

section 79 is effective for increments distributed to an authority or municipality after June 30, 1998.

Presented to the governor April 2, 1998

Signed by the governor April 6, 1998, 2:50 p.m.

CHAPTER 367—S.F.No. 3345

An act relating to crime prevention and judiciary finance; appropriating money for the judicial branch, public safety, corrections, criminal justice, crime prevention, and related purposes; prescribing, clarifying, and modifying penalties; modifying various fees, assessments, and surcharges; implementing, clarifying, and modifying certain criminal and juvenile provisions; providing for the collection, maintenance, and reporting of certain data; implementing, clarifying, and modifying conditions of conditional release; providing services for disasters; clarifying and modifying laws involving public defenders; conveying state land to the city of Faribault; establishing, clarifying, expanding, and making permanent various pilot programs, grant programs, task forces, working groups, reports, and studies; expanding, clarifying, and modifying the powers of the commissioner of corrections; amending Minnesota Statutes 1996, sections 3.739, subdivision 1; 12.09, by adding a subdivision; 13.99, by adding a subdivision; 152.021, as amended; 152.022, as amended; 152.0261, subdivision 2, and by adding a subdivision; 168.042, subdivisions 12 and 15; 169.121, subdivision 5a; 171.16, subdivision 3; 241.01, subdivision 7, and by adding a subdivision; 241.021, by adding a subdivision; 241.05; 242.32, subdivision 1; 243.05, subdivision 1; 243.166, subdivisions 1 and 5; 243.51, by adding a subdivision; 244.05, subdivision 7; 260.015, subdivision 21; 260.131, by adding a subdivision; 260.155, subdivision 1; 260.165, by adding a subdivision; 260.255; 260.315; 299A.61, by adding a subdivision; 299C.06; 299C.09; 299F.04, by adding a subdivision; 299M.01, subdivision 7; 299M.02; 299M.03, subdivisions 1 and 2; 299M.04; 299M.08; 299M.12; 357.021, by adding subdivisions; 390.11, subdivision 2; 401.02, by adding a subdivision; 488A.03, subdivision 11; 518B.01, subdivisions 3a, 5, 6, and by adding a subdivision; 588.01, subdivision 3; 588.20; 609.095; 609.11, subdivision 5; 609.184, subdivision 2; 609.185; 609.19, subdivision 1; 609.229, subdivisions 2, 3, and by adding a subdivision; 609.322, subdivisions 1, 1a, and by adding a subdivision; 609.3241; 609.341, subdivisions 11 and 12; 609.342, subdivision 1; 609.343, subdivision 1; 609.344, subdivision 1; 609.345, subdivision 1; 609.3451, subdivision 3; 609.3461, subdivisions 1 and 2; 609.347, subdivisions 1, 2, 3, 5, and 6; 609.348; 609.49, subdivision 1; 609.50, subdivision 2; 609.582; 609.66, subdivision 1e; 609.748, subdivisions 3 and 4; 609.749, subdivision 3; 609A.03, subdivision 2; 611.14; 611.20, subdivisions 3, 4, and 5; 611.26, subdivisions 2, 3, and 3a; 611.263; 611.27, subdivisions 1 and 7; 617.23; 629.34, subdivision 1; 631.045; and 634.20; Minnesota Statutes 1997 Supplement, sections 97A.065, subdivision 2; 152.023, subdivision 2; 168.042, subdivision 11a; 171.29, subdivision 2; 241.015; 241.277, subdivisions 6, 9, and by adding a subdivision; 242.192; 242.32, subdivision 4; 243.166, subdivision 4; 243.51, subdivisions 1 and 3; 244.19, by adding a subdivision; 260.015, subdivisions 2a and 29; 260.161, subdivision 2; 260.165, subdivision 1; 357.021, subdivision 2; 401.01, subdivision 2; 401.13; 504.181, subdivision 1; 518.179, subdivision 2; 518B.01, subdivision 14; 609.101, subdivision 5; 609.11, subdivision 9; 609.113, subdivision 3; 609.135, subdivision 1; 609.2244, subdivisions 1 and 4; 609.52, subdivision 3; 609.749, subdivision 2; 611.25, subdivision 3; and 631.52, subdivision 2; Laws 1996, chapter 365, section 3; Laws 1997, chapter 239, article 1, sections 7, subdivision 8; and 12, subdivisions 2, 3, and 4; article 3, section 26; article 4, section 15; article 10, sections 1 and 19; proposing coding for new law in Minnesota Statutes, chapters 152; 169; 241; 244; 245A; 260; 299C; 401; 604; 609; 611A; 626; and 629; repealing Minnesota Statutes 1996, sections 260.261; 299M.05; 299M.11, subdivision 3;

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401.02, subdivision 4; 609.101, subdivision 1; 609.1352; 609.152; 609.184; 609.196; 609.321, subdivisions 3 and 6; 609.322, subdivisions 2 and 3; 609.323; 609.346; 609.563, subdivision 2; 611.216, subdivision 1a; 611.26, subdivision 9; 611.27, subdivision 2; and 626.861; Minnesota Statutes 1997 Supplement, sections 243.51, subdivision 4; 244.19, subdivision 3a; and 611.27, subdivision 4.

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

SUMMARY BY FUND

	1998	1999
General Fund Total	\$ 822,000	\$ 7,108,000
TOTAL	\$ 822,000	\$ 7,108,000

APPROPRIATIONS Available for the Year Ending June 30

	1998	1999
Sec. 2. SUPREME COURT		
Subdivision 1. Total		
Appropriation	\$ -0-	\$ 1,270,000
Subd. 2. Supreme Court		
Operations	-0-	120,000

\$120,000 is for two positions to improve financial and human resources services to the courts.

Up to \$5,000 of the amount appropriated in Laws 1997, chapter 239, article 1, section 2, subdivision 2, may be used for the normal operation of the court for which no other reimbursement is provided.

Subd. 3. Civil Legal Services

-0- 375,000

\$375,000 is a one-time appropriation for civil legal services to low-income clients.

Subd. 4. State Court Administration

-0- 775,000

\$200,000 is for a community justice system collaboration team in the judicial branch.

\$75,000 is a one-time appropriation for the parental cooperation task force created in section 17.

\$400,000 is a one-time appropriation to begin the establishment of community courts. Of this amount, \$200,000 is to begin a community court in the fourth judicial district and \$200,000 is to begin a community court in the second judicial district.

\$100,000 is a one-time appropriation for a grant to the Minneapolis city attorney for collecting and maintaining the information required by article 2, section 29. This appropriation is available until expended.

Sec. 3. COURT OF APPEALS

60,000 147,000

\$60,000 the first year is for a workers' compensation deficiency.

\$90,000 the second year is for a sixth appellate panel.

\$57,000 the second year is for law clerk salary equity adjustments.

Sec. 4. DISTRICT COURT

-0- 1,060,000

\$360,000 is for eight additional law clerk positions.

\$700,000 is for law clerk salary equity adjustments.

The conference of chief judges is requested to work jointly with the board of public defense to study the issue of reimbursements to

public defenders from clients under Minnesota Statutes, section 611.20. The conference and board are requested to develop a plan to increase the amount of reimbursements collected and to recommend necessary changes in law to accomplish that end. The conference and board shall report the results of the study and their recommendations to the chairs and ranking minority members of the senate and house divisions having jurisdiction over criminal justice funding by January 15, 1999.

Sec. 5. BOARD ON JUDICIAL STANDARDS

-0- 30,000

\$30,000 is a one-time appropriation for costs associated with the investigation and public hearing regarding complaints presented to the board.

Sec. 6. BOARD OF PUBLIC DEFENSE

330,000 670,000

\$10,000 the first year and \$20,000 the second year are for increased employer contribution rates for coverage under the General Plan of the Public Employees' Retirement Association (PERA).

\$320,000 the first year and \$650,000 the second year are for public defenders in the second and fourth judicial districts.

Ramsey County and Hennepin County may not add full- or part-time assistant public defender positions, but may fill position vacancies that arise due to attrition.

The board of public defense, in cooperation with the supreme court, the conference of chief judges, and the association of Minnesota counties, shall study the issue of public defender representation under Minnesota Statutes, sections 260.155, subdivision 2, and 611.14, of juveniles and other parties in juvenile court proceedings. By January 15, 1999, the board of public defense shall make recommendations to the chairs and ranking minority members of the senate and house divisions having jurisdiction over criminal justice funding on this issue.

The board of public defense shall study the compensation levels of its employees in comparison to those of the attorney general's office and present recommendations to the chairs and ranking minority members of the senate and house divisions having jurisdiction over criminal justice funding by October 15, 1998, regarding a procedure for board of public defense employees to be paid comparably to employees in the attorney general's office.

Sec. 7. CORRECTIONS

Subdivision 1. Total

Appropriation	220,000	1,895,000
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The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Correctional Institutions

The commissioner may use operating funds appropriated in Laws 1997, chapter 239, article 1, section 12, to renovate Building 35 to provide for 74 medium security beds at the Moose Lake Correctional Facility. An amount up to \$1,500,000 may be used for the necessary renovation.

\$100,000 in dedicated receipts shall cancel to the general fund on July 1, 1998. This is a one-time cancellation.

The commissioner may open the Brainerd facility on or after July 1, 1999, if the commissioner shows a demonstrated need for the opening and the legislature, by law, approves it.

Subd. 3. Juvenile Services

The commissioner of corrections and the commissioner of children, families and learning shall collaborate in developing recommendations concerning funding mechanisms for educational services at the Minnesota correctional facilities at Red Wing and, if needed, at Sauk Centre. In developing these recommendations, the commissioners shall seek the advice of interested counties

and school districts. The commissioners shall report their recommendations to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over education and criminal justice funding and policy by December 15, 1998.

Subd. 4. Community Services

220,000	1,895,000
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\$170,000 the first year and \$315,000 the second year are for probation and supervised release for the state assumption of juvenile and adult misdemeanor probation services in Winona county.

\$50,000 the first year and \$210,000 the second year are for probation and supervised release for the state assumption of juvenile and adult misdemeanor probation services in Benton county.

The appropriation in Laws 1997, chapter 239, article 1, section 12, subdivision 2, for the fiscal year ending June 30, 1999, for correctional institutions is reduced by \$1,000,000. That amount is added to the appropriation in Laws 1997, chapter 239, article 1, section 12, subdivision 4, for the fiscal year ending June 30, 1999, and shall be used for increased grants to counties that deliver correctional services. This money shall be added to the base level appropriated under Laws 1997, chapter 239, article 1, section 12, subdivision 4, for probation officer workload reduction and 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.

Counties that deliver correctional services under Minnesota Statutes, section 244.19, and that qualify for new probation officers under this program shall receive full reimbursement for the officers' benefits and support not to exceed \$70,000 annually. Positions funded by this appropriation may not supplant existing services.

The commissioner shall distribute money appropriated for state and county probation officer caseload and workload reduction according to the formula contained in Minnesota Statutes, section 401.10. This appropriation may not be used to supplant existing state or county probation officer positions or existing correctional services or programs.

