force shall assist the arson training unit established in section 299F.051 in developing and implementing educational programs for public safety personnel on investigating arson cases.

Subd. 4. PROSECUTION DUTIES. (a) The arson strike force may identify and establish a team of prosecutors with experience in arson cases who will provide advice, on request, to local prosecutors who are prosecuting or preparing to prosecute arson cases. This team shall include prosecutors from the attorney general's office and county prosecutors who are identified and selected by the county attorneys association.

(b) The arson strike force shall assist the arson training unit established in section 299F.051 in developing educational programs and manuals to assist prosecutors in prosecuting arson cases.

Sec. 21. [299F.059] JUVENILE FIRESETTER INTERVENTION.

Subdivision 1. INTERVENTION NETWORK. The state fire marshal shall establish a statewide juvenile firesetter intervention network. The network shall include a clearinghouse of resources and materials to assist fire service personnel, schools, law enforcement agencies, and mental health professionals in understanding juvenile firesetting behavior and symptoms and intervening with juveniles who engage in the behavior or display the symptoms. The state fire marshal shall include in the network the comprehensive, injury prevention education curriculum provided for in subdivision 2.

Subd. 2. EDUCATIONAL CURRICULUM. The state fire marshal shall ensure implementation of a comprehensive, injury prevention education curriculum that focuses on juvenile fire play intervention and injury prevention. The curriculum shall be made available to schools and other interested organizations statewide.

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Subd. 3. **ANNUAL TRAINING FORUM.** The state fire marshal shall develop strategies and plans designed to reduce the number of juvenile firesetting incidents. The state fire marshal shall offer an annual training forum for fire service and law enforcement personnel and for juvenile justice, medical, educational, mental health, and other interested professionals to discuss these strategies and other issues relating to juvenile firesetter behavior and symptoms.

Subd. 4. **MEDIA CAMPAIGN; KEEPING FIRE MATERIALS AWAY FROM CHILDREN.** The state fire marshal shall develop an ongoing media awareness campaign to instruct parents, retailers, and the community on the importance of keeping fire materials away from children and on methods for accomplishing that objective.

Sec. 22. Minnesota Statutes 1996, section 299F.06, subdivision 1, is amended to read:

Subdivision 1. **SUMMON WITNESSES; PRODUCE DOCUMENTARY EVIDENCE.** (a) In order to establish if reasonable grounds exist to believe that a violation of sections 609.561 to 609.576, has occurred, or to determine compliance with the uniform fire code or corrective orders issued thereunder, the state fire marshal, chief assistant fire marshal, and deputy state fire marshals, and the staff designated by the state fire marshal shall each have the power in any county of the state to summon and compel the attendance of witnesses to testify before them, or either of them the state fire marshal, chief assistant fire marshal, or deputy state fire marshals, to testify and may require the production of any book, paper, or document deemed pertinent thereto by them, or either of them. The state fire marshal may also designate certain individuals from fire departments in cities of the first class and cities of the second class as having the powers set forth in this paragraph. These designated individuals may only exercise their powers in a manner prescribed by the state fire marshal. "Fire department" has the meaning given in section 299F.092, subdivision 6. "Cities of the first class" and "cities of the second class" have the meanings given in section 410.01.

(b) A summons issued under this subdivision shall be served in the same manner and have the same effect as subpoenas from district courts. All witnesses shall receive the same compensation as is paid to witnesses in district courts, which shall be paid out of the fire marshal fund upon vouchers signed by the state fire marshal, chief assistant fire marshal, or deputy fire marshal before whom any witnesses shall have attended and this officer shall, at the close of the investigation wherein the witness was subpoenaed, certify to the attendance and mileage of the witness, which certificate shall be filed in the office of the state fire marshal. All investigations held by or under the direction of the state fire marshal, or any subordinate, may in the state fire marshal's discretion be private and persons other than those required to be present by the provisions of this chapter may be excluded from the place where the investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

Sec. 23. Minnesota Statutes 1996, section 299F.06, subdivision 3, is amended to read:

Subd. 3. **PENALTY FOR REFUSAL TO TESTIFY OR PRODUCE EVIDENCE.** Any witness who refuses to be sworn, or who refuses to testify, or who disobeys any lawful order of the state fire marshal, chief assistant fire marshal, or deputy

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state fire marshal in relation to the investigation, or who fails or refuses to produce any paper, book, or document touching any matter under examination, or who is guilty of any contemptuous conduct, after being summoned to appear before them to give testimony in relation to any matter or subject under examination or investigation may be summarily punished by the state fire marshal, chief assistant state fire marshal, or deputy state fire marshals as for contempt by a fine in a sum not exceeding \$100 or be committed to the county jail until such time as such person may be willing to comply with any reasonable order made by the state fire marshal, chief assistant state fire marshal, or deputy state fire marshals, as provided in this chapter any district court in the same manner as if the proceedings were pending in that court, and subject to the provisions of section 588.01.

Sec. 24. Minnesota Statutes 1996, section 326.3321, subdivision 1, is amended to read:

Subdivision 1. **EXECUTIVE DIRECTOR.** The board commissioner of public safety shall appoint an executive director to serve in the unclassified service at the pleasure of the board commissioner. The executive director shall perform the duties as the board and commissioner shall prescribe.

Sec. 25. Minnesota Statutes 1996, section 326.3386, subdivision 3, is amended to read:

Subd. 3. **DESIGNATION FEE.** When a licensed private detective or protective agent who is a partnership or corporation, desires to designate a new qualified representative or Minnesota manager, a fee equal to one-half of the application license fee shall be submitted to the board.

Sec. 26. Minnesota Statutes 1996, section 326.3386, is amended by adding a subdivision to read:

Subd. 6a. **TRAINING COURSE CERTIFICATION FEE.** An applicant for training course certification, as specified in section 326.3361, shall pay to the board a course certification fee determined by the board.

Sec. 27. Minnesota Statutes 1996, section 326.3386, is amended by adding a subdivision to read:

Subd. 6b. **TRAINING COURSE RECERTIFICATION FEE.** An applicant for training course recertification shall pay to the board a course recertification fee determined by the board.

Sec. 28. Minnesota Statutes 1996, section 609.035, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision subdivisions 2, subdivision 3, and 4, and in sections 609.251, 609.585, 609.21, subdivisions 3 and 4, 609.2691, 609.486, 609.494, and 609.856, if a person's conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses and a conviction or acquittal of any one of them is a bar to prosecution for any other of them. All the offenses, if prosecuted, shall be included in one prosecution which shall be stated in separate counts.

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Sec. 29. Minnesota Statutes 1996, section 609.035, is amended by adding a subdivision to read:

Subd. 4. EXCEPTION; ARSON OFFENSES. Notwithstanding section 609.04, a prosecution for or conviction of a violation of sections 609.561 to 609.563 or 609.5641 is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct when the defendant is shown to have violated sections 609.561 to 609.563 or 609.5641 for the purpose of concealing any other crime.

For purposes of the sentencing guidelines, a violation of sections 609.561 to 609.563 or 609.5641 is a crime against the person.

Sec. 30. Minnesota Statutes 1996, section 609.115, subdivision 1, is amended to read:

Subdivision 1. **PRESENTENCE INVESTIGATION.** (a) When a defendant has been convicted of a misdemeanor or gross misdemeanor, the court may, and when the defendant has been convicted of a felony, the court shall, before sentence is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant's individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused by it to others and to the community. At the request of the prosecutor in a gross misdemeanor case, the court shall order that a presentence investigation and report be prepared. The investigation shall be made by a probation officer of the court, if there is one; otherwise it shall be made by the commissioner of corrections. The officer conducting the presentence or predispositional investigation shall make reasonable and good-faith efforts to contact and provide the victim with the information required under section 611A.037, subdivision 2. Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, section 244.10, and the rules of criminal procedure.

(b) When the crime is a violation of sections 609.561 to 609.563, 609.5641, or 609.576 and involves a fire, the report shall include a description of the financial and physical harm the offense has had on the public safety personnel who responded to the fire. For purposes of this paragraph, "public safety personnel" means the state fire marshal; employees of the division of the state fire marshal; firefighters, regardless of whether the firefighters receive any remuneration for providing services; peace officers, as defined in section 626.05, subdivision 2; individuals providing emergency management services; and individuals providing emergency medical services.

(c) When the crime is a felony violation of chapter 152 involving the sale or distribution of a controlled substance, the report shall include a description of any adverse social or economic effects the offense has had on persons who reside in the neighborhood where the offense was committed.

(d) The report shall also include the information relating to crime victims required under section 611A.037, subdivision 1. If the court directs, the report shall include an estimate of the prospects of the defendant's rehabilitation and recommendations as to the sentence which should be imposed. In misdemeanor cases the report may be oral.

(e) When a defendant has been convicted of a felony, and before sentencing, the court shall cause a sentencing worksheet to be completed to facilitate the application of

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the Minnesota sentencing guidelines. The worksheet shall be submitted as part of the presentence investigation report.

The investigation shall be made by a probation officer of the court, if there is one, otherwise by the commissioner of corrections. The officer conducting the presentence or predispositional investigation shall make reasonable and good faith efforts to contact the victim of that crime and to provide that victim with the information required under section 611A.037, subdivision 2.

(f) When a person is convicted of a felony for which the sentencing guidelines presume that the defendant will be committed to the commissioner of corrections under an executed sentence and no motion for a sentencing departure has been made by counsel, the court may, when there is no space available in the local correctional facility, commit the defendant to the custody of the commissioner of corrections, pending completion of the presentence investigation and report. When a defendant is convicted of a felony for which the sentencing guidelines do not presume that the defendant will be committed to the commissioner of corrections, or for which the sentencing guidelines presume commitment to the commissioner but counsel has moved for a sentencing departure, the court may commit the defendant to the commissioner with the consent of the commissioner, pending completion of the presentence investigation and report. The county of commitment shall return the defendant to the court when the court so orders.

Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, section 244.10, and the rules of criminal procedure.

Sec. 31. Minnesota Statutes 1996, section 626.843, subdivision 1, is amended to read:

Subdivision 1. **RULES REQUIRED.** The board shall adopt rules with respect to:

(a) The certification of peace officer training schools, programs, or courses including training schools for the Minnesota state patrol. Such schools, programs and courses shall include those administered by the state, county, school district, municipality, or joint or contractual combinations thereof, and shall include preparatory instruction in law enforcement and minimum basic training courses;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at each certified peace officers training school located within the state;

(c) Minimum qualifications for instructors at certified peace officer training schools located within this state;

(d) Minimum standards of physical, mental, and educational fitness which shall govern the recruitment and licensing of peace officers within the state, by any state, county, municipality, or joint or contractual combination thereof, including members of the Minnesota state patrol;

(e) Minimum standards of conduct which would affect the individual's performance of duties as a peace officer;

These standards shall be established and published. The board shall review the minimum standards of conduct described in this paragraph for possible modification in 1998 and every three years after that time.

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(f) Minimum basic training which peace officers appointed to temporary or probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following any such appointment to a temporary or probationary term;

(g) Minimum specialized training which part-time peace officers shall complete in order to be eligible for continued employment as a part-time peace officer or permanent employment as a peace officer, and the time within which the specialized training must be completed;

(h) Content of minimum basic training courses required of graduates of certified law enforcement training schools or programs. Such courses shall not duplicate the content of certified academic or general background courses completed by a student but shall concentrate on practical skills deemed essential for a peace officer. Successful completion of such a course shall be deemed satisfaction of the minimum basic training requirement;

(i) Grading, reporting, attendance and other records, and certificates of attendance or accomplishment;

(j) The procedures to be followed by a part-time peace officer for notifying the board of intent to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to clause (g), and section 626.845, subdivision 1, clause (g);

(k) The establishment and use by any political subdivision or state law enforcement agency which employs persons licensed by the board of procedures for investigation and resolution of allegations of misconduct by persons licensed by the board. The procedures shall be in writing and shall be established on or before October 1, 1984;

(l) The issues that must be considered by each political subdivision and state law enforcement agency that employs persons licensed by the board in establishing procedures under section 626.5532 to govern the conduct of peace officers who are in pursuit of a vehicle being operated in violation of section 609.487, and requirements for the training of peace officers in conducting pursuits. The adoption of specific procedures and requirements is within the authority of the political subdivision or agency;

(m) Supervision of part-time peace officers and requirements for documentation of hours worked by a part-time peace officer who is on active duty. These rules shall be adopted by December 31, 1993; and

(n) Citizenship requirements for full-time and part-time peace officers;

(o) Driver's license requirements for full-time and part-time peace officers; and

(p) Such other matters as may be necessary consistent with sections 626.84 to 626.855. Rules promulgated by the attorney general with respect to these matters may be continued in force by resolution of the board if the board finds the rules to be consistent with sections 626.84 to 626.855.

Sec. 32. **[626.8456] TRAINING IN FIRE SCENE RESPONSE AND ARSON AWARENESS.**

Subdivision 1. TRAINING COURSE. The board, in consultation with the division of fire marshal, shall prepare objectives for a training course to instruct peace officers in fire scene response and arson awareness.