The appropriation in Laws 1997, chapter 239, article 1, section 12, subdivision 2, for the fiscal year ending June 30, 1999, for correctional institutions is reduced by \$222,000. That amount is added to the appropriation in Laws 1997, chapter 239, article 1, section 12, subdivision 4, for the fiscal year ending June 30, 1999, and shall be used for a one-time grant to Ramsey county for the development and operation of the breaking the cycle of violence pilot project described in section 18. Ramsey county must provide at least a one-to-one funding match.

\$100,000 the second year is a one-time appropriation for grants to restorative justice programs, as described in Minnesota Statutes, section 611A.775. In awarding grants under this provision, the commissioner shall give priority to existing programs that involve face-to-face dialogue.

The appropriation for the pilot project restorative justice program in Laws 1997, chapter 239, article 1, section 12, subdivision 4, must be used for a grant to an existing restorative justice program that:

- (1) has been operating for at least six months;
- (2) is community-based and neighborhood driven and that involves citizens who live and work in the area where an offender was arrested;
- (3) engages neighborhood organizations, law enforcement, and prosecutors in a collaborative effort;
- (4) features community conferencing;
- (5) focuses on urban nuisance crimes committed by adult offenders; and
- (6) has never received government funding.

\$123,000 the second year is a one-time appropriation to continue the funding of existing juvenile mentoring pilot programs created in Laws 1996, chapter 408, article 2, section 8. At the end of the pilot programs, the commissioner shall report findings and recommendations concerning the pilot programs to the chairs and ranking minority members of the house and senate committees with jurisdiction over criminal justice and higher education issues. This appropriation is available until expended.

\$150,000 the second year is a one-time appropriation for a grant to the southwest and west central service cooperative to operate the child guide prevention program for children in kindergarten through grade 6.

\$765,000 the second year is to administer the remote electronic alcohol monitoring program described in Minnesota Statutes, section 169.1219.

\$63,000 the second year is a one-time appropriation for a grant to Hennepin county to be used to continue implementation and operation of the community-oriented chemical dependency pilot project established in Laws 1996, chapter 408, article 2, section 11.

\$700,000 the second year is a one-time appropriation to expand and enhance sentence to serve programming. The commissioner must attempt to develop sentence to serve

programming that will generate income and be self-supporting. Any funds received by the state through this programming may be used for community services programs. This appropriation may be used for a community work crew house construction project.

By February 1, 1999, the commissioner of corrections shall report to the house and senate committees and divisions with jurisdiction over criminal justice policy and funding on how the money appropriated under this provision for sentence to serve programming and community services programming was used.

Whenever offenders are assigned for the purpose of work under agreement with a state department or agency, local unit of government, or other governmental subdivision, the state department or agency, local unit of government, or other governmental subdivision must certify in writing to the appropriate bargaining agent that the work performed by the inmates will not result in the displacement of currently employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of non-overtime work, wages, or other employment benefits.

The appropriation in Laws 1997, chapter 239, article 1, section 12, subdivision 4, for juvenile residential treatment grants is reduced by \$531,000. This is a one-time reduction.

Sec. 8. CORRECTIONS OMBUDSMAN	-0-	20,000
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\$20,000 is for agency head salary and benefit adjustments to the Ombudsman for Corrections.

Sec. 9. PUBLIC SAFETY

Subdivision 1. Total		
Appropriation	64,000	1,541,000

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

Subd. 2. Emergency
Management

-0- 148,000

\$50,000 is to fund one full-time staff person to coordinate volunteer resources during disasters, as described in article 11, section 1.

\$98,000 is added to the appropriation in Laws 1997, chapter 239, article 1, section 7, subdivision 2, and fully funds the activity by replacing the existing collection of special revenues through interagency contracts with a direct appropriation.

The personnel complement of the emergency management center in the division of emergency management is increased by one-half position.

Subd. 3. Crime Victim
Ombudsman

64,000 240,000

\$64,000 the first year and \$165,000 the second year are for the consolidation of crime victim services under provisions of reorganization order 180.

\$75,000 the second year is a one-time appropriation for grants to organizations providing intensive case management specific to the needs of prostituted individuals receiving housing component services, such as rental, mortgage, and utility assistance. Grantees must provide a match of five percent in money or in-kind services. This appropriation is available until expended.

The executive director of the center for crime victim services shall:

(1) maintain the duties, responsibilities, and diversity of the battered women advisory council, the sexual assault advisory council, the general crime victim advisory council, and the crime victim and witness advisory council;

(2) retain crime-specific funding initiatives; and

(3) conduct focus group meetings around the state to ascertain victim and provider priorities.

These requirements stay in effect until June 30, 1999.

The center for crime victim services is directed to develop a process for determining priorities for future funding requests.

The crime victim ombudsman shall have responsibility for budgetary matters related to the duties of the crime victim ombudsman under Minnesota Statutes, sections 611A.72 to 611A.74. The executive director of the center for crime victim services shall have responsibility over budgetary matters related to the center for crime victim services.

Subd. 4. Fire Marshal
-0- 170,000

\$170,000 is to establish, administer, and maintain the arson investigative data system described in Minnesota Statutes, section 299F.04.

Subd. 5. Criminal Apprehension
-0- 233,000

\$50,000 is a one-time appropriation to administer and maintain the conditional release data system described in Minnesota Statutes, section 299C.147.

\$50,000 is for grants under Minnesota Statutes, section 299C.065.

\$133,000 is to hire two additional full-time forensic scientists for processing of latent fingerprint and other crime scene evidence. The addition of these forensic scientists shall not displace existing staff.

Subd. 6. Law Enforcement and
Community Grants
-0- 750,000

\$200,000 is a one-time appropriation for weed and seed grants under Minnesota Statutes, section 299A.63. Notwithstanding

Minnesota Statutes, section 299A.63, subdivision 2, at least 50 percent of the grants awarded from this appropriation must be awarded to sites outside the seven-county metropolitan area.

\$450,000 is a one-time appropriation to purchase automatic external defibrillators and distribute them as provided in section 16.

\$50,000 is a one-time appropriation for a grant to the Minnesota safety council to promote crosswalk safety.

\$50,000 is a one-time appropriation for a grant to the city of Fridley to plan, design, establish, and begin the operation of a truancy service center. The center must serve southern Anoka county.

Sec. 10. BOARD OF PEACE
OFFICER STANDARDS AND TRAINING

148,000 -0-

\$148,000 is a one-time appropriation for extraordinary legal costs related to the settlement and release of a wrongful discharge claim.

Sec. 11. ADMINISTRATION

-0- 100,000

\$100,000 is a one-time appropriation to conduct a study or contract for a study involving the issues of pretrial, presentence, and conditional release. At a minimum, the study must address the following issues:

- (1) the extent to which, under current law, crimes are committed by persons on pretrial, presentence, or conditional release, including the numbers and types of crimes committed;
- (2) the extent to which, under current law, persons on pretrial or presentence release fail to appear as required by courts;
- (3) the extent to which persons on pretrial, presentence, or conditional release currently violate conditions of release;
- (4) the extent to which enactment of a constitutional amendment and a statute authorizing pretrial detention would increase the

number of individuals subject to pretrial detention or the length of time those individuals are detained;

(5) the extent to which an amendment to the Rules of Criminal Procedure requiring the presentence detention of persons whose presumptive sentence under the sentencing guidelines is commitment to the commissioner of corrections would increase the number of persons subject to presentence detention or the length of time that those persons are detained;

(6) the extent, if any, to which increasing the number of individuals subject to pretrial or presentence detention or the length of time that those individuals are detained decreases the number of crimes committed by persons on release or the number of persons not appearing as directed by the court;

(7) costs associated with increasing the number of individuals subject to pretrial or presentence detention or the length of time that those individuals are detained; and

(8) an analysis of the comparative costs of fully funding pretrial services as compared with the costs of increased pretrial detention.

The commissioner shall report the findings of this study to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice funding and policy by January 15, 1999. The report also must include recommendations, if any, on how pretrial and presentence release laws and rules may be amended within the current constitutional framework to lower the risk that persons on release will commit new offenses or not appear as directed by the court.

Sec. 12. HUMAN RIGHTS

-0-

100,000

\$100,000 is a one-time appropriation for grants to eligible organizations under article 11, section 23. No more than 40 percent of this appropriation may be used for testing and community auditing grants and research

grants under article 11, section 23, subdivision 2, clauses (3) and (4).

Money appropriated under this section may not be used by the department for administrative purposes. Testing services funded by money appropriated under this section and used in department investigations are not considered administrative purposes.

The commissioner of human rights may transfer staff and money appropriated for staffing within the department as the commissioner sees fit.

Sec. 13. MINNESOTA STATE COLLEGES AND UNIVERSITIES BOARD

-0-

200,000

\$200,000 is a one-time appropriation to establish a center for applied research and policy analysis at Metropolitan State University. The purpose of the center is to conduct research to determine the effectiveness and efficiency of current criminal justice programs and explore new methods for improving public safety. In addition to its other functions, the center shall research matters of public policy as requested by the legislature.

The center shall study innovative uses of biometrics in law enforcement and evaluate the costs associated with these potential uses. The study also shall address any data privacy issues that are raised by the use of biometrics in law enforcement. By April 1, 1999, the center shall report the results of the study to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding.

The center shall conduct a study of the guilty but mentally ill verdict and report preliminary findings and recommendations by March 1, 1999, and final findings and recommendations by November 1, 1999, to the chairs and ranking members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding. As part of this study the center shall

examine the laws of states that have adopted this verdict and issues associated with its implementation. In addition, the center shall consider other issues involving mental health and the criminal justice system such as the mental illness defense, current mental health treatment provided to inmates at state correctional facilities, and current use of the civil commitment process.

The center also shall conduct a review of the criminal justice projects and programs that have received an appropriation from the legislature at any time from 1989 to 1998. This review must include, for each program, a description of the program, the amount of the appropriation made to the program each year and the total amount of appropriations received by the program during the past ten years, a summary of the program's stated objectives at the time the appropriation was made, an evaluation of the program's performance in light of its stated objectives, and any other related issues that the center believes will contribute to an accurate assessment of the program's success. The center shall issue a preliminary report by March 1, 1999, and a final report by November 1, 1999, to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice funding and policy on the results of its review.

Sec. 14. LEGISLATIVE AUDIT COMMISSION

-0-

75,000

The legislative audit commission is requested to direct the legislative auditor to conduct a study or contract to conduct a study of the costs that criminal activity places on state and local communities. If the audit commission approves the study, \$75,000 is appropriated to the commission to conduct the study in two phases. This appropriation is available until June 30, 2000.

In phase one, the auditor shall investigate the feasibility of conducting the research study and, at a minimum, do the following:

- (1) identify and review prior research studies that have sought to assess the direct and indirect costs of crime;
- (2) evaluate the methodological strengths and weaknesses of these prior research studies;
- (3) evaluate what types of data would be needed to conduct such a study and whether such data are reasonably available; and
- (4) make recommendations concerning how a research study of the costs of crime to Minnesota and its communities could be defined and performed so as to provide reliable information and objective conclusions to policymakers and participants in the criminal justice system.

By March 15, 1999, the legislative auditor shall report the results of phase one of the study to the chairs and ranking minority members of the house and senate committees and divisions having jurisdiction over criminal justice policy and funding.

In phase two, the auditor shall focus on both the direct costs to the state and local governments of responding to, prosecuting, and punishing criminal offenders, but also the indirect costs that criminal activity places on local communities and their residents. To the extent possible, the study shall compare, by offense type, the costs of imprisoning an offender to the costs of criminal behavior if the offender is not incarcerated. The auditor shall report the findings of phase two of the study to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice funding and policy by February 15, 2000.

Sec. 15. Laws 1997, chapter 239, article 1, section 7, subdivision 8, is amended to read:

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

The appropriations in this subdivision are one-time appropriations.

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

\$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

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

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 matching 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. This appropriation is available until June 30, 1999.

\$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 en-

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

forcement 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.

Sec. 16. AUTOMATIC EXTERNAL DEFIBRILLATOR DISTRIBUTION PROGRAM.

(a) As used in this section, "local law enforcement agency" includes the capitol complex security division of the department of public safety.

(b) The commissioner of public safety shall administer a program to distribute automatic external defibrillators to local law enforcement agencies. Defibrillators may only be distributed to law enforcement agencies that are first responders for medical emergencies. Law enforcement agencies that receive defibrillators under this section must:

(1) provide any necessary training to their employees concerning the use of the defibrillator;

(2) retain or consult with a physician consultant who is responsible for assisting the agency with issues involving the defibrillator and following up on the medical status of persons on whom a defibrillator has been used; and

(3) compile statistics on the use of the defibrillator and its results and report this information to the commissioner as required.

(c) Defibrillators shall be distributed under this section to local law enforcement agencies selected by the commissioner of public safety. However, before any decisions on which law enforcement agencies will receive defibrillators are made, a committee consisting of a representative from the Minnesota chiefs of police association, a repre-

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sentative from the Minnesota sheriffs association, and a representative from the Minnesota police and peace officers association shall evaluate the applications. The commissioner shall meet and consult with the committee concerning its evaluations and recommendations on distribution proposals prior to making a final decision on distribution.

(d) By January 15, 1999, the commissioner shall report to the chairs and ranking minority members of the senate and house divisions having jurisdiction over criminal justice funding on defibrillators distributed under this section.

(e) The commissioner shall ensure that the defibrillators distributed under this section are year 2000 ready.

Sec. 17. PARENTAL COOPERATION TASK FORCE.

(a) The supreme court is requested to establish a task force to evaluate ways to reduce conflict between parents in proceedings for marriage dissolution, annulment, or legal separation. The task force should include representatives of communities of color and representatives of other groups affected by the family law system, including parents, children, judges, administrative law judges, private attorneys, county attorneys, legal services, court services, guardians ad litem, mediators, professionals who work with families, domestic abuse advocates, and other advocacy groups.

(b) The task force shall:

(1) research ways to reduce conflict between parents in family law proceedings, including the use of parenting plans that would govern parental obligations, decision-making authority, and schedules for the upbringing of children;

(2) study the programs and experiences in other states that have implemented parenting plans; and

(3) evaluate the fiscal implications of parenting plans.

The task force may consider the unofficial engrossment of 1998 H.F. No. 2784, article 3, in its deliberations on parenting plans.

(c) The supreme court is requested to submit a progress report under this section to the chairs and ranking minority members of the house and senate judiciary committees by January 15, 1999, and a final report to these committees by January 15, 2000.

Sec. 18. BREAKING THE CYCLE OF VIOLENCE PILOT PROJECT.

(a) Ramsey county shall establish a one-year pilot project providing intensive intervention to families who have been involved in the violent drug culture. The pilot project must be divided into three phases. Phase I must provide up to 90 days of intensive residential services as an alternative to the incarceration of adult women and out-of-home placement of their children. Phase II must involve placement in a transitional housing program. Phase III must involve reintegration into neighborhood living and responsible citizenship with the assistance of community-based neighborhood organizations that are recruited by project staff. Case management for families and weekly urine analysis for the adult women must be provided throughout the project.

(b) By January 15, 2000, Ramsey county shall report to the chairs and ranking minority members of the senate and house divisions having jurisdiction over criminal justice funding on the results of the pilot project.

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ARTICLE 2

GENERAL CRIME PROVISIONS

Section 1. Minnesota Statutes 1997 Supplement, 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 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, or receiving profit derived from 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. 2. Minnesota Statutes 1997 Supplement, 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;

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- (5) depriving another of custodial or parental rights under section 609.26;
- (6) soliciting, inducing, or promoting, or receiving profit derived from 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)~~ (8) criminal sexual conduct in the second degree under section 609.343;
- (10) (9) criminal sexual conduct in the third degree under section 609.344, subdivision 1, paragraph (c), (f), or (g);
- (11) (10) solicitation of a child to engage in sexual conduct under section 609.352;
- (12) (11) incest under section 609.365;
- (13) (12) malicious punishment of a child under section 609.377;
- (14) (13) neglect of a child under section 609.378;
- ~~(15)~~ (14) terroristic threats under section 609.713; or
- (16) (15) felony harassment or stalking under section 609.749, subdivision 4.

Sec. 3. Minnesota Statutes 1996, section 588.20, is amended to read:

588.20 CRIMINAL CONTEMPTS.

Subdivision 1. **FELONY CONTEMPT.** (a) A person who knowingly and willfully disobeys a subpoena lawfully issued in relation to a crime of violence, as defined in section 609.11, subdivision 9, with the intent to obstruct the criminal justice process is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) A felony charge under this subdivision may be filed upon the person's nonappearance. However, the charge must be dismissed if the person voluntarily appears within 48 hours after the time required for appearance on the subpoena and reappears as directed by the court until discharged from the subpoena by the court. This paragraph does not apply if the person appears as a result of being apprehended by law enforcement authorities.

Subd. 2. **MISDEMEANOR CONTEMPT.** Every person who shall commit commits a contempt of court, of any one of the following kinds, shall be is guilty of a misdemeanor:

- (1) disorderly, contemptuous, or insolent behavior, committed during the sitting of the court, in its immediate view and presence, and directly tending to interrupt its proceedings, or to impair the respect due to its authority;
- (2) behavior of like character in the presence of a referee, while actually engaged in a trial or hearing, pursuant to an order of court, or in the presence of a jury while actually sitting for the trial of a cause, or upon an inquest or other proceeding authorized by law;
- (3) breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of a court, jury, or referee;

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(4) willful disobedience to the lawful process or other mandate of a court other than the conduct described in subdivision 1;

(5) resistance willfully offered to its lawful process or other mandate other than the conduct described in subdivision 1;

(6) contumacious and unlawful refusal to be sworn as a witness, or, after being sworn, to answer any legal and proper interrogatory;

(7) publication of a false or grossly inaccurate report of its proceedings; or

(8) willful failure to pay court-ordered child support when the obligor has the ability to pay.

No person shall may be punished as herein provided in this subdivision for publishing a true, full, and fair report of a trial, argument, decision, or other court proceeding had in court.

Sec. 4. Minnesota Statutes 1996, section 609.11, subdivision 5, is amended to read:

Subd. 5. **FIREARM.** (a) Except as otherwise provided in paragraph (b), any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, had in possession or used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm, shall be committed to the commissioner of corrections for not less than three years, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, had in possession or used a firearm shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

(b) Any defendant convicted of violating section 609.165 or 624.713, subdivision 1, clause (b), shall be committed to the commissioner of corrections for not less than 18 months ~~five years~~, nor more than the maximum sentence provided by law. ~~Any defendant convicted of a second or subsequent violation of either of these sections shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.~~

Sec. 5. Minnesota Statutes 1997 Supplement, section 609.11, subdivision 9, is amended to read:

Subd. 9. **APPLICABLE OFFENSES.** The crimes for which mandatory minimum sentences shall be served as provided in this section are: murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; first-degree or aggravated first-degree witness tampering; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); and 609.344, subdivision 1, clauses (a) to (e) and (h) to (j); escape from custody; arson in the first, second, or third degree; drive-by shooting under section 609.66, subdivision 1e; harassment and stalking under section 609.749, subdivision 3, clause (3); possession or other unlawful use of a firearm in violation of section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (b), a felony violation of chapter 152; or any attempt to commit any of these offenses.

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

Sec. 6. Minnesota Statutes 1996, section 609.184, subdivision 2, is amended to read:

Subd. 2. **LIFE WITHOUT RELEASE.** The court shall sentence a person to life imprisonment without possibility of release under the following circumstances:

(1) the person is convicted of first degree murder under section 609.185, clause (2) or (4); or

(2) the person is convicted of committing first degree murder in the course of a kidnapping under section 609.185, clause (3); or

(3) the person is convicted of first degree murder under section 609.185, clause (1), (3), (5), or (6), and the court determines on the record at the time of sentencing that the person has one or more previous convictions for a heinous crime.

Sec. 7. Minnesota Statutes 1996, section 609.185, is amended to read:

609.185 MURDER IN THE FIRST DEGREE.

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

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

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

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

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

(5) causes the death of a minor while committing child abuse, when the perpetrator has engaged in a past pattern of child abuse upon the child and the death occurs under circumstances manifesting an extreme indifference to human life; or

(6) causes the death of a human being while committing domestic abuse, when the perpetrator has engaged in a past pattern of domestic abuse upon the victim and the death occurs under circumstances manifesting an extreme indifference to human life.

For purposes of clause (5), "child abuse" means an act committed against a minor victim that constitutes a violation of the following laws of this state or any similar laws of the United States or any other state: section 609.221; 609.222; 609.223; 609.224; 609.2242; 609.342; 609.343; 609.344; 609.345; 609.377; 609.378; or 609.713.

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

(1) constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.342, 609.343, 609.344, 609.345, 609.713, or any similar laws of the United States or any other state; and

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

Sec. 8. Minnesota Statutes 1996, section 609.19, subdivision 1, is amended to read:

Subdivision 1. INTENTIONAL MURDER; DRIVE-BY SHOOTINGS. Whoever does either of the following is guilty of murder in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of a human being with intent to effect the death of that person or another, but without premeditation; or

(2) causes the death of a human being while committing or attempting to commit a drive-by shooting in violation of section 609.66, subdivision 1e, under circumstances other than those described in section 609.185, clause (3).

Sec. 9. Minnesota Statutes 1996, section 609.229, subdivision 2, is amended to read:

Subd. 2. CRIMES. A person who commits a crime for the benefit of, at the direction of, or in association with, or motivated by involvement with a criminal gang, with the intent to promote, further, or assist in criminal conduct by gang members is guilty of a crime and may be sentenced as provided in subdivision 3.

Sec. 10. Minnesota Statutes 1996, section 609.229, subdivision 3, is amended to read:

Subd. 3. PENALTY. (a) If the crime committed in violation of subdivision 2 is a felony, the statutory maximum for the crime is ~~three~~ five years longer than the statutory maximum for the underlying crime.

(b) If the crime committed in violation of subdivision 2 is a misdemeanor, the person is guilty of a gross misdemeanor.