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Subd. 2. PRESERVICE TRAINING REQUIREMENT. An individual is not eligible to take the peace officer licensing examination after August 1, 1998, unless the individual has received the training described in subdivision 1.

Sec. 33. AWARD FOR EXCELLENCE IN PEACE OFFICER TRAINING.

The board of peace officer standards and training shall establish an award for excellence in peace officer training to encourage innovation, quality, and effectiveness, and to recognize achievement in the area of peace officer training. The board may annually make awards in the categories of individual achievement, lifetime achievement, and organizational achievement. The board shall establish standards regarding award eligibility and application, evaluation, and selection procedures.

Sec. 34. ASSIGNMENT OF BUREAU OF CRIMINAL APPREHENSION AGENTS TO STRIKE FORCE.

The superintendent of the bureau of criminal apprehension shall assign experienced agents to the strike force described in Minnesota Statutes, section 299A.625. These agents shall operate exclusively for the purposes listed in Minnesota Statutes, section 299A.625, under the direction of the criminal gang oversight council.

Sec. 35. ASSIGNMENT OF ASSISTANT ATTORNEY GENERAL TO STRIKE FORCE.

The attorney general shall assign an assistant attorney general experienced in the prosecution of crimes committed by criminal gangs to the strike force described in Minnesota Statutes, section 299A.625. This attorney shall operate exclusively for the purposes listed in Minnesota Statutes, section 299A.625, under the direction of the criminal gang oversight council.

Sec. 36. REPEALER.

Minnesota Statutes 1996, sections 299A.01, subdivision 6; and 299F.07, are repealed. Minnesota Rules, parts 7419.0100; 7419.0200; 7419.0300; 7419.0400; 7419.0500; 7419.0600; 7419.0700; and 7419.0800, are repealed.

Sec. 37. EFFECTIVE DATE.

Sections 28 and 29 are effective August 1, 1997, and apply to offenses committed on or after that date.

ARTICLE 9

CORRECTIONS

Section 1. Minnesota Statutes 1996, section 144.761, subdivision 5, is amended to read:

Subd. 5. **EMERGENCY MEDICAL SERVICES PERSONNEL.** "Emergency medical services personnel" means:

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- (1) individuals employed to provide prehospital emergency medical services;
- (2) persons employed as licensed police officers under section 626.84, subdivision 1, who experience a significant exposure in the performance of their duties;
- (3) firefighters, paramedics, emergency medical technicians, licensed nurses, rescue squad personnel, or other individuals who serve as employees or volunteers of an ambulance service as defined by sections 144.801 to 144.8091, who provide prehospital emergency medical services;
- (4) crime lab personnel receiving a significant exposure while involved in a criminal investigation;
- (5) correctional guards, including security guards at the Minnesota security hospital, employed by the state or a local unit of government who experience employed in state and local correctional facilities and other employees of the state department of corrections, if the guard or employee experiences a significant exposure to an inmate who is transported to a facility for emergency medical care in the performance of their duties; and
- (6) employees at the Minnesota security hospital and the Minnesota sexual psychopathic personality treatment center who are employed by the state or a local unit of government and who experience a significant exposure in the performance of their duties; and
- (7) other persons who render emergency care or assistance at the scene of an emergency, or while an injured person is being transported to receive medical care, and who would qualify for immunity from liability under the good samaritan law, section 604A.01.

Sec. 2. Minnesota Statutes 1996, section 144.761, subdivision 7, is amended to read:

Subd. 7. **SIGNIFICANT EXPOSURE.** "Significant exposure" means:

- (1) contact, in a manner supported by contemporary epidemiological research as a method of HIV or hepatitis B transmission, of the broken skin or mucous membrane of emergency medical services personnel with a patient's blood, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, vaginal secretions, or bodily fluids grossly contaminated with blood;
- (2) a needle stick, scalpel or instrument wound, or other wound inflicted by an object that is contaminated with blood, and that is capable of cutting or puncturing the skin of emergency medical services personnel; or
- (3) an exposure that occurs by any other method of transmission recognized by contemporary epidemiological standards as a significant exposure.

Sec. 3. Minnesota Statutes 1996, section 144.762, subdivision 2, is amended to read:

Subd. 2. **REQUIREMENTS FOR PROTOCOL.** The postexposure notification protocol must include the following:

- (1) a method for emergency medical services personnel to notify the facility that they may have experienced a significant exposure from a patient that was transported to the facility. The facility shall provide to the emergency medical services personnel a sig-

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nificant exposure report form to be completed by the emergency medical services personnel in a timely fashion;

(2) a process to investigate and determine whether a significant exposure has occurred. This investigation must be completed within 72 hours of receipt of the exposure report, or within a time period that will enable the patient to benefit from contemporary standards of care for reducing the risk of infection;

(3) if there has been a significant exposure, a process to determine whether the patient has hepatitis B or HIV infection;

(4) if the patient has an infectious disease that could be transmitted by the type of exposure that occurred, or, if it is not possible to determine what disease the patient may have, a process for making recommendations for appropriate counseling and testing to the emergency medical services personnel;

(5) compliance with applicable state and federal laws relating to data practices, confidentiality, informed consent, and the patient bill of rights; and

(6) a process for providing counseling for the patient to be tested and for the emergency medical services personnel filing the exposure report.

Sec. 4. Minnesota Statutes 1996, section 144.762, is amended by adding a subdivision to read:

Subd. 2a. ADDITIONAL PROTOCOL REQUIREMENTS. In addition to the protocol requirements under subdivision 2, the postexposure notification protocol must provide a process for a licensed physician at the facility to conduct an immediate investigation into whether a significant exposure has occurred whenever emergency medical services personnel present themselves at a facility within six hours of a possible significant exposure. If the investigation shows that a significant exposure occurred, the protocol must provide a process for determining whether the patient has hepatitis B or HIV infection by means of mandatory reporting under section 144.765, subdivision 2, and reporting of results under sections 144.761, subdivision 2, clauses (4), (5), and (6), and 144.767.

Sec. 5. Minnesota Statutes 1996, section 144.765, is amended to read:

144.765 PATIENT'S RIGHT TO REFUSE TESTING.

Subdivision 1. VOLUNTARY TESTING. (a) Upon notification of a significant exposure, the facility shall ask the patient to consent to blood testing to determine the presence of the HIV virus or the hepatitis B virus. The patient shall be informed that the test results without personally identifying information will be reported to the emergency medical services personnel.

(b) The patient shall be informed of the right to refuse to be tested, that refusal could result in a request for a court order to force reporting of hepatitis B or HIV infection status, and that information collected through this process is for medical purposes and cannot be used as evidence in any criminal proceedings. If the patient refuses to be tested, the patient's refusal will be forwarded to the emergency medical services agency and to the emergency medical services personnel.

Subd. 2. MANDATORY REPORTING. If a patient is subject to voluntary testing under section 144.762, subdivision 2a, and is either unavailable for immediate testing at

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the facility or refuses to submit to a blood test, the emergency medical services personnel employer shall locate and ask the patient to report and present documentation from a licensed physician of the patient's most recent known HIV and hepatitis B infection status within 24 hours. The patient shall be informed that the test results without personally identifying information will be reported to the emergency medical services personnel. The patient shall be informed that refusal could result in a request for a court order to force reporting, and that information collected through this process is for medical purposes and cannot be used as evidence in any criminal proceedings. If the patient refuses to report, the patient's refusal will be forwarded to the emergency medical services personnel.

Subd. 3. MANDATORY TESTING. The right to refuse a blood test under the circumstances described in this section does not apply to a prisoner who is in the custody or under the jurisdiction of the commissioner of corrections or a local correctional authority as a result of a criminal conviction.

Subd. 4. COURT ORDER. If a patient is subject to mandatory reporting under subdivision 2, and either is unavailable for reporting to the facility or refuses to submit a report, the emergency medical services personnel may seek a court order to compel the patient to submit to reporting. Court proceedings under this subdivision shall be given precedence over other pending matters so that the court may reach a prompt decision without delay. The court shall order the patient to submit to reporting upon proof that: (1) an investigation by a licensed physician under section 144.762, subdivision 2a, showed that the emergency medical services personnel experienced a significant exposure; and (2) the information is necessary for a decision about beginning, continuing, or discontinuing a medical intervention and will not cause undue hardship or harm to the health of the patient.

Sec. 6. Minnesota Statutes 1996, section 144.767, subdivision 1, is amended to read:

Subdivision 1. REPORT TO EMPLOYER. Results of tests conducted or reports received under this section shall be reported by the facility to a designated agent of the emergency medical services agency that employs or uses the emergency medical services personnel and to the emergency medical services personnel who report the significant exposure. The test results or reports shall be reported without personally identifying information and may be used only for medical purposes and may not be used as evidence in any criminal prosecution.

Sec. 7. Minnesota Statutes 1996, section 241.01, subdivision 3a, is amended to read:

Subd. 3a. COMMISSIONER, POWERS AND DUTIES. The commissioner of corrections has the following powers and duties:

(a) To accept persons committed to the commissioner by the courts of this state for care, custody, and rehabilitation.

(b) To determine the place of confinement of committed persons in a correctional facility or other facility of the department of corrections and to prescribe reasonable conditions and rules for their employment, conduct, instruction, and discipline within or outside the facility. Inmates shall not exercise custodial functions or have authority over other inmates. Inmates may serve on the board of directors or hold an executive position subordinate to correctional staff in any corporation, private industry or educational pro-

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gram located on the grounds of, or conducted within, a state correctional facility with written permission from the chief executive officer of the facility.

(c) To administer the money and property of the department.

(d) To administer, maintain, and inspect all state correctional facilities.

(e) To transfer authorized positions and personnel between state correctional facilities as necessary to properly staff facilities and programs.

(f) To utilize state correctional facilities in the manner deemed to be most efficient and beneficial to accomplish the purposes of this section, but not to close the Minnesota correctional facility—Stillwater or the Minnesota correctional facility—St. Cloud without legislative approval. The commissioner may place juveniles and adults at the same state minimum security correctional facilities, if there is total separation of and no regular contact between juveniles and adults, except contact incidental to admission, classification, and mental and physical health care.

(g) To organize the department and employ personnel the commissioner deems necessary to discharge the functions of the department, including a chief executive officer for each facility under the commissioner's control who shall serve in the unclassified civil service and may, under the provisions of section 43A.33, be removed only for cause, and two internal affairs officers for security.

(h) To define the duties of these employees and to delegate to them any of the commissioner's powers, duties and responsibilities, subject to the commissioner's control and the conditions the commissioner prescribes.

(i) To annually develop a comprehensive set of goals and objectives designed to clearly establish the priorities of the department of corrections. This report shall be submitted to the governor and the state legislature commencing January 1, 1976. The commissioner may establish ad hoc advisory committees.

Sec. 8. Minnesota Statutes 1996, section 241.01, subdivision 3b, is amended to read:

Subd. 3b. **MISSION; EFFICIENCY.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve service to the public, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(6) include specific objectives in the performance report required under section sections 15.91 and 241.015 to increase the efficiency of agency operations, when appropriate; and

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(7) recommend to the legislature, in the performance report of the department required under sections 15.91 and 241.015, appropriate changes in law necessary to carry out the mission of the department.

Sec. 9. [241.015] ANNUAL PERFORMANCE REPORTS REQUIRED.

Notwithstanding section 15.91, the department of corrections must issue a performance report by November 30 of each year. The issuance and content of the report must conform with section 15.91.

Sec. 10. [241.277] PILOT PROJECT WORK PROGRAM AT CAMP RIPLEY.

Subdivision 1. PROGRAM ESTABLISHED. The commissioner of corrections shall establish a four-year pilot project work program at Camp Ripley. The program must serve adult male nonviolent felony and gross misdemeanor offenders who are ordered to complete the program by courts under section 609.113.

Subd. 2. REQUEST FOR PROPOSALS. After consulting with and considering the advice of the association of Minnesota counties, the commissioner may issue a request for proposals and select a vendor to operate the program. Section 16B.17 does not apply to the issuance of the request for proposals.

Subd. 3. PROGRAM DESCRIBED. The program must require offenders placed there to perform physical labor for at least eight hours a day either at the facility or in other locations in the surrounding area and must provide basic educational programming in the evening.

Subd. 4. PROGRAM GUIDELINES. The commissioner shall develop guidelines for the operation of the work program. These guidelines must, at a minimum, address the nature and location of the physical labor required and the extent of the educational programming offered.

Subd. 5. STATUS OF OFFENDER. An offender sentenced to the work program is not committed to the commissioner of corrections. Instead, the offender is under the continuing jurisdiction of the sentencing court. Offenders sentenced to the work program are not considered incarcerated for purposes of computing good time or credit for time served.

Subd. 6. LENGTH OF STAY. An offender sentenced by a court to the work program must serve a minimum of two-thirds of the pronounced sentence unless the offender is terminated from the program and remanded to the custody of the sentencing court as provided in subdivision 7. The offender may be required to remain at the program beyond the minimum sentence for any period up to the full sentence if the offender violates disciplinary rules.

Subd. 7. SANCTIONS. The commissioner shall ensure that severe and meaningful sanctions are imposed for violations of the conditions of the work program. The commissioner shall require that an offender be removed from the program and remanded to the custody of the sentencing court if the offender:

(1) commits a material violation of or repeatedly fails to follow the rules of the program;

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(2) commits any misdemeanor, gross misdemeanor, or felony offense; or

(3) presents a risk to the public, based on the offender's behavior, attitude, or abuse of alcohol or controlled substances.

Subd. 8. DISCIPLINARY RULES. By January 1, 1998, the commissioner shall develop disciplinary rules applicable to the work program, a violation of which may result in extending an offender's stay at the program for any period of time up to the maximum sentence. These rules may address violations of program rules, refusal to work, refusal to participate in the educational program, and other matters determined by the commissioner. Extending an offender's stay shall be considered to be a disciplinary sanction imposed upon the offender, and the procedure for imposing the extension and the rights of the offender in the procedure shall be those in effect for the imposition of other disciplinary sanctions at state correctional institutions.

Subd. 9. COSTS OF PROGRAM. Counties sentencing offenders to the program must pay 25 percent of the per diem expenses for the offender. The commissioner is responsible for all other costs associated with the placement of offenders in the program, including, but not limited to, the remaining per diem expenses and the full cost of transporting offenders to and from the program.

Subd. 10. REPORT. By January 15, 2002, the commissioner shall report to the chairs of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding on this program. The report must contain information on the recidivism rates for offenders sentenced to the program.

Sec. 11. Minnesota Statutes 1996, section 241.42, subdivision 2, is amended to read:

Subd. 2. "Administrative agency" or "agency" means any division, official, or employee of the Minnesota department of corrections, the commissioner of corrections, the board of pardons, ~~and regional correction or detention facilities or agencies for correction or detention programs including those programs or facilities operating under chapter 401,~~ any regional or local correctional facility licensed or inspected by the commissioner of corrections, ~~whether public or private, established and operated for the detention and confinement of adults or juveniles, including, but not limited to, programs or facilities operating under chapter 401, adult halfway homes, group foster homes, secure juvenile detention facilities, juvenile residential facilities, municipal holding facilities, juvenile temporary holdover facilities, regional or local jails, lockups, work houses, work farms, and detention and treatment facilities,~~ but does not include:

- (a) any court or judge;
- (b) any member of the senate or house of representatives of the state of Minnesota;
- (c) the governor or the governor's personal staff;
- (d) any instrumentality of the federal government of the United States; or
- (e) any political subdivision of the state of Minnesota;
- (f) any interstate compact.

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Sec. 12. Minnesota Statutes 1996, section 241.44, subdivision 1, is amended to read:

Subdivision 1. **POWERS.** The ombudsman may:

(a) prescribe the methods by which complaints are to be made, reviewed, and acted upon; provided, however, that the ombudsman may not levy a complaint fee;

(b) determine the scope and manner of investigations to be made;

(c) Except as otherwise provided, determine the form, frequency, and distribution of conclusions, recommendations, and proposals; provided, however, that the governor or a representative may, at any time the governor deems it necessary, request and receive information from the ombudsman. Neither the ombudsman nor any member of the ombudsman's staff member shall be compelled to testify or to produce evidence in any court judicial or administrative proceeding with respect to any matter involving the exercise of the ombudsman's official duties except as may be necessary to enforce the provisions of sections 241.41 to 241.45;

(d) investigate, upon a complaint or upon personal initiative, any action of an administrative agency;

(e) request and shall be given access to information in the possession of an administrative agency deemed necessary for the discharge of responsibilities;

(f) examine the records and documents of an administrative agency;

(g) enter and inspect, at any time, premises within the control of an administrative agency;

(h) subpoena any person to appear, give testimony, or produce documentary or other evidence which the ombudsman deems relevant to a matter under inquiry, and may petition the appropriate state court to seek enforcement with the subpoena; provided, however, that any witness at a hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the laws of this state;

(i) bring an action in an appropriate state court to provide the operation of the powers provided in this subdivision. The ombudsman may use the services of legal assistance to Minnesota prisoners for legal counsel. The provisions of sections 241.41 to 241.45 are in addition to other provisions of law under which any remedy or right of appeal or objection is provided for any person, or any procedure provided for inquiry or investigation concerning any matter. Nothing in sections 241.41 to 241.45 shall be construed to limit or affect any other remedy or right of appeal or objection nor shall it be deemed part of an exclusionary process; and

(j) be present at commissioner of corrections parole and parole revocation hearings and deliberations.

Sec. 13. Minnesota Statutes 1996, section 241.44, is amended by adding a subdivision to read:

Subd. 3a. **INVESTIGATION OF ADULT LOCAL JAILS AND DETENTION FACILITIES.** Either the ombudsman or the department of corrections' jail inspection unit may investigate complaints involving local adult jails and detention facilities. The

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ombudsman and department of corrections must enter into an arrangement with one another that ensures that they are not duplicating each other's services.

Sec. 14. [242.085] STATE POLICY REGARDING PLACEMENT OF JUVENILES OUT OF STATE.

It is the policy of this state that delinquent juveniles be supervised and programmed for within the state. Courts are requested, to the greatest extent possible and when in the best interests of the child, to place these juveniles within the state.

Sec. 15. Minnesota Statutes 1996, section 242.19, subdivision 3, is amended to read:

Subd. 3. RETAKING ABSCONDING AND OTHER PERSON. The written order of the commissioner of corrections is authority to any peace officer or parole or probation officer to take and detain any child committed to the commissioner of corrections by a juvenile court who absconds from field supervision or escapes from confinement, violates furlough conditions, or is released from court while on institution status. However, if the child has attained the age of 18 years, the commissioner shall issue a warrant directed to any peace officer or parole or probation officer requiring that the fugitive be taken into immediate custody to await the further order of the commissioner. Any person of the age of 18 years or older who is taken into custody under the provisions of this subdivision may be detained as provided in section 260.173, subdivision 4.

Sec. 16. [242.192] CHARGES TO COUNTIES.

The commissioner shall charge counties or other appropriate jurisdictions for the actual per diem cost of confinement of juveniles at the Minnesota correctional facility—Red Wing. This charge applies to both counties that participate in the community corrections act and those that do not. The commissioner shall annually determine costs, making necessary adjustments to reflect the actual costs of confinement. All money received under this section must be deposited in the state treasury and credited to the general fund.

Sec. 17. Minnesota Statutes 1996, section 242.32, is amended by adding a subdivision to read:

Subd. 4. EXCEPTION. This section does not apply to a privately operated facility licensed by the commissioner in Rock county, Minnesota. Up to 32 beds constructed and operated by a privately operated facility licensed by the commissioner in Rock County, Minnesota, for long-term residential secure programming do not count toward the 100-bed limitation in subdivision 3.

Sec. 18. [243.055] COMPUTER RESTRICTIONS.

Subdivision 1. RESTRICTIONS TO USE OF ONLINE SERVICES. If the commissioner believes a significant risk exists that a parolee, state-supervised probationer, or individual on supervised release may use an Internet service or online service to engage in criminal activity or to associate with individuals who are likely to encourage the individual to engage in criminal activity, the commissioner may impose one or more of the following conditions:

(1) prohibit the individual from possessing or using a computer with access to an Internet service or online service without the prior written approval of the commissioner;

(2) prohibit the individual from possessing or using any data encryption technique or program;

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(3) require the individual to consent to periodic unannounced examinations of the individual's computer equipment by a parole or probation agent, including the retrieval and copying of all data from the computer and any internal or external peripherals and removal of such equipment to conduct a more thorough inspection;

(4) require consent of the individual to have installed on the individual's computer, at the individual's expense, one or more hardware or software systems to monitor computer use; and

(5) any other restrictions the commissioner deems necessary.

Subd. 2. RESTRICTIONS ON COMPUTER USE. If the commissioner believes a significant risk exists that a parolee, state-supervised probationer, or individual on supervised release may use a computer to engage in criminal activity or to associate with individuals who are likely to encourage the individual to engage in criminal activity, the commissioner may impose one or more of the following restrictions:

(1) prohibit the individual from accessing through a computer any material, information, or data that relates to the activity involved in the offense for which the individual is on probation, parole, or supervised release;

(2) require the individual to maintain a daily log of all addresses the individual accesses through computer other than for authorized employment and to make this log available to the individual's parole or probation agent;

(3) provide all personal and business telephone records to the individual's parole or probation agent upon request, including written authorization allowing the agent to request a record of all of the individual's outgoing and incoming telephone calls from any telephone service provider;

(4) prohibit the individual from possessing or using a computer that contains an internal modem and from possessing or using an external modem without the prior written consent of the commissioner;

(5) prohibit the individual from possessing or using any computer, except that the individual may, with the prior approval of the individual's parole or probation agent, use a computer in connection with authorized employment;

(6) require the individual to consent to disclosure of the computer-related restrictions that the commissioner has imposed to any employer or potential employer; and

(7) any other restrictions the commissioner deems necessary.

Subd. 3. LIMITS ON RESTRICTION. In imposing restrictions, the commissioner shall take into account that computers are used for numerous, legitimate purposes and that, in imposing restrictions, the least restrictive condition appropriate to the individual shall be used.

Sec. 19. [243.161] RESIDING IN MINNESOTA WITHOUT PERMISSION UNDER INTERSTATE COMPACT; PENALTY.

Any person who is on parole or probation in another state who resides in this state in violation of section 243.16, 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.

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Sec. 20. Minnesota Statutes 1996, section 243.51, subdivision 1, is amended to read:

Subdivision 1. The commissioner of corrections is hereby authorized to contract with agencies and bureaus of the United States and with the proper officials of other states or a county of this state for the custody, care, subsistence, education, treatment and training of persons convicted of criminal offenses constituting felonies in the courts of this state, the United States, or other states of the United States. Such contracts shall provide for reimbursing the state of Minnesota for all costs or other expenses involved. Funds received under such contracts shall be deposited in the state treasury and are appropriated to the commissioner of corrections for correctional purposes, including capital improvements. Any prisoner transferred to the state of Minnesota pursuant to this subdivision shall be subject to the terms and conditions of the prisoner's original sentence as if the prisoner were serving the same within the confines of the state in which the conviction and sentence was had or in the custody of the United States. Nothing herein shall deprive such inmate of the right to parole or the rights to legal process in the courts of this state.

Sec. 21. Minnesota Statutes 1996, section 243.51, subdivision 3, is amended to read:

Subd. 3. **TEMPORARY DETENTION.** The commissioner of corrections is authorized to contract with agencies and bureaus of the United States and with the appropriate officials of any other state or county of this state for the temporary detention of any person in custody pursuant to any process issued under the authority of the United States, other states of the United States, or the district courts of this state. The contract shall provide for reimbursement to the state of Minnesota for all costs and expenses involved. Money received under contracts shall be deposited in the state treasury and are appropriated to the commissioner of corrections for correctional purposes, including capital improvements.

Sec. 22. Minnesota Statutes 1996, section 243.51, is amended by adding a subdivision to read:

Subd. 4. **ANNUAL REPORT TO LEGISLATURE.** By February 1 of each year, the commissioner of corrections shall report to the chairs of the house and senate divisions having jurisdiction over criminal justice funding on money collected in the preceding year under contracts authorized in subdivisions 1 and 3. At a minimum, the report must describe:

- (1) the amount received, including a breakdown of its source;
- (2) the per diem charges under the contracts; and
- (3) how the money was spent.

Sec. 23. **[243.556] RESTRICTIONS ON INMATES' COMPUTER ACCESS.**

Subdivision 1. **RESTRICTIONS TO USE OF ONLINE SERVICES.** No adult inmate in a state correctional facility may use or have access to any Internet service or online service, except for work, educational, and vocational purposes approved by the commissioner.

Subd. 2. **RESTRICTIONS ON COMPUTER USE.** The commissioner shall restrict inmates' computer use to legitimate work, educational, and vocational purposes.

Subd. 3. **MONITORING OF COMPUTER USE.** The commissioner shall monitor all computer use by inmates and perform regular inspections of computer equipment.

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Sec. 24. **[243.93] CORRECTIONAL FACILITY SITE SELECTION COMMITTEE.**

Subdivision 1. **CREATION; MEMBERSHIP.** (a) An advisory task force is created to coordinate the site selection process for state correctional facilities. The task force shall convene when the legislature authorizes the planning of a new correctional facility. The task force, to be known as the site selection committee, consists of the:

- (1) commissioner of corrections or the commissioner's designee;
- (2) deputy commissioner of corrections who has supervision and control over correctional facilities;
- (3) commissioner of transportation or the commissioner's designee;
- (4) commissioner of administration or the commissioner's designee;
- (5) chairs of the senate crime prevention committee and crime prevention finance division and the ranking members of that committee and division from the minority political caucus, or the chairs' and ranking members' designees; and
- (6) chairs of the house judiciary committee and judiciary finance division and the ranking members of that committee and division from the minority political caucus or the chairs' and ranking members' designees.

(b) The chairs of the senate crime prevention finance division and house judiciary finance division, or the chairs' designees, shall chair the committee.