(c) If the crime committed in violation of subdivision 2 is a gross misdemeanor, the person is guilty of a felony and may be sentenced to imprisonment for not more than one year and a day three years or to payment of a fine of not more than \$5,000 \$15,000, or both.

Sec. 11. Minnesota Statutes 1996, section 609.229, is amended by adding a subdivision to read:

Subd. 4. MANDATORY MINIMUM SENTENCE. (a) Unless a longer mandatory minimum sentence is otherwise required by law, or the court imposes a longer aggravated durational departure, or a longer prison sentence is presumed under the sentencing guidelines and imposed by the court, a person convicted of a crime described in subdivision 3, paragraph (a), shall be committed to the custody of the commissioner of corrections for not less than one year plus one day.

(b) Any person convicted and sentenced as required by paragraph (a) 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 242.19, 243.05, 244.04, 609.12, and 609.135.

Sec. 12. Minnesota Statutes 1996, section 609.322, subdivision 1, is amended to read:

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Subdivision 1. **INDIVIDUALS UNDER AGE 16.** Whoever, while acting other than as a prostitute or patron, intentionally does either any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$40,000, or both:

(1) solicits or induces an individual under the age of 16 years to practice prostitution;
or

(2) promotes the prostitution of an individual under the age of 16 years; or

(3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 16 years.

Sec. 13. Minnesota Statutes 1996, section 609.322, subdivision 1a, is amended to read:

Subd. 1a. **OTHER OFFENSES.** Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than ~~ten~~ 15 years or to payment of a fine of not more than ~~\$20,000~~ \$30,000, or both:

(1) solicits or induces an individual at least 16 ~~but less than 18~~ years of age to practice prostitution; or

(2) ~~Solicits or induces an individual to practice prostitution by means of force; or~~

(3) ~~Uses a position of authority to solicit or induce an individual to practice prostitution; or~~

(4) promotes the prostitution of an individual in the following circumstances:

(a) ~~The individual is at least 16 but less than 18 years of age; or~~

(b) ~~The actor knows that the individual has been induced or solicited to practice prostitution by means of force; or~~

(c) ~~The actor knows that a position of authority has been used to induce or solicit the individual to practice prostitution; or~~

(3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual.

Sec. 14. Minnesota Statutes 1996, section 609.322, is amended by adding a subdivision to read:

Subd. 1b. **EXCEPTIONS.** Subdivisions 1, clause (3), and 1a, clause (3), do not apply to:

(1) a minor who is dependent on an individual acting as a prostitute and who may have benefited from or been supported by the individual's earnings derived from prostitution; or

(2) a parent over the age of 55 who is dependent on an individual acting as a prostitute, who may have benefited from or been supported by the individual's earnings derived from prostitution, and who did not know that the earnings were derived from prostitution; or

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(3) the sale of goods or services to a prostitute in the ordinary course of a lawful business.

Sec. 15. [609.3242] PROSTITUTION CRIMES COMMITTED IN SCHOOL OR PARK ZONES; INCREASED PENALTIES.

Subdivision 1. DEFINITIONS. As used in this section:

(1) "park zone" has the meaning given in section 152.01, subdivision 12a; and

(2) "school zone" has the meaning given in section 152.01, subdivision 14a, and also includes school bus stops established by a school board under section 123.39, while school children are waiting for the bus.

Subd. 2. INCREASED PENALTIES. Any person who commits a violation of section 609.324 while acting other than as a prostitute while in a school or park zone may be sentenced as follows:

(1) if the crime committed is a felony, the statutory maximum for the crime is three years longer than the statutory maximum for the underlying crime;

(2) if the crime committed is a gross misdemeanor, the person 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; and

(3) if the crime committed is a misdemeanor, the person is guilty of a gross misdemeanor.

Sec. 16. Minnesota Statutes 1996, section 609.49, subdivision 1, is amended to read:

Subdivision 1. FELONY OFFENDERS. (a) A person charged with or convicted of a felony and released from custody, with or without bail or recognizance, on condition that the releasee personally appear when required with respect to the charge or conviction, who intentionally fails to appear when required after having been notified that a failure to appear for a court appearance is a criminal offense, is guilty of a crime for failure to appear 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, not more than one-half of the maximum term of imprisonment or fine, or both, provided for the underlying crime for which the person failed to appear, but this maximum sentence shall, in no case, be less than a term of imprisonment of one year and one day or a fine of \$1,500, or both.

(b) A felony charge under this subdivision may be filed upon the person's nonappearance. However, the charge must be dismissed if the person who fails to appear voluntarily surrenders within 48 hours after the time required for appearance. This paragraph does not apply if the offender appears as a result of being apprehended by law enforcement authorities.

Sec. 17. Minnesota Statutes 1996, section 609.50, subdivision 2, is amended to read:

Subd. 2. PENALTY. A person convicted of violating subdivision 1 may be sentenced as follows:

(1) if (i) the act was committed with knowledge that it person knew or had reason to know that the act created a risk of death, substantial bodily harm, or serious property damage; or (ii) the act caused death, substantial bodily harm, or serious property dam-

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age; or if (iii) the act involved the intentional disarming of a peace officer by taking or attempting to take the officer's firearm from the officer's possession without the officer's consent; to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both;

(2) if the act was accompanied by force or violence or the threat thereof, and is not otherwise covered by clause (1), to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both; or

(3) in other cases, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both.

Sec. 18. Minnesota Statutes 1997 Supplement, section 609.52, subdivision 3, is amended to read:

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

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

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

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

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

(b) the property stolen was a controlled substance listed in schedule III, IV, or V pursuant to section 152.02; or

(c) the value of the property or services stolen is more than \$200 but not more than \$500 and the person has been convicted within the preceding five years for an offense under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state, the United States, or a foreign jurisdiction, in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

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

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

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

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

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

(v) the property stolen is a motor vehicle; or

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

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

Sec. 19. [609.5631] ARSON IN THE FOURTH DEGREE.

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

(b) "Multiple unit residential building" means a building containing two or more apartments.

(c) "Public building" means a building such as a hotel, hospital, motel, dormitory, sanitarium, nursing home, theater, stadium, gymnasium, amusement park building, school or other building used for educational purposes, museum, restaurant, bar, correctional institution, place of worship, or other building of public assembly.

Subd. 2. CRIME DESCRIBED. Whoever intentionally by means of fire or explosives sets fire to or burns or causes to be burned any real or personal property in a multiple unit residential building or public building 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. [609.5632] ARSON IN THE FIFTH DEGREE.

Whoever intentionally by means of fire or explosives sets fire to or burns or causes to be burned any real or personal property of value is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both.

Sec. 21. Minnesota Statutes 1996, section 609.582, is amended to read:

609.582 BURGLARY.

Subdivision 1. BURGLARY IN THE FIRST DEGREE. Whoever enters a building without consent and with intent to commit a crime, or enters a building without con-

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sent and commits a crime while in the building, either directly or as an accomplice, commits burglary in the first degree and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$35,000, or both, if:

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

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

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

Subd. 1a. **MANDATORY MINIMUM SENTENCE FOR BURGLARY OF OCCUPIED DWELLING.** A person convicted of committing burglary of an occupied dwelling, as defined in subdivision 1, clause (a), must be committed to the commissioner of corrections or county workhouse for not less than six months.

Subd. 2. **BURGLARY IN THE SECOND DEGREE.** Whoever enters a building without consent and with intent to commit a crime, or enters a building without consent and commits a crime while in the building, either directly or as an accomplice, commits burglary in the second degree and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if:

(a) the building is a dwelling;

(b) the portion of the building entered contains a banking business or other business of receiving securities or other valuable papers for deposit or safekeeping and the entry is with force or threat of force;

(c) the portion of the building entered contains a pharmacy or other lawful business or practice in which controlled substances are routinely held or stored, and the entry is forcible; or

(d) when entering or while in the building, the burglar possesses a tool to gain access to money or property.

Subd. 3. **BURGLARY IN THE THIRD DEGREE.** Whoever enters a building without consent and with intent to steal or commit any felony or gross misdemeanor while in the building, or enters a building without consent and steals or commits a felony or gross misdemeanor while in the building, either directly or as an accomplice, commits burglary in the third degree and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 4. **BURGLARY IN THE FOURTH DEGREE.** Whoever enters a building without consent and with intent to commit a misdemeanor other than to steal, or enters a building without consent and commits a misdemeanor other than to steal while in the building, either directly or as an accomplice, commits burglary in the fourth degree 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. 22. Minnesota Statutes 1996, section 609.66, subdivision 1e, is amended to read:

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Subd. 1e. **FELONY; DRIVE-BY SHOOTING.** (a) Whoever, while in or having just exited from a motor vehicle, recklessly discharges a firearm at or toward a person, another motor vehicle, or a building is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$6,000, or both. If the vehicle or building is occupied, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) Any person who violates this subdivision by firing at or toward a person, or an occupied building or motor vehicle, may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(c) For purposes of this subdivision, "motor vehicle" has the meaning given in section 609.52, subdivision 1, and "building" has the meaning given in section 609.581, subdivision 2.

Sec. 23. Minnesota Statutes 1997 Supplement, section 609.749, subdivision 2, is amended to read:

Subd. 2. **HARASSMENT AND STALKING CRIMES.** (a) A person who harasses another by committing any of the following acts is guilty of a gross misdemeanor:

(1) directly or indirectly manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;

(2) stalks, follows, or pursues another;

(3) returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;

(4) repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;

(5) makes or causes the telephone of another repeatedly or continuously to ring;

(6) repeatedly mails or delivers or causes the delivery of letters, telegrams, messages, packages, or other objects; or

(7) engages in any other harassing conduct that interferes with another person or intrudes on the person's privacy or liberty knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.

(b) The conduct described in paragraph (a), clauses (4) and (5), may be prosecuted at the place where any call is either made or received. The conduct described in paragraph (a), clause (6), may be prosecuted where any letter, telegram, message, package, or other object is either sent or received.

(c) A peace officer may not make a warrantless, custodial arrest of any person for a violation of paragraph (a), clause (7).

Sec. 24. Minnesota Statutes 1996, section 609.749, subdivision 3, is amended to read:

Subd. 3. **AGGRAVATED VIOLATIONS.** A person who commits any of the following acts is guilty of a felony:

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(1) commits any offense described in subdivision 2 because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363.01, age, or national origin;

(2) commits any offense described in subdivision 2 by falsely impersonating another;

(3) commits any offense described in subdivision 2 and possesses a dangerous weapon at the time of the offense;

(4) commits a violation of engages in harassing conduct, as defined in subdivision 1, with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(5) commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim.

Sec. 25. [611A.775] RESTORATIVE JUSTICE PROGRAMS.

A community-based organization, in collaboration with a local governmental unit, may establish a restorative justice program. A restorative justice program is a program that provides forums where certain individuals charged with or petitioned for having committed an offense meet with the victim, if appropriate; 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; other criminal justice system professionals when appropriate; and members of the community, in order to:

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

(2) provide support to the victim and methods for reintegrating the victim into community life;

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

(4) provide methods for reintegrating the offender into community life.