Subd. 2. **SITE SELECTION PROCESS.** The committee shall develop a correctional site selection process that most effectively and efficiently utilizes state financial resources for construction of correctional facilities. The committee may include such other factors as the committee considers relevant as criteria for the site selection process.

Subd. 3. **RECOMMENDATIONS.** Before recommendation of an individual site for a correctional facility, the committee shall require that all costs associated with the facility and the site be identified and reported, including but not limited to construction costs, site improvement, infrastructure upgrades, and operating costs for that site. The commissioners of administration and corrections and any other agencies involved with site construction or land acquisition shall cooperate with the committee in supplying information described in this subdivision and any other information required for project budgets under section 16B.335.

Subd. 4. **REPORT.** The committee shall report its recommendations for the siting of correctional facilities to the legislature.

Subd. 5. **LEGISLATIVE AUTHORIZATION OF SITE.** Each site for a new state of Minnesota correctional facility shall be chosen in the law authorizing and providing funding for the facility.

Subd. 6. **STAFFING.** The committee may utilize employees from the legislative and executive branch entities with membership on the committee. The department of administration shall provide administrative support.

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Sec. 25. Minnesota Statutes 1996, section 244.05, subdivision 8, is amended to read:

Subd. 8. **CONDITIONAL MEDICAL RELEASE.** Notwithstanding subdivisions 4 and 5, the commissioner may order that an any offender be placed on conditional medical release before the offender's scheduled supervised release date or target release date if the offender suffers from a grave illness or medical condition and the release poses no threat to the public. In making the decision to release an offender on this status, the commissioner must consider the offender's age and medical condition, the health care needs of the offender, the offender's custody classification and level of risk of violence, the appropriate level of community supervision, and alternative placements that may be available for the offender. An inmate may not be released under this provision unless the commissioner has determined that the inmate's health costs are likely to be borne by medical assistance, Medicaid, general assistance medical care, veteran's benefits, or by any other federal or state medical assistance programs or by the inmate. Conditional medical release is governed by provisions relating to supervised release except that it may be rescinded without hearing by the commissioner if the offender's medical condition improves to the extent that the continuation of the conditional medical release presents a more serious risk to the public.

Sec. 26. Minnesota Statutes 1996, section 244.17, subdivision 2, is amended to read:

Subd. 2. **ELIGIBILITY.** The commissioner must limit the challenge incarceration program to the following persons:

- (1) offenders who are committed to the commissioner's custody following revocation of a stayed sentence; and
- (2) offenders who are committed to the commissioner's custody, who have ~~36~~ 48 months or less in or remaining in their term of imprisonment, and who did not receive a dispositional departure under the sentencing guidelines.

An eligible inmate is not entitled to participate in the program.

Sec. 27. **[244.20] PROBATION SUPERVISION.**

Notwithstanding sections 260.311, subdivision 1, and 609.135, subdivision 1, the department of corrections shall have exclusive responsibility for providing probation services for adult felons in counties that do not take part in the Community Corrections Act. In counties that do not take part in the Community Corrections Act, the responsibility for providing probation services for individuals convicted of gross misdemeanor offenses shall be discharged according to local judicial policy.

Sec. 28. **[244.21] COLLECTION OF INFORMATION ON OFFENDERS; REPORTS REQUIRED.**

Subdivision 1. **COLLECTION OF INFORMATION BY PROBATION SERVICE PROVIDERS; REPORT REQUIRED.** By January 1, 1998, probation service providers shall begin collecting and maintaining information on offenders under supervision. The commissioner of corrections shall specify the nature and extent of the information to be collected. By April 1 of every year, each probation service provider shall report a summary of the information collected to the commissioner.

Subd. 2. **COMMISSIONER OF CORRECTIONS REPORT.** By January 15, 1998, the commissioner of corrections shall report to the chairs of the senate crime pre-

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vention and house of representatives judiciary committees on recommended methods of coordinating the exchange of information collected on offenders under subdivision 1: (1) between probation service providers; and (2) between probation service providers and the department of corrections, without requiring service providers to acquire uniform computer software.

Sec. 29. [244.22] REVIEW OF PLANNED EXPENDITURES OF PROBATION SERVICE PROVIDERS; DISTRIBUTION OF MONEY TO MULTIPLE PROBATION SERVICE PROVIDERS WITHIN A SINGLE COUNTY.

(a) The commissioner of corrections shall review the planned expenditures of probation service providers before allocating probation caseload reduction grants appropriated by the legislature. The review must determine whether the planned expenditures comply with applicable law.

(b) In counties where probation services are provided by both county and department of corrections employees, a collaborative plan addressing the local needs shall be developed. The commissioner of corrections shall specify the manner in which probation caseload reduction grant money shall be distributed between the providers according to the approved plan.

Sec. 30. [244.24] CLASSIFICATION SYSTEM FOR ADULT OFFENDERS.

By February 1, 1998, all probation agencies shall adopt written policies for classifying adult offenders. The commissioner of corrections shall assist probation agencies in locating organizations that may provide training and technical assistance to the agencies concerning methods to develop and implement effective, valid classification systems.

Sec. 31. Minnesota Statutes 1996, section 260.1735, is amended to read:

260.1735 EXTENSION OF DETENTION PERIOD.

Subdivision 1. DETENTION. Before July 1, 1997 1999, and pursuant to a request from an eight-day temporary holdover facility, as defined in section 241.0221, the commissioner of corrections, or the commissioner's designee, may grant a one-time extension per child to the eight-day limit on detention under this chapter. This extension may allow such a facility to detain a child for up to 30 days including weekends and holidays. Upon the expiration of the extension, the child may not be transferred to another eight-day temporary holdover facility. The commissioner shall develop criteria for granting extensions under this section. These criteria must ensure that the child be transferred to a long-term juvenile detention facility as soon as such a transfer is possible. Nothing in this section changes the requirements in section 260.172 regarding the necessity of detention hearings to determine whether continued detention of the child is proper.

Subd. 2. CONTINUED DETENTION. (a) A delay not to exceed 48 hours may be made if the facility in which the child is detained is located where conditions of distance to be traveled or other ground transportation do not allow for court appearances within 24 hours.

(b) A delay may be made if the facility is located where conditions of safety exist. Time for an appearance may be delayed until 24 hours after the time that conditions allow for reasonably safe travel. "Conditions of safety" include adverse life-threatening weather conditions that do not allow for reasonably safe travel.

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The continued detention of a child under paragraph (a) or (b) must be reported to the commissioner of corrections.

Sec. 32. Minnesota Statutes 1996, section 260.311, subdivision 1, is amended to read:

Subdivision 1. **APPOINTMENT; JOINT SERVICES; STATE SERVICES.** (a) If a county or group of counties has established a human services board pursuant to chapter 402, the district court may appoint one or more county probation officers as necessary to perform court services, and the human services board shall appoint persons as necessary to provide correctional services within the authority granted in chapter 402. In all counties of more than 200,000 population, which have not organized pursuant to chapter 402, the district court shall appoint one or more persons of good character to serve as county probation officers during the pleasure of the court. All other counties shall provide adult misdemeanant and juvenile probation services to district courts in one of the following ways:

(1) the court, with the approval of the county boards, may appoint one or more salaried county probation officers to serve during the pleasure of the court;

(2) when two or more counties offer probation services the district court through the county boards may appoint common salaried county probation officers to serve in the several counties;

(3) a county or a district court may request the commissioner of corrections to furnish probation services in accordance with the provisions of this section, and the commissioner of corrections shall furnish such services to any county or court that fails to provide its own probation officer by one of the two procedures listed above;

(4) if a county or district court providing probation services under clause (1) or (2) asks the commissioner of corrections or the legislative body for the state of Minnesota mandates the commissioner of corrections to furnish probation services to the district court, the probation officers and other employees displaced by the changeover shall be employed by the commissioner of corrections. Years of service in the county probation department are to be given full credit for future sick leave and vacation accrual purposes;

(5) all probation officers serving the juvenile courts on July 1, 1972, shall continue to serve in the county or counties they are now serving.

(b) The commissioner of employee relations shall place employees transferred to state service under paragraph (a), clause (4), in the proper classifications in the classified service. Each employee is appointed without examination at no loss in salary or accrued vacation or sick leave benefits, but no additional accrual of vacation or sick leave benefits may occur until the employee's total accrued vacation or sick leave benefits fall below the maximum permitted by the state for the employee's position. An employee appointed under paragraph (a), clause (4), shall serve a probationary period of six months. After exhausting labor contract remedies, a noncertified employee may appeal for a hearing within ten days to the commissioner of employee relations, who may uphold the decision, extend the probation period, or certify the employee. The decision of the commissioner of employee relations is final. The state shall negotiate with the exclusive representative for the bargaining unit to which the employees are transferred regarding their seniority. For purposes of computing seniority among those employees transferring from one county

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unit only, a transferred employee retains the same seniority position as the employee had within that county's probation office.

Sec. 33. Minnesota Statutes 1996, section 401.13, is amended to read:

401.13 CHARGES MADE TO COUNTIES.

Each participating county will be charged a sum equal to the actual per diem cost of confinement of those juveniles committed to the commissioner ~~after August 1, 1973,~~ and confined in a state correctional facility. ~~Provided, however, that the amount charged a participating county for the costs of confinement shall not exceed the subsidy to which the county is eligible.~~ The commissioner shall annually determine costs making necessary adjustments to reflect the actual costs of confinement. ~~However, in no case shall the percentage increase in the amount charged to the counties exceed the percentage by which the appropriation for the purposes of sections 401.01 to 401.16 was increased over the preceding biennium.~~ The commissioner of corrections shall bill the counties and deposit the receipts from the counties in the general fund. All charges shall be a charge upon the county of commitment.

Sec. 34. Minnesota Statutes 1996, section 609.02, is amended by adding a subdivision to read:

Subd. 15. PROBATION. "Probation" means a court-ordered sanction imposed upon an offender for a period of supervision no greater than that set by statute. It is imposed as an alternative to confinement or in conjunction with confinement or intermediate sanctions. The purpose of probation is to deter further criminal behavior, punish the offender, help provide reparation to crime victims and their communities, and provide offenders with opportunities for rehabilitation.

Sec. 35. Minnesota Statutes 1996, section 609.15, subdivision 1, is amended to read:

Subdivision 1. **CONCURRENT, CONSECUTIVE SENTENCES; SPECIFICATION REQUIREMENT.** (a) Except as provided in paragraph (b), when separate sentences of imprisonment are imposed on a defendant for two or more crimes, whether charged in a single indictment or information or separately, or when a person who is under sentence of imprisonment in this state is being sentenced to imprisonment for another crime committed prior to or while subject to such former sentence, the court in the later sentences shall specify whether the sentences shall run concurrently or consecutively. If the court does not so specify, the sentences shall run concurrently.

(b) An inmate of a state prison who is convicted of committing an assault within the correctional facility is subject to the consecutive sentencing provisions of section 609.2232.

Sec. 36. Minnesota Statutes 1996, section 609.2231, subdivision 3, is amended to read:

Subd. 3. **CORRECTIONAL EMPLOYEES.** Whoever assaults ~~commits either of the following acts against~~ an employee of a correctional facility as defined in section 241.021, subdivision 1, clause (5), while the employee is engaged in the performance of a duty imposed by law, policy or rule, and ~~inflicts demonstrable bodily harm,~~ is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both:

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- (1) assaults the employee and inflicts demonstrable bodily harm; or
- (2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the employee.

Sec. 37. [609.2232] CONSECUTIVE SENTENCES FOR ASSAULTS COMMITTED BY STATE PRISON INMATES.

If an inmate of a state correctional facility is convicted of violating section 609.221, 609.222, 609.223, 609.2231, or 609.224, while confined in the facility, the sentence imposed for the assault shall be executed and run consecutively to any unexpired portion of the offender's earlier sentence. The inmate is not entitled to credit against the sentence imposed for the assault for time served in confinement for the earlier sentence. The inmate shall serve the sentence for the assault in a state correctional facility even if the assault conviction was for a misdemeanor or gross misdemeanor.

Sec. 38. Minnesota Statutes 1996, section 641.12, is amended to read:

641.12 COLLECTION OF FEES AND BOARD BILLS.

Subdivision 1. **LEE.** A county board may require that each person who is booked for confinement at a county or regional jail, and not released upon completion of the booking process, pay a fee of up to \$10 to the sheriff's department of the county in which the jail is located. The fee is payable immediately from any money then possessed by the person being booked, or any money deposited with the sheriff's department on the person's behalf. If the person has no funds at the time of booking or during the period of any incarceration, the sheriff shall notify the district court in the county where the charges related to the booking are pending, and shall request the assessment of the fee. Notwithstanding section 609.10 or 609.125, upon notification from the sheriff, the district court must order the fee paid to the sheriff's department as part of any sentence or disposition imposed. If the person is not charged, is acquitted, or if the charges are dismissed, the sheriff shall return the fee to the person at the last known address listed in the booking records.

Subd. 2. **BOARD.** At the end of every month the sheriff of each county shall render to the county auditor a statement showing the name of each fugitive from justice, United States prisoner, one committed from another county or one committed by virtue of any city ordinance, the amount due the county for board of each and from whom, and also of all amounts due for board of prisoners for the preceding month.

Sec. 39. Laws 1995, chapter 226, article 3, section 60, subdivision 4, is amended to read:

Subd. 4. **TIME LINES.** By December 1, 1996, the rulemaking committee shall submit draft rule parts which address the program standards, evaluation, and auditing standards and procedures to the chairs of the senate crime prevention and house of representatives judiciary committee for review. ~~By July 31, 1997, the licensing and programming rulemaking process shall be completed.~~ By July 1, 1998, the licensing and programming rule draft shall be completed. Promulgation of the draft rule parts, under the provision of Minnesota Statutes, chapter 14, shall commence immediately thereafter. In addition, the commissioner of corrections and commissioner of human services may develop interpretive guidelines for the licensing and programming rule.

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Sec. 40. Laws 1996, chapter 408, article 8, section 21, is amended to read:

Sec. 21. TEMPORARY PROVISION; ELECTION TO RETAIN RETIREMENT COVERAGE.

(a) An employee in a position specified as qualifying under sections 11, 12, 14, and 15, may elect to retain coverage under the general employees retirement plan of the Minnesota state retirement system or the teachers retirement association, or may elect to have coverage transferred to and to contribute to the correctional employees retirement plan. An employee electing to participate in the correctional employees retirement plan shall begin making contributions to the correctional plan beginning the first full pay period after January 1, 1997, or the first full pay period following filing of their election to transfer coverage to the correctional employees retirement plan, whichever is later. The election to retain coverage or to transfer coverage must be made in writing by the person on a form prescribed by the executive director of the Minnesota state retirement system and must be filed with the executive director no later than ~~June 30~~ December 31, 1997.

(b) An employee failing to make an election by June 15, 1997, must be notified by certified mail by the executive director of the Minnesota state retirement system or of the teachers retirement association, whichever applies, of the deadline to make a choice. A person who does not submit an election form must continue coverage in the general employees retirement plan or the teachers retirement association, whichever applies, and forfeits all rights to transfer retirement coverage to the correctional employees retirement plan.

(c) The election to retain coverage in the general employee retirement plan or the teachers retirement association or the election to transfer retirement coverage to the correctional employees retirement plan is irrevocable once it is filed with the executive director.

Sec. 41. Laws 1996, chapter 408, article 8, section 22, subdivision 1, is amended to read:

Subdivision 1. **ELECTION OF PRIOR STATE SERVICE COVERAGE.** (a) An employee who has future retirement coverage transferred to the correctional employees retirement plan under sections 11, 12, 14, and 15, and 16, and who does not elect to retain general state employee retirement plan or teachers retirement association coverage is entitled to elect to obtain prior service credit for eligible state service performed on or after July 1, 1975, and before the first day of the first full pay period beginning after ~~June 30~~ December 31, 1997, with the department of corrections or with the department of human services at the Minnesota security hospital or the Minnesota sexual psychopathic personality treatment center. All prior service credit must be purchased.

(b) Eligible state service with the department of corrections or with the department of human services is any prior period of continuous service on or after July 1, 1975, performed as an employee of the department of corrections or of the department of human services that would have been eligible for the correctional employees retirement plan coverage under sections 11, 12, 14, and 15, and 16, if that prior service had been performed after the first day of the first full pay period beginning after December 31, 1996, rather than before that date. Service is continuous if there has been no period of discontinuation of eligible state service for a period greater than 180 calendar days.

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(c) The department of corrections or the department of human services, whichever applies, shall certify eligible state service to the executive director of the Minnesota state retirement system.

(d) A covered correctional plan employee employed on January 1, 1997, who has past service in a job classification covered under section 11, 12, 14, or 15, or 16, on January 1, 1997, is entitled to purchase the past service if the applicable department certifies that the employee met the eligibility requirements for coverage. The employee must make the additional employee contributions under section 17. Payments for past service must be completed by June 30, 1999.

Sec. 42. Laws 1996, chapter 408, article 8, section 24, is amended to read:

Sec. 24. EARLY RETIREMENT INCENTIVE.

This section applies to an employee who has future retirement coverage transferred to the correctional employee retirement plan under sections 11, 12, 14, and 15, and 16, and who is at least 55 years old on the effective date of sections 11, 12, 14, and 15, and 16. That employee may participate in a health insurance early retirement incentive available under the terms of a collective bargaining agreement in effect on the day before the effective date of sections 11, 12, 14, and 15, and 16, notwithstanding any provision of the collective bargaining agreement that limits participation to persons who select the option during the payroll period in which their 55th birthday occurs. A person selecting the health insurance early retirement incentive under this section must retire by the later of ~~December 31, 1997~~ June 30, 1998, or within the pay period following the time at which the person has at least three years of covered correctional service, including any purchased service credit. An employee meeting this criteria who wishes to extend the person's employment must do so under Minnesota Statutes, section 43A.34, subdivision 3.

Sec. 43. OPERATION OF SAUK CENTRE.

(a) After December 30, 1998, the Minnesota correctional facility—Sauk Centre may no longer confine juvenile male offenders who are committed to the commissioner's custody. By January 1, 1999, male juvenile offenders who are committed to the commissioner's custody must be transferred from Sauk Centre to the Minnesota correctional facility—Red Wing, or upon order of the juvenile court, to an appropriate county placement, notwithstanding Minnesota Statutes, section 260.185.

(b) After December 30, 1998, the commissioner of corrections may operate the facility in any manner not inconsistent with this section.

Sec. 44. JUVENILE SEX OFFENDER TREATMENT PROGRAM.

By January 1, 1999, the commissioner of corrections shall begin operating a juvenile sex offender treatment program at the Minnesota correctional facility—Red Wing.

Sec. 45. ADMISSIONS CRITERIA FOR MINNESOTA CORRECTIONAL FACILITY—RED WING.

(a) By January 1, 1999, the commissioner of corrections shall develop admissions criteria for the placement of juveniles at the Minnesota correctional facility—Red Wing. In developing these criteria, the commissioner shall seek and consider the advice of county representatives. These criteria must ensure that juveniles who commit less serious

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offenses or who do not need the type of supervision and programming available at Red Wing are not placed there. These criteria must ensure that to the greatest extent possible, juveniles are supervised and programmed for in the community in which they live or whose jurisdiction they are under.

(b) By February 15, 1998, the commissioner shall report to the chairs of the senate crime prevention and judiciary budget division and the house judiciary finance division on the development of the criteria required under paragraph (a). The report must include draft admissions criteria.

Sec. 46. PLAN FOR CONTINUED OPERATION OF SAUK CENTRE FACILITY.

By January 15, 1998, the commissioner of corrections shall report to the chairs of the house and senate committees and divisions having jurisdiction over criminal justice policy and funding on issues related to the Minnesota correctional facility—Sauk Centre. The report must include a detailed plan describing how the commissioner proposes to use the facility after it ceases to be a juvenile facility for male offenders and the costs associated with operating the facility in the manner proposed.

Sec. 47. JUVENILE PLACEMENT STUDY.

The legislative audit commission is requested to direct the legislative auditor to conduct a study of the placement of juvenile offenders. The study shall include:

(1) an evaluation of existing placements for juvenile offenders, including, but not limited to, the number of beds at each facility, the average number of beds occupied each day at each facility, the location of each facility, and the type of programming offered at each facility;

(2) an estimate of the projected need for additional placements for juvenile offenders, including the locations where beds will be needed;

(3) an examination of the per diem components per offender at state, local, and private facilities providing placements for juvenile offenders;

(4) an assessment of how to best meet treatment needs for juvenile sex offenders, chemically dependent juveniles, and female offenders;

(5) an evaluation of available federal funding for placement of juvenile offenders;

(6) an evaluation of the strengths and weaknesses of state, regional, and private facilities; and

(7) any other issues that may affect juvenile placements.

If the commission directs the auditor to conduct this study, the auditor shall report findings to the chairs of the house and senate committees and divisions with jurisdiction over criminal justice policy and funding issued by January 15, 1998.

Sec. 48. PROBATION OUTCOME MEASUREMENT WORK GROUP.

Subdivision 1. WORK GROUP ESTABLISHED; PURPOSE. The commissioner of corrections shall establish a work group to develop uniform statewide probation outcome measures. The outcome measures must focus primarily on adult offenders but, to

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the extent possible, may also address juvenile offenders. The work group shall develop definitions that may be used by all state and local probation service providers to report outcome information for probation services. The work group shall recommend a method by which probation service providers may measure and report recidivism of adult felons in a uniform manner.

Subd. 2. MEMBERSHIP. The commissioner of corrections shall appoint individuals who have demonstrated experience in the probation field to serve as members of the work group. The commissioner shall ensure that community corrections act counties and noncommunity corrections act counties are equally represented on the work group. The commissioner, or the commissioner's designee, shall serve on the work group and act as its chair.

Subd. 3. REVIEW OF OUTCOME MEASURES. By November 1, 1997, the work group shall submit its recommendations on outcome measures to the criminal and juvenile justice information policy group for review.

Subd. 4. REPORT REQUIRED. The work group shall report its findings and recommendations to the chairs of the senate and house of representatives committees having jurisdiction over criminal justice policy by January 15, 1998. The report must indicate what comments or modifications, if any, were made or suggested by the criminal and juvenile justice information policy group and whether the work group altered its recommendations because of this.

Sec. 49. DEPARTMENT OF CORRECTIONS BIENNIAL PERFORMANCE REPORT.

The department of corrections must include in its agency performance report for the year 2000 a summary of statewide information on the reoffense rates of adult felons on probation.

Sec. 50. AMENDMENT TO RULES DIRECTED.

By July 1, 1998, the department of corrections shall amend Minnesota Rules, part 2940.3500, subpart 2, to require that a revocation hearing occur within 12 working days of the releasee's availability to the department. This amendment must be done in the manner specified in Minnesota Statutes, section 14.388, under authority of clause (3) of that section. This section does not restrict a hearing officer's authority to grant a continuance.

Sec. 51. INSTRUCTION TO REVISOR.

The revisor of statutes shall renumber Minnesota Statutes, section 260.311, as 244.19. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

Sec. 52. REPEALER.

Minnesota Statutes 1996, section 244.06, is repealed.

Sec. 53. EFFECTIVE DATES.

Sections 15, 19, and 35 to 37 are effective August 1, 1997, and apply to crimes committed on or after that date. Sections 16 and 33 are effective January 1, 1999. Sections 27, 29, 30, 32, 34, and 43 to 48 are effective the day following final enactment. Section 28 is effective January 1, 1998.

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ARTICLE 10

DOMESTIC ABUSE PERPETRATED BY A MINOR

Section 1. PILOT PROGRAM.

Actions under sections 2 to 26 are limited to a pilot program in the 4th judicial district for the period June 1, 1998, through July 31, 1999. At the conclusion of the pilot period, the 4th judicial district shall report to the legislature on the number of petitions filed under sections 2 to 26, the relationship of the parties, and the disposition of each petition.

Sec. 2. DEFINITIONS.

Subdivision 1. SCOPE. The definitions in this section apply to sections 2 to 26.

Subd. 2. ALTERNATIVE SAFE LIVING ARRANGEMENT. "Alternative safe living arrangement" means a living arrangement for a minor respondent proposed by a petitioning parent or guardian if a court excludes the minor from the parent's or guardian's home under sections 2 to 26, that is separate from the victim of domestic abuse and safe for the minor respondent. A living arrangement proposed by a petitioning parent or guardian is presumed to be an alternative safe living arrangement absent information to the contrary presented to the court. In evaluating any proposed living arrangement, the court shall consider whether the arrangement provides the minor respondent with necessary food, clothing, shelter, and education in a safe environment. Any proposed living arrangement that would place the minor respondent in the care of an adult who has been physically or sexually violent is presumed unsafe. Minnesota Statutes, sections 245A.01 to 245A.16, do not apply to an alternative safe living arrangement.

Subd. 3. DOMESTIC ABUSE PERPETRATED BY A MINOR. "Domestic abuse perpetrated by a minor" means any of the following if committed against a family or household member by a family or household member who is a minor:

- (1) physical harm, bodily injury, or assault;
- (2) infliction of fear of imminent physical harm, bodily injury, or assault; or
- (3) terroristic threats, within the meaning of Minnesota Statutes, section 609.713, subdivision 1, or criminal sexual conduct, within the meaning of Minnesota Statutes, section 609.342, 609.343, 609.344, or 609.345.

Subd. 4. FAMILY OR HOUSEHOLD MEMBER. "Family or household member" of a person means:

- (1) the person's spouse;
- (2) the person's former spouse;
- (3) the person's parent;
- (4) the person's child;
- (5) a person related by blood to the person;
- (6) a person who is presently residing with the person or who has resided with the person in the past;

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(7) a person who has a child in common with the person regardless of whether they have been married or have lived together at any time;

(8) two persons if one is pregnant and the other is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(9) a person involved with the person in a significant romantic or sexual relationship.