Sec. 26. Minnesota Statutes 1997 Supplement, 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;

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

(6) soliciting, inducing, or promoting, or receiving profit derived from 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) (8) criminal sexual conduct in the second degree under section 609.343;

(10) (9) criminal sexual conduct in the third degree under section 609.344, subdivision 1, paragraph (c), (f), or (g);

(11) (10) solicitation of a child to engage in sexual conduct under section 609.352;

(12) (11) incest under section 609.365;

(13) (12) malicious punishment of a child under section 609.377;

(14) (13) neglect of a child under section 609.378;

(15) (14) terroristic threats under section 609.713; or

(16) (15) felony harassment or stalking under section 609.749.

Sec. 27. Laws 1997, chapter 239, article 3, section 26, is amended to read:

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, even if the crime was committed before that date. Section 24 is effective July 1, 1997.

Sec. 28. AMENDMENT TO SENTENCING GUIDELINES.

Pursuant to Laws 1997, chapter 96, section 11, the proposed comment contained on page 19 of the January 1998 Minnesota sentencing guidelines commission's report to the legislature shall take effect on August 1, 1998.

Sec. 29. CRIME REPORTS BY MINNEAPOLIS, HENNEPIN COUNTY, AND THE HENNEPIN COUNTY DISTRICT COURT REQUIRED.

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

(1) "crime" refers to any misdemeanor, gross misdemeanor, enhanced gross misdemeanor, or felony offense;

(2) "neighborhood" means:

(i) a neighborhood as defined for the purposes of the neighborhood revitalization program under section 469.1831, if applicable; or

(ii) a planning district as identified and mapped for city district planning purposes;

(3) "reporting period" means the period from July 1, 1998, to December 31, 1998;

(4) "types of cases" refers to a categorization of persons arrested or cited for, charged with, or prosecuted for any crime including, but not limited to, the following:

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murder, criminal sexual conduct, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, arson, domestic assault, other assaults, prostitution, narcotic controlled substance law violations, vandalism, other property violations, weapons offenses, disorderly conduct, and DWI, provided that a person being arrested for multiple offenses must be categorized by the most serious offense; and

(5) "types of crime" refers to a categorization of crimes into the eight part I offense categories and twenty part II offense categories listed in the uniform crime report published annually by the federal bureau of investigation.

Subd. 2. INFORMATION REQUIRED. (a) Minneapolis shall collect and maintain the following information on crimes and criminal cases occurring within the city:

- (1) the number and types of crimes reported to local law enforcement agencies;
- (2) the number of individuals arrested for crimes by local law enforcement agencies;
- (3) the number of tab charges and citations issued for crimes by local law enforcement agencies;
- (4) the number and types of crimes cleared by arrest, citation or tab charge;
- (5) the number and types of cases that are referred to the city attorney for review or prosecution;
- (6) the number and types of cases that result in the issuance of a criminal complaint by the city attorney; and
- (7) the number and types of cases that the city attorney: (i) dropped, declined, or denied; or (ii) diverted pretrial.

The city attorney shall also note the full-time equivalent number of attorneys, and the number of cases, by assignment area for the reporting period.

(b) Hennepin county shall collect and maintain the following information for criminal cases relating to crimes occurring within Minneapolis:

- (1) the number and types of cases that are referred to the county attorney for review or prosecution;
- (2) the number and types of cases that result in the issuance of a complaint or indictment; and
- (3) the number and types of cases that the county attorney: (i) dropped, declined, or denied; or (ii) diverted pretrial in accordance with Minnesota Statutes, section 401.065 or 388.24;

The county also shall determine the date by which it came, or expects to come, into compliance with Minnesota Statutes, section 299C.115, regarding warrant information to be provided electronically statewide.

(c) The Hennepin county district court shall collect and maintain for cases occurring within Minneapolis:

- (1) the disposition of cases filed with the court, including the number and types of cases resulting in dismissal, continuance for dismissal, pretrial diversion, guilty plea,

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finding of guilt following trial, stay of adjudication or imposition, or verdict of acquittal; and

(2) the number and types of cases that are referred to the violations bureau.

(d) Minneapolis, Hennepin county, and the Hennepin county district court shall jointly determine:

(i) the date by which they had, or plan to have, an integrated criminal justice information system capable of regular and full public reporting on the occurrence and handling of crime and criminal cases; and

(ii) the actual or projected cost of such a system.

Subd. 3. **REPORTS.** Minneapolis, Hennepin county, and the Hennepin county district court shall publish by February 1, 1999 a report describing the information required to be collected under subdivision 2 for the reporting period. If practicable, the information reported must be stratified by neighborhood within Minneapolis. The report must be submitted to the chairs and ranking minority members of the house and senate committees and divisions having jurisdiction over criminal justice policy and funding.

Sec. 30. STUDY OF CERTAIN PROSTITUTION CASES.

Subdivision 1. **DEFINITION.** As used in this section, "prostitution crime" means a violation of Minnesota Statutes, section 609.324.

Subd. 2. **COLLECTION OF INFORMATION.** The offices of the Hennepin and Ramsey county attorneys and sheriffs and the offices of the Minneapolis and St. Paul city attorneys and police departments shall collect information on the investigation and prosecution of prostitution crimes committed within their respective jurisdictions during calendar year 1997. The information collected shall include data on the neighborhood where the offense allegedly was committed and the city where the perpetrator resides; the number of police calls or complaints concerning prostitution crimes; the number of arrests made or citations issued for prostitution crimes; the age, race, and gender of the individuals arrested; the types of charges filed in these cases, if any; when the charge is a violation of Minnesota Statutes, section 609.324; whether the person charged was acting as a patron or prostitute; and the disposition of the cases in which prosecutions were initiated, including the amount of any fine or penalty assessment imposed and whether the offender participated in any restorative justice or alternative sentencing measure.

Subd. 3. **LEGISLATIVE REPORT.** The prosecuting authorities specified in subdivision 2 shall cooperate in compiling a report containing the information required to be collected under subdivision 2 and shall submit the report by December 15, 1998, to the chairs of the senate crime prevention committee and the house judiciary committee.

Sec. 31. PENALTY ASSESSMENTS FOR PROSTITUTION CRIMES; REPORT.

(a) On or before December 15, 1998, the commissioner of corrections shall submit a report to the chairs of the senate crime prevention committee and the house judiciary committee concerning the use of money appropriated to the commissioner from the penalty assessment authorized by Minnesota Statutes, section 609.3241. The report shall provide information on the amount of money appropriated to the commissioner from this

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source since fiscal year 1995, and the ways in which the money has been used to assist individuals who have stopped or wished to stop engaging in prostitution.

(b) On or before December 15, 1998, the supreme court is requested to report to the chairs of the senate crime prevention committee and the house judiciary committee concerning the use of money collected since fiscal year 1995 from penalty assessments under Minnesota Statutes, section 609.3241, and used for the purposes described in Minnesota Statutes, section 626.558, subdivision 2.

Sec. 32. REVISOR'S INSTRUCTION.

The revisor shall delete all cross-references to Minnesota Statutes, section 609.323, wherever they appear in the next edition of Minnesota Statutes.

Sec. 33. REPEALER.

Minnesota Statutes 1996, sections 609.321, subdivisions 3 and 6; 609.322, subdivisions 2 and 3; 609.323; and 609.563, subdivision 2, are repealed.

Sec. 34. EFFECTIVE DATE.

Sections 4 and 22 are effective January 1, 1999, and apply to crimes committed on or after that date. Section 9 is effective June 1, 1998, and applies to crimes committed on or after that date. Section 27 is effective the day following final enactment. Section 29 applies to the city of Minneapolis upon its acceptance by the Minneapolis city council pursuant to Minnesota Statutes, section 645.021, and applies to Hennepin county upon its acceptance by the Hennepin county board pursuant to Minnesota Statutes, section 645.021. Sections 1 to 3, 5 to 8, 10 to 24, 26, 32, and 33 are effective August 1, 1998, and apply to crimes committed on or after that date.

ARTICLE 3

SEX OFFENDERS

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

Subdivision 1. **REGISTRATION REQUIRED.** (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:

(i) murder under section 609.185, clause (2); or

(ii) kidnapping under section 609.25, involving a minor victim; or

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; ~~or~~ 609.345; or 609.3451, subdivision 3; or

(iv) indecent exposure under section 617.23, subdivision 3; or

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(2) the person was charged with or petitioned for falsely imprisoning a minor in violation of section 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of section 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of section 609.352; using a minor in a sexual performance in violation of section 617.246; or possessing pictorial representations of minors in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances; or

(3) the person was convicted of a predatory crime as defined in section 609.1352, and the offender was sentenced as a patterned sex offender or the court found on its own motion or that of the prosecutor that the crime was part of a predatory pattern of behavior that had criminal sexual conduct as its goal; or

(4) the person was convicted of or adjudicated delinquent for violating a law of the United States similar to the offenses described in clause (1), (2), or (3).

(b) A person also shall register under this section if:

(1) the person was convicted of or adjudicated delinquent in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;

(2) the person enters and remains in this state for 30 days or longer the state as required in subdivision 3, paragraph (b); and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration.

(c) A person also shall register under this section if the person was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, regardless of whether the person was convicted of any offense.

Sec. 2. Minnesota Statutes 1997 Supplement, 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. Registration information on adults and juveniles may be maintained together notwithstanding section 260.161, subdivision 3,

(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.

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(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. 3. Minnesota Statutes 1996, section 243.166, subdivision 5, is amended to read:

Subd. 5. **CRIMINAL PENALTY.** A person required to register under this section who knowingly violates any of its provisions or intentionally provides false information to a corrections agent, law enforcement authority, or the bureau of criminal apprehension is guilty of a gross misdemeanor. A person convicted of or adjudicated delinquent for violating this section who previously has been convicted under this section is guilty of a felony. A violation of this section may be prosecuted either where the person resides or where the person was last assigned to a Minnesota corrections agent.

Sec. 4. Minnesota Statutes 1996, section 244.05, subdivision 7, is amended to read:

Subd. 7. **SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.** Before the commissioner releases from prison any inmate convicted under sections 609.342 to 609.345 or sentenced as a patterned offender under section 609.1352, and determined by the commissioner to be in a high risk category, the commissioner shall make a preliminary determination whether, in the commissioner's opinion, a petition under section 253B.185 may be appropriate. If the commissioner determines that a petition may be appropriate, the commissioner shall forward this determination, along with a summary of the reasons for the determination, to the county attorney in the county where the inmate was convicted no later than ~~six~~ 12 months before the inmate's release date. If the inmate is received for incarceration with fewer than 12 months remaining in the inmate's term of imprisonment, or if the commissioner receives additional information less than 12 months before release which makes the inmate's case appropriate for referral, the commissioner shall forward the determination as soon as is practicable. Upon receiving the commissioner's preliminary determination, the county attorney shall proceed in the manner provided in section 253B.185. The commissioner shall release to the county attorney all requested documentation maintained by the department.

Sec. 5. Minnesota Statutes 1996, section 609.341, subdivision 11, is amended to read:

Subd. 11. (a) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a) to (e), and (h) to (l), includes any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

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

New language is indicated by underline, deletions by strikeout.