Issuance of an order for protection/minor respondent in the situation described in clause (8) does not affect a determination of paternity under Minnesota Statutes, sections 257.51 to 257.74.

Subd. 5. MINOR. "Minor" means a person under the age of 18.

Sec. 3. COURT JURISDICTION.

An application for relief under sections 2 to 26 may be filed in district court in the county of residence of either party or in the county in which the alleged domestic abuse occurred. In a jurisdiction that uses referees in dissolution actions or juvenile court, the court or judge may refer actions under this section to a referee to take and report the evidence in the action in the same manner and subject to the same limitations as provided in Minnesota Statutes, section 518.13. Actions under sections 2 to 26 must be given docket priority by the court.

Sec. 4. FILING FEE.

The filing fees for an order for protection/minor respondent under section 7 are waived for the petitioner. The court administrator and the sheriff of any county in this state shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process by a private process server if the sheriff is unavailable or if service is made by publication, without requiring the petitioner to make application under Minnesota Statutes, section 563.01.

Sec. 5. INFORMATION ON PETITIONER'S LOCATION OR RESIDENCE.

Upon the petitioner's request, information maintained by a court regarding the petitioner's location or residence is not accessible to the public and may be disclosed only to court or law enforcement personnel for purposes of service of process, conducting an investigation, or enforcing an order.

Sec. 6. RULES.

Actions under sections 2 to 26 are governed by the Minnesota Rules of Civil Procedure except as otherwise provided.

Sec. 7. ORDER FOR PROTECTION/MINOR RESPONDENT.

Subdivision 1. NAME OF ACTION. There is an action known as a petition for an order for protection/minor respondent in cases of domestic abuse perpetrated by a minor.

Subd. 2. ELIGIBLE PETITIONER. A petition for relief under sections 2 to 26 may be made by an adult family or household member personally or by a guardian as defined in Minnesota Statutes, section 524.1-201, clause (20), or, if the court finds that it

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is in the best interests of the minor, by a reputable adult who is at least 25 years old on behalf of a minor family or household member. A minor who is at least 16 years old may make a petition on the minor's own behalf against a spouse or former spouse who is a minor or another minor with whom the minor petitioner has a child in common if the court determines that the minor has sufficient maturity and judgment and that it is in the best interests of the minor.

Subd. 3. CONTENTS OF PETITION. (a) A petition for relief must allege the existence of domestic abuse perpetrated by a minor and be accompanied by a sworn affidavit stating the specific facts and circumstances from which relief is sought.

(b) A petition for relief must state whether the petitioner has ever had an order for protection in effect against the minor respondent.

(c) A petition for relief must state whether there is an existing order for protection in effect under sections 2 to 26 or under Minnesota Statutes, chapter 518B, governing both the parties and whether there is a pending lawsuit, complaint, petition, or other action between the parties under Minnesota Statutes, chapter 257, 260, 518, 518A, 518B, or 518C.

Subd. 4. OTHER ORDERS OR ACTIONS. The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A subsequent order in a separate action under sections 2 to 26 may modify only the provision of an existing order that grants relief authorized under section 10, paragraph (a), clause (1). A petition for relief may be granted whether or not there is a pending action between the parties.

Subd. 5. SIMPLIFIED FORMS. The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under sections 2 to 26.

Subd. 6. ADVICE ON RESTITUTION. The court shall advise a petitioner of the right to seek restitution under the petition for relief.

Sec. 8. HEARING ON APPLICATION; PROCEDURE AND NOTICE.

Subdivision 1. HEARING DATE. Upon receipt of a petition under sections 2 to 26, the court shall order a hearing to be held not later than 14 days from the date of the order. If an ex parte order has been issued under section 12, the time periods for holding a hearing under that section apply.

Subd. 2. SERVICE. If an ex parte order has been issued under section 12 and an order for immediate custody has been issued under sections 2 to 26 and Minnesota Statutes, chapter 260, personal service upon the minor respondent must be made by the county sheriff or police when the order for immediate custody is executed. In all other cases, personal service of the petition and order must be made upon the minor respondent not less than five days before the hearing. Service must also be made upon the minor respondent by mailing a copy of the petition and order to the minor respondent's last known address. Service is complete upon personal receipt by the minor respondent or three days after the mailing. The court shall have notice of the pendency of the case and of the time and place of the hearing served by mail at the last known address upon any parent or guardian of the minor respondent who is not the petitioner.

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Subd. 3. CLOSED HEARING. Upon request of either party and for good cause shown, the court may close the hearing to the public and close the records to public inspection.

Subd. 4. DOMESTIC ABUSE ADVOCATES. In all proceedings under sections 2 to 26, domestic abuse advocates must be allowed to attend and to sit at the counsel table, confer with the petitioner, and at the judge's discretion, address the court. Court administrators shall allow domestic abuse advocates to assist victims of domestic abuse perpetrated by a minor in the preparation of petitions for orders for protection/minor respondents. While assisting victims of domestic violence under this subdivision, domestic abuse advocates are not engaged in the unauthorized practice of law.

Sec. 9. GUARDIAN AD LITEM.

(a) If the petitioner requests that the minor respondent be removed from the minor respondent's parent's home, the court shall appoint a guardian ad litem on behalf of the minor respondent for the limited purpose of assuring that the minor respondent is placed in an alternative safe living arrangement. The guardian ad litem's limited responsibilities are conducting an interview to obtain the minor respondent's views on any proposed alternative safe living arrangements, reviewing any proposed alternative safe living arrangements, and appearing at the hearing on the order for protection/minor respondent. It is not within the responsibilities of the guardian ad litem to assess or comment upon whether domestic abuse occurred.

(b) In any other case brought under sections 2 to 26, the court may appoint a guardian ad litem if it appears to the court that the minor lacks the maturity to understand the proceedings.

(c) The guardian ad litem may not be held civilly or criminally liable for any act or failure to act under sections 2 to 26.

Sec. 10. RELIEF BY THE COURT.

(a) Upon notice and hearing, the court may provide relief as follows:

- (1) restrain the abusing party from committing acts of domestic abuse;
- (2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

(3) if the court excludes a minor respondent from the minor respondent's parent's home, and the parent or guardian is either unable or unwilling to provide an alternative safe living arrangement for the minor respondent, the court may find that there are reasonable grounds to believe that the minor respondent's safety and well-being are endangered because of the exclusion and the parent's or guardian's unwillingness or inability to provide an alternative living arrangement, in which case the court may order, by endorsement upon the petition, that a peace officer shall take the minor respondent into immediate custody under Minnesota Statutes, section 260.165, subdivision 1;

(4) exclude the abusing party from a specifically described reasonable area surrounding the dwelling or residence;

(5) award temporary custody or establish temporary visitation with regard to minor children of the parties on a basis that gives primary consideration to the safety of the vic-

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tim and the children. Except for cases in which custody is contested, findings under Minnesota Statutes, section 257.025 or 518.175, are not required. If the court finds that the safety of the victim or the children may be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and visitation must not delay the issuance of an order for protection/minor respondent granting other relief provided for in this section;

(6) on the same basis as is provided in Minnesota Statutes, chapter 518, establish temporary support for minor children or a spouse and order the withholding of support from the income of the person obligated to pay the support according to Minnesota Statutes, chapter 518;

(7) provide upon request of the petitioner counseling or other social services for the parties if they are married or if there are minor children;

(8) order the abusing party to participate in treatment or counseling services;

(9) in the case of married juveniles, award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and require the party to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(10) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment;

(11) order the abusing party to pay restitution to the petitioner;

(12) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation; and

(13) order, in its discretion, other relief the court considers necessary for the protection of a family or household member, including orders or directives to law enforcement personnel under sections 2 to 26.

(b) Relief granted by the order for protection/minor respondent must be for a fixed period not to exceed one year unless the court determines a longer fixed period is appropriate. If a referee presides at the hearing on the petition, the order granting relief becomes effective upon the referee's signature.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule must not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection must be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

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(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection/minor respondent to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

(f) An order for restitution issued under this subdivision is enforceable as a civil judgment.

Sec. 11. **SUBSEQUENT ORDERS AND EXTENSIONS.**

Upon application, notice to all parties, and hearing, a court may extend the relief granted in an existing order for protection/minor respondent or, if a petitioner's order for protection/minor respondent is no longer in effect when an application for subsequent relief is made, grant a new order. The court may extend the terms of an existing order or, if an order is no longer in effect, grant a new order upon a showing that:

(1) the minor respondent has violated a prior or existing order for protection issued under sections 2 to 26 or Minnesota Statutes, chapter 518B;

(2) the petitioner is reasonably in fear of physical harm from the minor respondent;
or

(3) the minor respondent has engaged in acts of harassment or stalking within the meaning of Minnesota Statutes, section 609.749, subdivision 2.

A petitioner does not need to show that physical harm is imminent to obtain an extension or a subsequent order under this section.

Sec. 12. **EX PARTE ORDER.**

(a) If a petition under sections 2 to 26 alleges an immediate and present danger of domestic abuse perpetrated by a minor, the court may grant an ex parte order for protection/minor respondent and grant relief the court considers proper, including an order:

(1) restraining the abusing party from committing acts of domestic abuse;

(2) excluding any party from a shared dwelling or from the residence of the other except by further order of the court;

(3) if the court excludes a minor respondent from the minor respondent's parent's home and the parent or guardian is either unable or unwilling to provide an alternative safe living arrangement for the minor respondent, the court may find that there are reasonable grounds to believe that the minor respondent's safety and well-being are endangered because of the exclusion and the parent's or guardian's unwillingness or inability to provide an alternative safe living arrangement, in which case the court may order, by endorsement upon the petition, that a peace officer shall take the minor respondent into immediate custody under Minnesota Statutes, section 260.165, subdivision 1;

(4) excluding the abusing party from the place of employment of the petitioner or otherwise limiting access to the petitioner by the abusing party at the petitioner's place of employment; and

(5) continuing all currently available insurance coverage without change in coverage or beneficiary designation.

New language is indicated by underline, deletions by strikeout.

(b) A finding by the court that there is a basis for issuing an ex parte order for protection/minor respondent constitutes a finding that sufficient reasons exist not to require notice under applicable court rules governing applications for ex parte relief.

(c) An ex parte order for protection/minor respondent is effective for a fixed period set by the court, as provided in section 10, paragraph (b), or until modified or vacated by the court after a hearing. A full hearing, as provided by sections 2 to 26, must be set for not later than seven days from the issuance of the ex parte order. Notwithstanding provisions of sections 2 to 26 to the contrary, if the order takes the minor respondent into custody under Minnesota Statutes, section 260.165, a full hearing must be held within 72 hours of the execution of the order for immediate custody.

(d) Nothing in this section affects the right of a party to seek modification of an order under section 16.

Sec. 13. **SERVICE; ALTERNATE SERVICE; PUBLICATION.**

Subdivision 1. SERVICE ON MINOR RESPONDENT AND PARENT OR GUARDIAN. If an ex parte order has been issued under section 10 and an order for immediate custody has been issued under sections 2 to 26 and Minnesota Statutes, chapter 260, personal service upon the minor respondent must be made by the county sheriff or police when the order for immediate custody is executed. Personal service of the petition and order must be made upon the minor respondent not less than five days prior to the hearing. Service must also be made upon the minor respondent by mailing a copy of the petition and order to the minor respondent's last known address. Service is complete upon personal receipt by the minor respondent or three days after the mailing. The court shall have notice of the pendency of the case and of the time and place of the hearing served by mail at the last known address upon any parent or guardian of the minor respondent who is not the petitioner.

Subd. 2. SERVICE OUTSIDE MINNESOTA. Service out of this state and in the United States may be proved by the affidavit of the person making the service. Service outside the United States may be proved by the affidavit of the person making the service taken before and certified by any United States minister, charge d'affaires, commissioner, consul, commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties or before an officer authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

Sec. 14. **ASSISTANCE OF LAW ENFORCEMENT PERSONNEL IN SERVICE OR EXECUTION.**

If an order for protection/minor respondent is issued under sections 2 to 26, on request of the petitioner the court shall order law enforcement personnel to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence or otherwise assist in execution or service of the order. If the application for relief is brought in a county in which the minor respondent is not present, the sheriff shall forward the pleadings necessary for service upon the minor respondent to the sheriff of the county in which the minor respondent is present. This transmittal must be expedited to allow for timely service.

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Sec. 15. RIGHT TO APPLY FOR RELIEF.

(a) A person's right to apply for relief is not affected by the person's leaving the residence or household to avoid abuse.

(b) The court shall not require security or bond of any party unless the court considers it necessary in exceptional cases.

Sec. 16. MODIFICATION OF ORDER.

Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection.

Sec. 17. REAL ESTATE.

Nothing in sections 2 to 26 affects the title to real estate.

Sec. 18. COPY TO LAW ENFORCEMENT AGENCY.

(a) An order for protection/minor respondent granted under sections 2 to 26 must be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the residence of the petitioner.

Each appropriate law enforcement agency shall make available to other law enforcement officers through a system for verification information as to the existence and status of any order for protection/minor respondent issued under sections 2 to 26.

(b) If the petitioner notifies the court administrator of a change in the petitioner's residence so that a different local law enforcement agency has jurisdiction over the residence, the order for protection/minor respondent must be forwarded by the court administrator to the new law enforcement agency within 24 hours of the notice. If the petitioner notifies the new law enforcement agency that an order for protection/minor respondent has been issued under sections 2 to 26 and the petitioner has established a new residence within that agency's jurisdiction, within 24 hours the local law enforcement agency shall request a copy of the order from the court administrator in the county that issued the order.

(c) If an order for protection/minor respondent is granted, the petitioner must be told by the court that:

(1) notification of a change in residence should be given immediately to the court administrator and to the local law enforcement agency having jurisdiction over the new residence of the applicant;

(2) the reason for notification of a change in residence is to forward an order for protection/minor respondent to the proper law enforcement agency; and

(3) the order for protection/minor respondent must be forwarded to the law enforcement agency having jurisdiction over the new residence within 24 hours of notification of a change in residence, whether notification is given to the court administrator or to the local law enforcement agency having jurisdiction over the applicant's new residence.

An order for protection/minor respondent is enforceable even if the petitioner does not notify the court administrator or the appropriate law enforcement agency of a change in residence.

Sec. 19. VIOLATION OF AN ORDER FOR PROTECTION/MINOR RESPONDENT.

New language is indicated by underline, deletions by strikeout.

Subdivision 1. AFFIDAVIT; ORDER TO SHOW CAUSE. The petitioner, a peace officer, or an interested party designated by the court may file an affidavit with the court alleging that a minor respondent has violated an order for protection/minor respondent under sections 2 to 26. The court may order the minor respondent to appear and show cause within 14 days why the minor respondent should not be found in contempt of court and punished for the contempt. The court may also order the minor to participate in counseling or other appropriate programs selected by the court. The hearing may be held by the court in any county in which the petitioner or minor respondent temporarily or permanently resides at the time of the alleged violation.

Subd. 2. EXTENSION OF PROTECTION ORDER. If it is alleged that a minor respondent has violated an order for protection/minor respondent issued under sections 2 to 26 and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection/minor respondent based solely on the minor respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. The relief granted in the new order for protection/minor respondent must be extended for a fixed period, not to exceed one year, except when the court determines a longer fixed period is appropriate.

Subd. 3. ADMITTANCE INTO DWELLING. Admittance into the petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection/minor respondent is not a violation by the petitioner of the order.

Sec. 20. ADMISSIBILITY OF TESTIMONY IN CRIMINAL OR DELINQUENCY PROCEEDING.

Any testimony offered by a minor respondent in a hearing under sections 2 to 26 is inadmissible in a criminal or delinquency proceeding.

Sec. 21. OTHER REMEDIES AVAILABLE.

Any proceeding under sections 2 to 26 is in addition to other civil or criminal remedies.

Sec. 22. EFFECT ON CUSTODY PROCEEDINGS.

In a subsequent custody proceeding the court may consider, but is not bound by, a finding in a proceeding under sections 2 to 26 that domestic abuse perpetrated by a minor has occurred.

Sec. 23. NOTICES.

Each order for protection/minor respondent granted under sections 2 to 26 must contain a conspicuous notice to the minor respondent that:

(1) violation of an order for protection/minor respondent could result in out-of-home placement while the respondent is a minor and constitutes contempt of court; and

(2) the minor respondent is forbidden to enter or stay at the petitioner's residence, even if invited to do so by the petitioner or any other person; in no event is the order for protection/minor respondent voided.

Sec. 24. RECORDING REQUIRED.

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Proceedings under sections 2 to 26 must be recorded.

Sec. 25. STATEWIDE APPLICATION.

An order for protection/minor respondent granted under sections 2 to 26 applies throughout this state.

Sec. 26. ORDER FOR PROTECTION/MINOR RESPONDENT FORMS.

The state court administrator, in consultation with the advisory council on battered women, city and county attorneys, and legal advocates who work with victims, shall develop a uniform order for protection/minor respondent form that will facilitate the consistent enforcement of orders for protection/minor respondent throughout the state.

Sec. 27. EFFECTIVE DATE.

Sections 1 to 26 are effective June 1, 1998.

ARTICLE 11

CHANGES TO OTHER LAW

Section 1. Minnesota Statutes 1996, section 260.015, subdivision 2a, is amended to read:

Subd. 2a. **CHILD IN NEED OF PROTECTION OR SERVICES.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

- (1) is abandoned or without parent, guardian, or custodian;
- (2)(i) has been a victim of physical or sexual abuse, or (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 24, (iii) resides with or would reside with a perpetrator of domestic child abuse or child abuse as defined in subdivision 28, or (iv) is a victim of emotional maltreatment as defined in subdivision 5a;
- (3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;
- (4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;
- (5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correct-

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ing all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) has committed a delinquent act before becoming ten years old;

(11) is a runaway;

(12) is an habitual truant; ~~or~~

(13) is one whose custodial parent's parental rights to another child have been involuntarily terminated within the past five years; or

(14) has been found by the court to have committed domestic abuse perpetrated by a minor under article 10, sections 2 to 26, has been ordered excluded from the child's parent's home by an order for protection/minor respondent, and the parent or guardian is either unwilling or unable to provide an alternative safe living arrangement for the child.

Sec. 2. Minnesota Statutes 1996, section 260.165, subdivision 1, is amended to read:

Subdivision 1. No child may be taken into immediate custody except:

(a) With an order issued by the court in accordance with the provisions of section 260.135, subdivision 5, or article 10, section 10, paragraph (a), clause (3), or 12, paragraph (a), clause (3), or by a warrant issued in accordance with the provisions of section 260.145; or

(b) In accordance with the laws relating to arrests; or

(c) By a peace officer

(1) when a child has run away from a parent, guardian, or custodian, or when the peace officer reasonably believes the child has run away from a parent, guardian, or custodian; or

(2) when a child is found in surroundings or conditions which endanger the child's health or welfare or which such peace officer reasonably believes will endanger the

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child's health or welfare. If an Indian child is a resident of a reservation or is domiciled on a reservation but temporarily located off the reservation, the taking of the child into custody under this clause shall be consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1922;

(d) By a peace officer or probation or parole officer when it is reasonably believed that the child has violated the terms of probation, parole, or other field supervision; or

(e) By a peace officer or probation officer under section 260.132, subdivision 4.

Sec. 3. Minnesota Statutes 1996, section 260.171, subdivision 2, is amended to read:

Subd. 2. (a) If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention.

(b) No child may be detained in a juvenile secure detention facility or shelter care facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, after being taken into custody for a delinquent act as defined in section 260.015, subdivision 5, unless a petition has been filed and the judge or referee determines pursuant to section 260.172 that the child shall remain in detention.

(c) No child may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, after being taken into custody for a delinquent act as defined in section 260.015, subdivision 5, unless:

(1) a petition has been filed under section 260.131; and

(2) a judge or referee has determined under section 260.172 that the child shall remain in detention.

After August 1, 1991, no child described in this paragraph may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, unless the requirements of this paragraph have been met and, in addition, a motion to refer the child for adult prosecution has been made under section 260.125. Notwithstanding this paragraph, continued detention of a child in an adult detention facility outside of a standard metropolitan statistical area county is permissible if:

(i) the facility in which the child is detained is located where conditions of distance to be traveled or other ground transportation do not allow for court appearances within 24 hours. A delay not to exceed 48 hours may be made under this clause; or

(ii) the facility is located where conditions of safety exist. Time for an appearance may be delayed until 24 hours after the time that conditions allow for reasonably safe travel. "Conditions of safety" include adverse life-threatening weather conditions that do not allow for reasonably safe travel.

The continued detention of a child under clause (i) or (ii) must be reported to the commissioner of corrections.

(d) No child taken into custody and placed in a shelter care facility or relative's home by a peace officer pursuant to section 260.165, subdivision 1, clause (a) or (c)(2) may be

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held in custody longer than 72 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed and the judge or referee determines pursuant to section 260.172 that the child shall remain in custody or unless the court has made a finding of domestic abuse perpetrated by a minor after a hearing under article 10, sections 2 to 26, in which case the court may extend the period of detention for an additional seven days, within which time the social service agency shall conduct an assessment and shall provide recommendations to the court regarding voluntary services or file a child in need of protection or services petition.

(e) If a child described in paragraph (c) is to be detained in a jail beyond 24 hours, excluding Saturdays, Sundays, and holidays, the judge or referee, in accordance with rules and procedures established by the commissioner of corrections, shall notify the commissioner of the place of the detention and the reasons therefor. The commissioner shall thereupon assist the court in the relocation of the child in an appropriate juvenile secure detention facility or approved jail within the county or elsewhere in the state, or in determining suitable alternatives. The commissioner shall direct that a child detained in a jail be detained after eight days from and including the date of the original detention order in an approved juvenile secure detention facility with the approval of the administrative authority of the facility. If the court refers the matter to the prosecuting authority pursuant to section 260.125, notice to the commissioner shall not be required.

Sec. 4. Minnesota Statutes 1996, section 260.191, subdivision 1, is amended to read:

Subdivision 1. **DISPOSITIONS.** (a) If the court finds that the child is in need of protection or services or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the local social services agency or child-placing agency in the child's own home under conditions prescribed by the court directed to the correction of the child's need for protection or services;

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

(ii) the local social services agency.

In placing a child whose custody has been transferred under this paragraph, the agencies shall follow the order of preference stated in section 260.181, subdivision 3;

(3) 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 or is unable to provide this treatment or care, the court may order it provided. The court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(4) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under

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supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) 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 the child's conduct and the conduct of the 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, place the child in a group foster care facility which is under the commissioner's management and supervision;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) 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;

(4) require the child to pay a fine of up to \$100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child and of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney medi-

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ation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

(d) In the case of a child adjudicated in need of protection or services because the child has committed domestic abuse and been ordered excluded from the child's parent's home, the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing to provide an alternative safe living arrangement for the child, as defined in article 10, section 2.

Sec. 5. Minnesota Statutes 1996, section 609.748, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** For the purposes of this section, the following terms have the meanings given them in this subdivision.

(a) "Harassment" includes:

(1) repeated, intrusive, or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target;

(2) targeted residential picketing; and

(3) a pattern of attending public events after being notified that the actor's presence at the event is harassing to another.

(b) "Respondent" includes any individuals adults or juveniles alleged to have engaged in harassment or organizations alleged to have sponsored or promoted harassment.

(c) "Targeted residential picketing" includes the following acts when committed on more than one occasion:

(1) marching, standing, or patrolling by one or more persons directed solely at a particular residential building in a manner that adversely affects the safety, security, or privacy of an occupant of the building; or

(2) marching, standing, or patrolling by one or more persons which prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located.

Sec. 6. **EFFECTIVE DATE.**

Sections 1 to 5 are effective June 1, 1998.

ARTICLE 12

MISCELLANEOUS PROVISIONS

Section 1. Minnesota Statutes 1996, section 357.021, subdivision 1a, is amended to read:

Subd. 1a. (a) Every person, including the state of Minnesota and all bodies politic and corporate, who shall transact any business in the district court, shall pay to the court

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administrator of said court the sundry fees prescribed in subdivision 2. Except as provided in paragraph (d), the court administrator shall transmit the fees monthly to the state treasurer for deposit in the state treasury and credit to the general fund.

(b) In a county which has a screener-collector position, fees paid by a county pursuant to this subdivision shall be transmitted monthly to the county treasurer, who shall apply the fees first to reimburse the county for the amount of the salary paid for the screener-collector position. The balance of the fees collected shall then be forwarded to the state treasurer for deposit in the state treasury and credited to the general fund. In a county in the eighth judicial district which has a screener-collector position, the fees paid by a county shall be transmitted monthly to the state treasurer for deposit in the state treasury and credited to the general fund. A screener-collector position for purposes of this paragraph is an employee whose function is to increase the collection of fines and to review the incomes of potential clients of the public defender, in order to verify eligibility for that service.

(c) No fee is required under this section from the public authority or the party the public authority represents in an action for:

(1) child support enforcement or modification, medical assistance enforcement, or establishment of parentage in the district court, or child or medical support enforcement conducted by an administrative law judge in an administrative hearing under section 518.5511;

(2) civil commitment under chapter 253B;

(3) the appointment of a public conservator or public guardian or any other action under chapters 252A and 525;

(4) wrongfully obtaining public assistance under section 256.98 or 256D.07, or recovery of overpayments of public assistance;

(5) court relief under chapter 260;

(6) forfeiture of property under sections 169.1217 and 609.531 to 609.5317;

(7) recovery of amounts issued by political subdivisions or public institutions under sections 246.52, 252.27, 256.045, 256.25, 256.87, 256B.042, 256B.14, 256B.15, 256B.37, and 260.251, or other sections referring to other forms of public assistance; or

(8) restitution under section 611A.04.

(d) The fees collected for child support modifications under subdivision 2, clause (13), must be transmitted to the county treasurer for deposit in the county general fund. The fees must be used by the county to pay for child support enforcement efforts by county attorneys.