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

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

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

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

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

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

(c) "Sexual contact with a person under 13" means the intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

Sec. 6. Minnesota Statutes 1996, section 609.341, subdivision 12, is amended to read:

Subd. 12. "Sexual penetration" means any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, whether or not emission of semen occurs:

(1) sexual intercourse, cunnilingus, fellatio, or anal intercourse; or

(2) any intrusion however slight into the genital or anal openings:

(i) of the complainant's body by any part of the actor's body or any object used by the actor for this purpose;

(ii) of the complainant's body by any part of the body of the complainant, by any part of the body of another person, or by any object used by the complainant or another person for this purpose, when effected by a person in a position of authority, or by coercion ~~or the use of a position of authority~~, or by inducement if the child is under 13 years of age or mentally impaired; or

(iii) of the body of the actor or another person by any part of the body of the complainant or by any object used by the complainant for this purpose, when effected by a person in a position of authority, or by coercion ~~or the use of a position of authority~~, or by inducement if the child is under 13 years of age or mentally impaired.

Sec. 7. Minnesota Statutes 1996, section 609.342, subdivision 1, is amended to read:

Subdivision 1. **CRIME DEFINED.** A person who engages in sexual penetration with another person, or in sexual contact with a person under 13 years of age as defined in section 609.341, subdivision 11, paragraph (c), is guilty of criminal sexual conduct in the first degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

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

(b) the complainant is at least 13 years of age but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant, ~~and uses this authority to cause the complainant to submit.~~ Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish sexual penetration; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Sec. 8. Minnesota Statutes 1996, section 609.343, subdivision 1, is amended to read:

Subdivision 1. **CRIME DEFINED.** A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the second degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

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

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant, ~~and uses this authority to cause the complainant to submit.~~ Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the dangerous weapon to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish the sexual contact; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Sec. 9. Minnesota Statutes 1996, section 609.344, subdivision 1, is amended to read:

Subdivision 1. **CRIME DEFINED.** A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

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

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant. In any such case it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor believes the complainant to be 16 years of age or older. If the actor in such a case is no more than 48 months but more than 24 months older than the complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant, and uses this authority to cause or induce the complainant to submit. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense; or

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

(1) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private.

Consent by the complainant is not a defense.

Sec. 10. Minnesota Statutes 1996, section 609.345, subdivision 1, is amended to read:

Subdivision 1. **CRIME DEFINED.** A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant and uses this authority to cause the complainant to submit. Consent by the complainant to the act is not a defense. In any such case, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor believes the complainant to be 16 years of age or older;

(c) the actor uses force or coercion to accomplish the sexual contact;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant, and uses this authority to cause or induce the complainant to submit. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

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

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose. Consent by the complainant is not a defense; or

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private.

Consent by the complainant is not a defense.

Sec. 11. Minnesota Statutes 1996, section 609.3451, subdivision 3, is amended to read:

Subd. 3. **FELONY.** A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person violates subdivision 1, clause (2), after having been previously convicted of or adjudicated delinquent for violating subdivision 1, clause (2); section 617.23, ~~paragraph (b)~~ subdivision 2, clause (1); or a statute from another state in conformity with subdivision 1, clause (2), or section 617.23, ~~paragraph (b)~~ subdivision 2, clause (1).

Sec. 12. Minnesota Statutes 1996, section 609.3461, subdivision 1, is amended to read:

Subdivision 1. **UPON SENTENCING.** The court shall order an offender to provide a biological specimen for the purpose of DNA analysis as defined in section 299C.155 when:

(1) the court sentences a person charged with violating or attempting to violate section 609.185, clause (2), 609.342, 609.343, 609.344, or 609.345, or 617.23, subdivision

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3, clause (2), who is convicted of violating one of those sections or of any offense arising out of the same set of circumstances;

(2) the court sentences a person as a patterned sex offender under section 609.1352; or

(3) the juvenile court adjudicates a person a delinquent child who is the subject of a delinquency petition for violating or attempting to violate section 609.185, clause (2), 609.342, 609.343, 609.344, or 609.345, or 617.23, subdivision 3, clause (2), and the delinquency adjudication is based on a violation of one of those sections or of any offense arising out of the same set of circumstances. The biological specimen or the results of the analysis shall be maintained by the bureau of criminal apprehension as provided in section 299C.155.

Sec. 13. Minnesota Statutes 1996, section 609.3461, subdivision 2, is amended to read:

Subd. 2. **BEFORE RELEASE.** If a person convicted of violating or attempting to violate section 609.185, clause (2), 609.342, 609.343, 609.344, or 609.345, or 617.23, subdivision 3, clause (2), or initially charged with violating one of those sections and convicted of another offense arising out of the same set of circumstances, or sentenced as a patterned sex offender under section 609.1352, and committed to the custody of the commissioner of corrections, or serving a term of imprisonment in this state under a reciprocal agreement although convicted in another state of an offense described in this subdivision or a similar law of the United States or any other state, has not provided a biological specimen for the purpose of DNA analysis, the commissioner of corrections or local corrections authority shall order the person to provide a biological specimen for the purpose of DNA analysis before completion of the person's term of imprisonment. The commissioner of corrections or local corrections authority shall forward the sample to the bureau of criminal apprehension.

Sec. 14. Minnesota Statutes 1996, section 617.23, is amended to read:

617.23 INDECENT EXPOSURE; PENALTIES.

(a) Subdivision 1. MISDEMEANOR. A person is guilty of a misdemeanor who commits any of the following acts in any public place, or in any place where others are present, is guilty of a misdemeanor:

- (1) willfully and lewdly exposes the person's body, or the private parts thereof;
- (2) procures another to expose private parts; or
- (3) engages in any open or gross lewdness or lascivious behavior, or any public indecency other than behavior specified in ~~clause (1) or (2)~~ or this clause subdivision.

(b) Subd. 2. GROSS MISDEMEANOR. A person who commits any of the following acts is guilty of a gross misdemeanor if:

(1) the person violates ~~this section~~ subdivision 1 in the presence of a minor under the age of 16; or

(2) the person violates ~~this section~~ subdivision 1 after having been previously convicted of violating ~~this section~~ subdivision 1, sections 609.342 to 609.3451, or a statute from another state in conformity with any of those sections.

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

(e) Subd. 3. FELONY. A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(1) the person violates ~~paragraph (b)~~ subdivision 2, clause (1), after having been previously convicted of or adjudicated delinquent for violating ~~paragraph (b)~~ subdivision 2, clause (1); section 609.3451, subdivision 1, clause (2); or a statute from another state in conformity with ~~paragraph (b)~~ subdivision 2, clause (1), or section 609.3451, subdivision 1, clause (2); or

(2) the person commits a violation of subdivision 1, clause (1), in the presence of another person while intentionally confining that person or otherwise intentionally restricting that person's freedom to move.

Sec. 15. **STUDY ON SEXUALLY DANGEROUS PERSONS/PERSONS WITH SEXUAL PSYCHOPATHIC PERSONALITIES.**

(a) The commissioner of corrections, in cooperation with the commissioner of human services, shall study and make recommendations on issues involving sexually dangerous persons and persons with sexual psychopathic personalities. The study must examine the current system of treatment, commitment, and confinement of these individuals; financial costs associated with the current system; and the advantages and disadvantages of alternatives to the current system, including indeterminate criminal sentencing and changes to the patterned sex offender sentencing law. In addition, the study must examine how other states have responded to these individuals.

(b) By December 15, 1998, the commissioner shall report on the results of the study to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding. The report must include recommendations on alternative methods of addressing sexually dangerous persons and persons with sexual psychopathic personalities within constitutional limits and while balancing the need for public safety, ensuring that these individuals are treated humanely and fairly, and financial prudence.

Sec. 16. **EFFECTIVE DATES.**

Sections 1 to 3 are effective July 1, 1998, and apply to persons who are released from prison on or after that date, or who are under supervision as of that date, or who enter this state on or after that date. Sections 5 to 11, and 14 are effective August 1, 1998, and apply to crimes committed on or after that date. Sections 12 and 13 are effective July 1, 1998, and apply to persons sentenced or released from prison on or after that date.

ARTICLE 4

CONTROLLED SUBSTANCES

Section 1. Minnesota Statutes 1996, section 152.021, as amended by Laws 1997, chapter 239, article 4, sections 5 and 6, is amended to read:

152.021 **CONTROLLED SUBSTANCE CRIME IN THE FIRST DEGREE.**

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

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

(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, or methamphetamine;

(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, or methamphetamine;

(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, a public housing zone, or a drug treatment facility.

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, or methamphetamine;

(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, or methamphetamine;

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

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

Subd. 2a. **MANUFACTURE CRIMES.** Notwithstanding subdivision 1, sections 152.022, subdivision 1, 152.023, subdivision 1, and 152.024, subdivision 1, a person is guilty of controlled substance crime in the first degree if the person manufactures any amount of methamphetamine.

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

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

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

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

Sec. 2. Minnesota Statutes 1996, section 152.022, as amended by Laws 1997, chapter 239, article 4, sections 7 and 8, is amended to read:

152.022 CONTROLLED SUBSTANCE CRIME IN THE SECOND DEGREE.

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

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

(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, or methamphetamine;

(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, 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.

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, or methamphetamine;

(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, or methamphetamine;

(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.

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

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

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

Sec. 3. Minnesota Statutes 1997 Supplement, 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, or methamphetamine;

(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, or methamphetamine;

(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, 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, a public housing zone, or a drug treatment facility.

Sec. 4. Minnesota Statutes 1996, section 152.0261, is amended by adding a subdivision to read:

Subd. 1a. **USE OF PERSON UNDER 18 TO IMPORT.** A person who conspires with or employs a person under the age of 18 to cross a state or international border into Minnesota while that person or the person under the age of 18 is in possession of an amount of a controlled substance that constitutes a controlled substance crime under sections 152.021 to 152.025, with the intent to obstruct the criminal justice process, is guilty of importing controlled substances and may be sentenced as provided in subdivision 3.

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Sec. 5. Minnesota Statutes 1996, section 152.0261, subdivision 2, is amended to read:

Subd. 2. **JURISDICTION.** A violation of ~~subdivision 1~~ this section may be charged, indicted, and tried in any county, but not more than one county, into or through which the actor has brought the controlled substance.

Sec. 6. [152.135] RESTRICTIONS ON SALES, MARKETING, AND POSSESSION OF EPHEDRINE.

Subdivision 1. PRESCRIPTION STATUS FOR EPHEDRINE. Except as provided in this section, a material, compound, mixture, or preparation that contains any quantity of ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine, may be dispensed only upon the prescription of a duly licensed practitioner authorized by the laws of the state to prescribe prescription drugs.

Subd. 2. EXCEPTIONS. (a) A drug product containing ephedrine, its salts, optical isomers, and salts of optical isomers is exempt from subdivision 1 if the drug product:

(1) may be lawfully sold over the counter without a prescription under the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321, et seq.;

(2) is labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph;

(3) is manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse;

(4) is not marketed, advertised, or labeled for the indication of stimulation, mental alertness, weight loss, muscle enhancement, appetite control, or energy; and

(5) is in solid oral dosage forms, including soft gelatin caplets, that combine 400 milligrams of guaifenesin and 25 milligrams of ephedrine per dose, according to label instructions; or is an anorectal preparation containing not more than five percent ephedrine.

(b) Subdivisions 1 and 3 shall not apply to products containing ephedra or ma huang and lawfully marketed as dietary supplements under federal law.

Subd. 3. MISMARKETING OF EPHEDRINE PROHIBITED. The marketing, advertising, or labeling of a product containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine for the indication of stimulation, mental alertness, weight loss, appetite control, or energy, is prohibited. In determining compliance with this subdivision, the following factors may be considered:

(1) the packaging of the drug product;

(2) the name and labeling of the product;

(3) the manner of distribution, advertising, and promotion of the product;

(4) verbal representations made concerning the product; and

(5) the duration, scope, and significance of abuse or misuse of the product.

Subd. 4. POSSESSION FOR ILLICIT PURPOSES PROHIBITED. It is unlawful for a person to possess ephedrine, pseudoephedrine, or phenylpropanolamine or their

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salts, optical isomers, or salts of optical isomers with the intent to use the product as a precursor to an illegal substance.

Subd. 5. SALES FOR ILLICIT PURPOSES PROHIBITED. It is unlawful for a person to sell, distribute, or otherwise make available a product containing ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers if the person knows or reasonably should know that the product will be used as a precursor to an illegal substance.

Subd. 6. PENALTY. A person who violates this section is guilty of a misdemeanor.

Sec. 7. Laws 1997, chapter 239, article 4, section 15, is amended to read:

Sec. 15. **EFFECTIVE DATE.**

The provision of section 4 relating to the listing of Butorphanol in schedule IV is effective August 1, 1998, and applies to acts committed on or after that date. The provision of section 4 relating to the listing of Carisoprodol in schedule IV is effective August 1, 1999, 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.

Sec. 8. **EFFECTIVE DATE.**

Sections 1 to 3 are effective January 1, 1999, and apply to crimes committed on or after that date. Sections 4 to 7 are effective August 1, 1998, and apply to crimes committed on or after that date.

ARTICLE 5

DOMESTIC ABUSE

Section 1. Minnesota Statutes 1996, section 518B.01, subdivision 3a, is amended to read:

Subd. 3a. **FILING FEE.** The filing fees for an order for protection under this section are waived for the petitioner. The court administrator and, the sheriff of any county in this state, and other law enforcement and corrections officers 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 if served by a private process server when the sheriff or other law enforcement or corrections officer is unavailable or if service is made by publication, without requiring the petitioner to make application under section 563.01. The court may direct a respondent to pay to the court administrator the petitioner's filing fees and reasonable costs of service of process if the court determines that the respondent has the ability to pay the petitioner's fees and costs.

Sec. 2. Minnesota Statutes 1996, section 518B.01, subdivision 5, is amended to read:

Subd. 5. **HEARING ON APPLICATION; NOTICE.** (a) Upon receipt of the petition, the court shall order a hearing which shall be held not later than 14 days from the date

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of the order. If an ex parte order has been issued under subdivision 7 and a hearing requested, the time periods under subdivision 7 for holding a hearing apply. Personal service shall be made upon the respondent not less than five days prior to the hearing, if the hearing was requested by the petitioner. If the hearing was requested by the respondent after issuance of an ex parte order under subdivision 7, service of the notice of hearing must be made upon the petitioner not less than five days prior to the hearing. The court shall serve the notice of hearing upon the petitioner by mail in the manner provided in the rules of civil procedure for pleadings subsequent to a complaint and motions and shall also mail notice of the date and time of the hearing to the respondent. In the event that service cannot be completed in time to give the respondent or petitioner the minimum notice required under this paragraph, the court may set a new hearing date.

(b) Notwithstanding the provisions of paragraph (a), service on the respondent may be made by one week published notice, as provided under section 645.11, provided the petitioner files with the court an affidavit stating that an attempt at personal service made by a sheriff or other law enforcement or corrections officer was unsuccessful because the respondent is avoiding service by concealment or otherwise, and that a copy of the petition and notice of hearing has been mailed to the respondent at the respondent's residence or that the residence is not known to the petitioner. Service under this paragraph is complete seven days after publication. The court shall set a new hearing date if necessary to allow the respondent the five-day minimum notice required under paragraph (a).

Sec. 3. Minnesota Statutes 1996, section 518B.01, subdivision 6, is amended to read:

Subd. 6. **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) exclude the abusing party from a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order;
- (4) award temporary custody or establish temporary visitation with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. Except for cases in which custody is contested, findings under section 257.025, 518.17, or 518.175 are not required. If the court finds that the safety of the victim or the children will 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 shall in no way delay the issuance of an order for protection granting other reliefs provided for in this section;
- (5) on the same basis as is provided in 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 chapter 518;
- (6) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;

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(7) order the abusing party to participate in treatment or counseling services;

(8) 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 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;

(9) 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;

(10) order the abusing party to pay restitution to the petitioner;

(11) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation; and

(12) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or constable, or other law enforcement or corrections officer as provided by this section.

(b) Any relief granted by the order for protection shall be for a fixed period not to exceed one year, except when the court determines a longer fixed period is appropriate. When 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 shall 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 shall 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.

(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 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 civil judgment.

Sec. 4. Minnesota Statutes 1996, section 518B.01, is amended by adding a subdivision to read:

Subd. 9a. SERVICE BY OTHERS. Peace officers licensed by the state of Minnesota and corrections officers, including, but not limited to, probation officers, court services officers, parole officers, and employees of jails or correctional facilities, may serve an order for protection.

Sec. 5. Minnesota Statutes 1997 Supplement, section 518B.01, subdivision 14, is amended to read:

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

Subd. 14. **VIOLATION OF AN ORDER FOR PROTECTION.** (a) A person who violates an order for protection issued under this section by a judge or referee is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), whenever an order for protection is granted pursuant to this section by a judge or referee or pursuant to a similar law of another state, the District of Columbia, tribal lands, or United States territories, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor. Upon a misdemeanor conviction under this paragraph, 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 violation of an order for protection shall also constitute contempt of court and be subject to the penalties provided in chapter 588.

(c) A person is guilty of a gross misdemeanor who knowingly violates this subdivision during the time period between a previous conviction under this subdivision; 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, the District of Columbia, tribal lands, or United States territories; and the end of the five years following discharge from sentence for that conviction. Upon a gross misdemeanor conviction under this paragraph, 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.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person knowingly violates this subdivision:

(1) during the time period between the first of two or more previous convictions under this section or 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, the District of Columbia, tribal lands, or United States territories; and the end of the five years following discharge from sentence for that conviction; or

(2) while possessing a dangerous weapon, as defined in section 609.02, subdivision 6.

Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant 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 felony convictions.

(e) 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, the District of Columbia, tribal lands, or United States territories restraining the person or excluding the person from the resi-

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dence 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 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.

(f) 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.

(g) 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 District of Columbia, tribal lands, or United States territories, 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 (b), (c), or (d).

(h) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 or a similar law of another state, the District of Columbia, tribal lands, or United States territories, 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.

(i) 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 (e).

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(j) When a person is convicted under paragraph (b) or (c) of violating an order for protection and the court determines that the person used a firearm in any way 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.

(k) Except as otherwise provided in paragraph (j), when a person is convicted under paragraph (b) or (c) of violating an order for protection, 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.

(l) Except as otherwise provided in paragraph (j), a person is not entitled to possess a pistol if the person has been convicted under paragraph (b) or (c) after August 1, 1996, of violating an order for protection, 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.

(m) If the court determines that a person convicted under paragraph (b) or (c) of violating an order for protection 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. 6. Minnesota Statutes 1997 Supplement, section 609.2244, subdivision 1, is amended to read:

Subdivision 1. **INVESTIGATION.** A presentence domestic abuse investigation must be conducted and a report submitted to the court by the corrections agency responsible for 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; or

(3) a defendant is convicted of a violation against a family or household member of: (a) an order for protection under section 518B.01; (b) a harassment restraining order under section 609.748; (c) section 609.79, subdivision 1; or (d) section 609.713, subdivision 1.

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Sec. 7. Minnesota Statutes 1997 Supplement, section 609.2244, subdivision 4, is amended to read:

Subd. 4. **DOMESTIC ABUSE INVESTIGATION FEE.** When the court sentences a person convicted of an offense described in ~~section 518B.01, subdivision 2 1,~~ the court shall impose a domestic abuse 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 investigation.

Sec. 8. Minnesota Statutes 1996, section 609.748, subdivision 3, is amended to read:

Subd. 3. **CONTENTS OF PETITION; HEARING; NOTICE.** (a) A petition for relief must allege facts sufficient to show the following:

- (1) the name of the alleged harassment victim;
- (2) the name of the respondent; and
- (3) that the respondent has engaged in harassment.

The petition shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section and shall advise the petitioner of the right to sue in forma pauperis under section 563.01. Upon receipt of the petition, the court shall order a hearing, which must be held not later than 14 days from the date of the order. Personal service must be made upon the respondent not less than five days before the hearing. If personal service cannot be completed in time to give the respondent the minimum notice required under this paragraph, the court may set a new hearing date.

(b) Notwithstanding paragraph (a), the order for a hearing and a temporary order issued under subdivision 4 may be served on the respondent by means of a one-week published notice under section 645.11, if:

(1) the petitioner files an affidavit with the court stating that an attempt at personal service made by a sheriff was unsuccessful because the respondent is avoiding service by concealment or otherwise; and

(2) a copy of the petition and order for hearing and any temporary restraining order has been mailed to the respondent at the respondent's residence or place of business, if the respondent is an organization, or the respondent's residence or place of business is not known to the petitioner.

(c) Regardless of the method of service, if the respondent is a juvenile, whenever possible, the court also 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 juvenile respondent who is not the petitioner.

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Sec. 9. Minnesota Statutes 1996, section 609.748, subdivision 4, is amended to read:

Subd. 4. **TEMPORARY RESTRAINING ORDER.** (a) The court may issue a temporary restraining order ordering the respondent to cease or avoid the harassment of another person or to have no contact with that person if the petitioner files a petition in compliance with subdivision 3 and if the court finds reasonable grounds to believe that the respondent has engaged in harassment.

(b) Notice need not be given to the respondent before the court issues a temporary restraining order under this subdivision. A copy of the restraining order must be served on the respondent along with the order for hearing and petition, as provided in subdivision 3. If the respondent is a juvenile, whenever possible, a copy of the restraining order, along with notice of the pendency of the case and the time and place of the hearing, shall also be served by mail at the last known address upon any parent or guardian of the juvenile respondent who is not the petitioner. A temporary restraining order may be entered only against the respondent named in the petition.

(c) The temporary restraining order is in effect until a hearing is held on the issuance of a restraining order under subdivision 5. The court shall hold the hearing on the issuance of a restraining order within 14 days after the temporary restraining order is issued unless (1) the time period is extended upon written consent of the parties; or (2) the time period is extended by the court for one additional 14-day period upon a showing that the respondent has not been served with a copy of the temporary restraining order despite the exercise of due diligence or if service is made by published notice under subdivision 3 and the petitioner files the affidavit required under that subdivision.