Sec. 2. Minnesota Statutes 1996, section 363.02, subdivision 1, is amended to read:

Subdivision 1. **EMPLOYMENT.** The provisions of section 363.03, subdivision 1, shall not apply to:

(1) The employment of any individual:

(a) by the individual's parent, grandparent, spouse, child, or grandchild; or

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(b) in the domestic service of any person;

(2) A religious or fraternal corporation, association, or society, with respect to qualifications based on religion or sexual orientation, when religion or sexual orientation shall be a bona fide occupational qualification for employment;

(3) A nonpublic service organization whose primary function is providing occasional services to minors, such as youth sports organizations, scouting organizations, boys' or girls' clubs, programs providing friends, counselors, or role models for minors, youth theater, dance, music or artistic organizations, agricultural organizations for minors, including 4-H clubs, and other youth organizations, with respect to qualifications of employees or volunteers based on sexual orientation;

(4) The employment of one person in place of another, standing by itself, shall not be evidence of an unfair discriminatory practice;

(5) The operation of a bona fide seniority system which mandates differences in such things as wages, hiring priorities, layoff priorities, vacation credit, and job assignments based on seniority, so long as the operation of the system is not a subterfuge to evade the provisions of this chapter;

(6) With respect to age discrimination, a practice by which a labor organization or employer offers or supplies varying insurance benefits or other fringe benefits to members or employees of differing ages, so long as the cost to the labor organization or employer for the benefits is reasonably equivalent for all members or employees;

(7) A restriction imposed by state statute, home rule charter, ordinance, or civil service rule, and applied uniformly and without exception to all individuals, which establishes a maximum age for entry into employment as a peace officer or firefighter;

(8) Nothing in this chapter concerning age discrimination shall be construed to validate or permit age requirements which have a disproportionate impact on persons of any class otherwise protected by section 363.03, subdivision 1 or 5;

(9) It is not an unfair employment practice for an employer, employment agency, or labor organization:

(i) to require or request a person to undergo physical examination, which may include a medical history, for the purpose of determining the person's capability to perform available employment, provided:

(a) that an offer of employment has been made on condition that the person meets the physical or mental requirements of the job, except that a law enforcement agency filling a peace officer position or part-time peace officer position may require or request an applicant to undergo psychological evaluation before a job offer is made provided that the psychological evaluation is for those job-related abilities set forth by the board of peace officer standards and training for psychological evaluations and is otherwise lawful;

(b) that the examination tests only for essential job-related abilities;

(c) that the examination except for examinations authorized under chapter 176 is required of all persons conditionally offered employment for the same position regardless of disability; and

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(d) that the information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations; first aid safety personnel may be informed, when appropriate, if the disability might require emergency treatment; government officials investigating compliance with this chapter must be provided relevant information on request; and information may be released for purposes mandated by local, state, or federal law; provided that the results of the examination are used only in accordance with this chapter; or

(ii) with the consent of the employee, after employment has commenced, to obtain additional medical information for the purposes of assessing continuing ability to perform the job or employee health insurance eligibility; for purposes mandated by local, state, or federal law; for purposes of assessing the need to reasonably accommodate an employee or obtaining information to determine eligibility for the second injury fund under chapter 176; or pursuant to sections 181.950 to 181.957; or other legitimate business reason not otherwise prohibited by law;

(iii) to administer preemployment tests, provided that the tests (a) measure only essential job-related abilities, (b) are required of all applicants for the same position regardless of disability except for tests authorized under chapter 176, and (c) accurately measure the applicant's aptitude, achievement level, or whatever factors they purport to measure rather than reflecting the applicant's impaired sensory, manual, or speaking skills except when those skills are the factors that the tests purport to measure; or

(iv) to limit receipt of benefits payable under a fringe benefit plan for disabilities to that period of time which a licensed physician reasonably determines a person is unable to work; or

(v) to provide special safety considerations for pregnant women involved in tasks which are potentially hazardous to the health of the unborn child, as determined by medical criteria.

Information obtained under this section, regarding the medical condition or history of any employee, is subject to the requirements of subclause (i), item (d).

Sec. 3. Minnesota Statutes 1996, section 363.073, subdivision 1, is amended to read:

Subdivision 1. **SCOPE OF APPLICATION.** No department or agency of the state shall accept any bid or proposal for a contract or agreement ~~or unless the firm or business has an affirmative action plan submitted to the commissioner of human rights for approval.~~ No department or agency of the state shall execute any contract or agreement for goods or services in excess of \$50,000 \$100,000 with any business having more than 20 40 full-time employees on a single working day during the previous 12 months, unless the firm or business has an affirmative action plan for the employment of minority persons, women, and the disabled that has been approved by the commissioner of human rights. Receipt of a certificate of compliance issued by the commissioner shall signify that a firm or business has an affirmative action plan that has been approved by the commissioner. A certificate shall be valid for a period of two years. A municipality as defined in section 466.01, subdivision 1, that receives state money for any reason is encouraged to prepare and implement an affirmative action plan for the employment of minority persons, women, and the disabled and submit the plan to the commissioner of human rights.

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Sec. 4. Minnesota Statutes 1996, section 504.181, subdivision 1, is amended to read:

504.181 COVENANT OF LESSOR AND LESSEE NOT TO ALLOW DRUGS UNLAWFUL ACTIVITIES.

Subdivision 1. **COVENANT NOT TO ALLOW DRUGS TERMS OF COVENANT.** In every lease or license of residential premises, whether in writing or parol, the lessor or licensor and the lessee or licensee ~~covenants~~ covenant that:

(1) the lessee or licensee ~~neither will not:~~

(i) unlawfully allow controlled substances in those premises or in the common area and curtilage of the premises;

(ii) allow prostitution or prostitution-related activity as defined in section 617.80, subdivision 4, to occur on the premises or in the common area and curtilage of the premises; or

(iii) allow the unlawful use or possession of a firearm in violation of section 609.66, subdivision 1a, 609.67, or 624.713, on the premises or in the common area and curtilage of the premises; and

(2) the common area and curtilage of the premises will not be used by either the lessor or licensor or the lessee or licensee or others acting under the lessee's or licensee's control of either to manufacture, sell, give away, barter, deliver, exchange, distribute, purchase, or possess a controlled substance in violation of any criminal provision of chapter 152.

The covenant is not violated when a person other than the lessor or licensor or the lessee or licensee possesses or allows controlled substances in the premises, common area, or curtilage, unless the lessor or licensor or the lessee or licensee knew or had reason to know of that activity.

Sec. 5. Minnesota Statutes 1996, section 566.05, is amended to read:

566.05 COMPLAINT AND SUMMONS.

(a) The person complaining shall file a complaint with the court, stating the full name and date of birth of the person against whom the complaint is made, unless it is not known, describing the premises of which possession is claimed, stating the facts which authorize the recovery, and praying for restitution thereof. The lack of the full name and date of birth of the person against whom the complaint is made does not deprive the court of jurisdiction or make the complaint invalid. The court shall issue a summons, commanding the person against whom the complaint is made to appear before the court on a day and at a place stated in the summons. The appearance shall be not less than seven nor more than 14 days from the day of issuing the summons. ~~In scheduling appearances under this section, the court shall give priority to any unlawful detainer brought under section 504.181, or on the basis that the tenant is causing a nuisance or seriously endangers the safety of other residents, their property, or the landlord's property, except as provided by paragraph (b).~~ A copy of the complaint shall be attached to the summons, which shall state that the copy is attached and that the original has been filed.

(b) In an unlawful detainer action brought under section 504.181 or on the basis that the tenant is causing a nuisance or other illegal behavior that seriously endangers the safe-

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ty of other residents, their property, or the landlord's property, the person filing the complaint shall file an affidavit stating specific facts and instances in support of why an expedited hearing is required. The complaint and affidavit shall be reviewed by a referee or judge and scheduled for an expedited hearing only if sufficient supporting facts are stated and they meet the requirements of this paragraph. The appearance in an expedited hearing shall be not less than five days nor more than seven days from the date the summons is issued. The summons, in an expedited hearing, shall be served upon the tenant within 24 hours of issuance unless the court orders otherwise for good cause shown. If the court determines that the person seeking an expedited hearing did so without sufficient basis under the requirements of this paragraph, the court shall impose a civil penalty of up to \$500 for abuse of the expedited hearing process.

Sec. 6. Minnesota Statutes 1996, section 566.18, subdivision 6, is amended to read:

Subd. 6. **VIOLATION.** "Violation" means:

(a) a violation of any state, county or city health, safety, housing, building, fire prevention, or housing maintenance code applicable to the building;

(b) a violation of any of the covenants set forth in section 504.18, subdivision 1, clauses (a) or (b), or in section 504.181, subdivision 1;

(c) a violation of an oral or written agreement, lease or contract for the rental of a dwelling in a building.

Sec. 7. Minnesota Statutes 1996, section 611.27, subdivision 4, is amended to read:

Subd. 4. **COUNTY PORTION OF COSTS.** That portion of subdivision 1 directing counties to pay the costs of public defense service shall not be in effect between after January 1, 1995, and July 1, 1997. This subdivision only relates to costs associated with felony, gross misdemeanor, juvenile, and misdemeanor public defense services. Notwithstanding the provisions of this subdivision, in the first, fifth, seventh, ninth, and tenth judicial districts, the cost of juvenile and misdemeanor public defense services for cases opened prior to January 1, 1995, shall remain the responsibility of the respective counties in those districts, even though the cost of these services may occur after January 1, 1995.

Sec. 8. Minnesota Statutes 1996, section 611.27, is amended by adding a subdivision to read:

Subd. 15. **COSTS OF TRANSCRIPTS.** In appeal cases and postconviction cases where the state public defender's office does not have sufficient funds to pay for transcripts and other necessary expenses because it has spent or committed all of the transcript funds in its annual budget, the state public defender may forward to the commissioner of finance all billings for transcripts and other necessary expenses. The commissioner shall pay for these transcripts and other necessary expenses from county criminal justice aid retained by the commissioner of revenue under section 477A.0121, subdivision 4.

Sec. 9. Minnesota Statutes 1996, section 617.82, is amended to read:

617.82 **AGREED ABATEMENT PLANS; TEMPORARY ORDER.**

(a) If the recipient of a notice under section 617.81, subdivision 4, either abates the conduct constituting the nuisance or enters into an agreed abatement plan within 30 days

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of service of the notice and complies with the agreement within the stipulated time period, the prosecuting attorney may not file a nuisance action on the specified property regarding the nuisance activity described in the notice.

(b) If the recipient fails to comply with the agreed abatement plan, the prosecuting attorney may initiate a complaint for relief in the district court consistent with paragraph (c).

(c) Whenever a prosecuting attorney has cause to believe that a nuisance described in section 617.81, subdivision 2, exists within the jurisdiction the attorney serves, 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. 10. Minnesota Statutes 1996, 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. Service of motion brought under this section must be served in a manner that is sufficient under the Rules of Civil Procedure or chapter 566.

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.

Upon a finding by the court that the tenant or lessee has maintained or conducted a nuisance in any portion of the building, 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) 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 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.

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Sec. 11. PUBLIC DEFENDER ACCESS TO CRIMINAL HISTORY DATA.

The criminal and juvenile justice information policy group shall facilitate remote electronic access to public criminal history data by public defenders.

Sec. 12. STUDY AND REPORT REQUIRED.

The commissioner of public safety shall complete a study and submit a report to the legislature pursuant to Minnesota Statutes, section 3.195, by February 1, 1998, including recommendations for legislation or other action that will:

(1) decrease the sale of alcoholic beverages to, and the consumption of alcoholic beverages by pregnant women;

(2) reduce the occurrence of fetal alcohol syndrome and fetal alcohol exposure;

(3) encourage responsible alcoholic beverage sales and service to pregnant women by businesses that hold liquor licenses; and

(4) heighten awareness of the importance of responsible use of alcohol by pregnant women of the state.

Sec. 13. EFFECTIVE DATE.

Section 8 is effective the day following final enactment.

Presented to the governor May 27, 1997

Signed by the governor May 30, 1997, 1:24 p.m.

CHAPTER 240—H.F.No. 454

An act relating to motor vehicles; allowing issuance and display of single license plate for collector vehicles and vehicles that meet collector vehicle requirements but are used for general transportation purposes; amending Minnesota Statutes 1996, sections 168.10, subdivisions 1a, 1b, 1c, and 1d; and 169.79.

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

Section 1. Minnesota Statutes 1996, section 168.10, subdivision 1a, is amended to read:

Subd. 1a. **COLLECTOR'S VEHICLE, PIONEER LICENSE.** Any motor vehicle manufactured prior to 1936 and owned and operated solely as a collector's item shall be listed for taxation and registration as follows: An affidavit shall be executed stating the name and address of the owner, the name and address of the person from whom purchased, the make of the motor vehicle, year and number of the model, the manufacturer's identification number and that the vehicle is owned and operated solely as a collector's item and not for general transportation purposes. If the registrar is satisfied that the affidavit is true and correct and the owner pays a \$25 tax, the registrar shall list such vehicle for taxation and registration and shall issue a single number plates plate.

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