Sec. 10. Minnesota Statutes 1996, section 634.20, is amended to read:

634.20 EVIDENCE OF PRIOR CONDUCT.

Evidence of similar prior conduct by the accused against the victim of domestic abuse, as defined under section 518B.01, subdivision 2, including evidence of a violation against a family or household member of:

- (1) an order for protection under section 518B.01;
- (2) section 609.713, subdivision 1;
- (3) a harassment restraining order under section 609.748; or
- (4) section 609.79, subdivision 1;

is admissible unless the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issue, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

Sec. 11. Laws 1997, chapter 239, article 10, section 1, is amended to read:

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~~ 2000. 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.

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Sec. 12. Laws 1997, chapter 239, article 10, section 19, is amended to read:

Sec. 19. VIOLATION OF AN ORDER FOR PROTECTION/MINOR RESPONDENT; PENALTIES.

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- 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/ minor respondent to the county attorney for possible prosecution under subdivision 1a, paragraph (b), (c), or (d), or if the respondent is an adult at the time of the alleged violation, to the appropriate prosecuting authority for possible prosecution under Minnesota Statutes, chapter 518B.

Subd. 1a. **PENALTIES.** (a) A person who violates an order for protection/ minor respondent issued under this section is subject to the penalties provided in paragraphs (b) to (d), except that if the respondent or person to be restrained is over the age of 18 at the time of the violation, Minnesota Statutes, section 518B.01, subdivision 14, shall apply. If the respondent is still a minor at the time of the violation, the laws relating to delinquency prosecution and disposition in juvenile court shall apply, consistent with this section and notwithstanding the provisions of Minnesota Statutes, section 260.015, subdivision 21.

(b) Except as otherwise provided in paragraphs (c) and (d), whenever an order for protection/ minor respondent is granted under 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/ minor respondent is a misdemeanor. Upon a misdemeanor adjudication of delinquency, the respondent must be ordered to participate in counseling or other appropriate programs selected by the court. A violation of an order for protection/ minor respondent shall also constitute contempt of court and be subject to the penalties provided in Minnesota Statutes, chapter 588.

(c) A person is guilty of a gross misdemeanor who knowingly violates this subdivision during the time period between a previous adjudication of delinquency under this subdivision; Minnesota Statutes, 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 adjudication of delinquency. Upon a gross misdemeanor adjudication of delinquency under this paragraph, the respondent must be ordered to participate in counseling or other appropriate programs selected by the court.

(d) A person is guilty of a felony if the person knowingly violates this subdivision:

(1) during the time period between the first of two or more previous adjudications of delinquency under this section or Minnesota Statutes, sections 609.221 to 609.224; 609.2242; 609.713, subdivision 1 or 3; 609.748, subdivision 6; 609.749; or a similar law

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of another state; and the end of the five years following discharge from sentence for that adjudication of delinquency; or

(2) while possessing a dangerous weapon, as defined in Minnesota Statutes, section 609.02, subdivision 6.

Upon a felony adjudication of delinquency under this paragraph, the court shall order, at a minimum, that the respondent participate in counseling or other appropriate programs selected by the court.

(e) 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 under this section, Minnesota Statutes, chapter 518B, 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 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. A peace officer is not liable under Minnesota Statutes, section 609.43, clause (1), for a failure to perform a duty required by this paragraph.

(f) If the court finds that the respondent has violated an order for protection/minor respondent 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.

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.

Subd. 4. POSSESSION OF FIREARM. (a) When a person is adjudicated delinquent under subdivision 1a, paragraph (b), (c), or (d), of violating an order for protection/minor respondent and the court determines that the person used a firearm in any way 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 adjudication of delinquency, the court shall inform the respondent

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whether and for how long the respondent 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 respondent does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that respondent.

(b) Except as otherwise provided in paragraph (a), when a person is adjudicated delinquent under subdivision 1a, paragraph (b), (c), or (d), of violating an order for protection/minor respondent, the court shall inform the respondent that the respondent is prohibited from possessing a pistol for three years from the date of adjudication of delinquency and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a respondent does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that respondent.

(c) Except as otherwise provided in paragraph (a), a person is not entitled to possess a pistol if the person has been adjudicated delinquent under subdivision 1a, paragraph (b), (c), or (d), of violating an order for protection/minor respondent, unless three years have elapsed from the date of adjudication of delinquency and, during that time, the person has not been adjudicated delinquent or convicted of any other violation of this section or Minnesota Statutes, chapter 518B. 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.

(d) If the court determines that a person adjudicated delinquent under subdivision 1a, paragraph (b), (c), or (d), of violating an order for protection/minor respondent 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 Minnesota Statutes, section 609.5316, subdivision 3.

Sec. 13. **EFFECTIVE DATE.**

Sections 8, 9, 11, and 12 are effective June 1, 1998, and apply to offenses committed on or after that date. The remaining sections in this article are effective August 1, 1998, and apply to offenses committed on or after that date.

ARTICLE 6

SENTENCING PROVISIONS

Section 1. Minnesota Statutes 1996, section 609.095, is amended to read:

609.095 **LIMITS OF SENTENCES.**

(a) The legislature has the exclusive authority to define crimes and offenses and the range of the sentences or punishments for their violation. No other or different sentence or punishment shall be imposed for the commission of a crime than is authorized by this chapter or other applicable law.

(b) Except as provided in section 152.18 or upon agreement of the parties, a court may not refuse to adjudicate the guilt of a defendant who tenders a guilty plea in accordance with Minnesota Rules of Criminal Procedure, rule 15, or who has been found guilty by a court or jury following a trial.

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(c) Paragraph (b) does not supersede Minnesota Rules of Criminal Procedure, rule 26.04.

Sec. 2. **LEGISLATIVE PURPOSE.**

Sections 3 to 7 recodify and clarify current laws relating to increased sentences for certain dangerous or repeat offenders in order to group them together near the beginning of the criminal code. This recodification aims to unify these various increased sentence provisions to facilitate their use and is not intended to result in any substantive change in the recodified sections.

Sec. 3. **[609.106] HEINOUS CRIMES.**

Subdivision 1. TERMS. (a) As used in this section, "heinous crime" means:

- (1) a violation or attempted violation of section 609.185 or 609.19;
- (2) a violation of section 609.195 or 609.221; or
- (3) a violation of section 609.342, 609.343, or 609.344, if the offense was committed with force or violence.

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

Subd. 2. LIFE WITHOUT RELEASE. The court shall sentence a person to life imprisonment without possibility of release under the following circumstances:

- (1) the person is convicted of first degree murder under section 609.185, clause (2) or (4); or
- (2) the person is convicted of first degree murder under section 609.185, clause (1), (3), (5), or (6), and the court determines on the record at the time of sentencing that the person has one or more previous convictions for a heinous crime.

Sec. 4. **[609.107] MANDATORY PENALTY FOR CERTAIN MURDERERS.**

When a person is convicted of violating section 609.19 or 609.195, the court shall sentence the person to the statutory maximum sentence for the offense if the person was previously convicted of a heinous crime as defined in section 609.106 and 15 years have not elapsed since the person was discharged from the sentence imposed for that conviction. The court may not stay the imposition or execution of the sentence, notwithstanding section 609.135.

Sec. 5. **[609.108] MANDATORY INCREASED SENTENCES FOR CERTAIN PATTERNED AND PREDATORY SEX OFFENDERS; NO PRIOR CONVICTION REQUIRED.**

Subdivision 1. MANDATORY INCREASED SENTENCE. (a) A court shall commit a person to the commissioner of corrections for a period of time that is not less than double the presumptive sentence under the sentencing guidelines and not more than

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the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, for a period of time that is equal to the statutory maximum, if:

(1) the court is imposing an executed sentence, based on a sentencing guidelines presumptive imprisonment sentence or a dispositional departure for aggravating circumstances or a mandatory minimum sentence, on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, or 609.345, or on a person convicted of committing or attempting to commit any other crime listed in subdivision 3 if it reasonably appears to the court that the crime was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal;

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

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

(b) The court shall consider imposing a sentence under this section whenever a person is convicted of violating section 609.342 or 609.343.

Subd. 2. INCREASED STATUTORY MAXIMUM. If the factfinder determines, at the time of the trial or the guilty plea, that a predatory offense was motivated by, committed in the course of, or committed in furtherance of sexual contact or penetration, as defined in section 609.341, and the court is imposing a sentence under subdivision 1, the statutory maximum imprisonment penalty for the offense is 40 years, notwithstanding the statutory maximum imprisonment penalty otherwise provided for the offense.

Subd. 3. PREDATORY CRIME. A predatory crime is a felony violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, or 609.582, subdivision 1.

Subd. 4. DANGER TO PUBLIC SAFETY. The court shall base its finding that the offender is a danger to public safety on any of the following factors:

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

(2) the offender previously committed or attempted to commit a predatory crime or a violation of section 609.224 or 609.2242, including:

(i) an offense committed as a juvenile that would have been a predatory crime or a violation of section 609.224 or 609.2242 if committed by an adult; or

(ii) a violation or attempted violation of a similar law of any other state or the United States; or

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(3) the offender planned or prepared for the crime prior to its commission.

Subd. 5. DEPARTURE FROM GUIDELINES. A sentence imposed under subdivision 1 is a departure from the sentencing guidelines.

Subd. 6. CONDITIONAL RELEASE. At the time of sentencing under subdivision 1, the court shall provide that after the offender has completed the sentence imposed, less any good time earned by an offender whose crime was committed before August 1, 1993, the commissioner of corrections shall place the offender on conditional release for the remainder of the statutory maximum period, or for ten years, whichever is longer.

The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. Before the offender is released, the commissioner shall notify the sentencing court, the prosecutor in the jurisdiction where the offender was sentenced, and the victim of the offender's crime, where available, of the terms of the offender's conditional release. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve all or a part of the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

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

Subd. 7. COMMISSIONER OF CORRECTIONS. The commissioner shall pay the cost of treatment of a person released under subdivision 6. This section does not require the commissioner to accept or retain an offender in a treatment program.

Sec. 6. [609.109] PRESUMPTIVE AND MANDATORY SENTENCES FOR REPEAT SEX OFFENDERS.

Subdivision 1. DEFINITION; CONVICTION OF OFFENSE. For purposes of this section, "offense" means a completed offense or an attempt to commit an offense.

Subd. 2. PRESUMPTIVE EXECUTED SENTENCE. Except as provided in subdivision 3 or 4, if a person is convicted under sections 609.342 to 609.345, within 15 years of a previous sex offense conviction, the court shall commit the defendant to the commissioner of corrections for not less than three years, nor more than the maximum sentence provided by law for the offense for which convicted, notwithstanding the provisions of sections 242.19, 243.05, 609.11, 609.12, and 609.135. The court may stay the execution of the sentence imposed under this subdivision only if it finds that a professional assessment indicates the offender is accepted by and can respond to treatment at a long-term inpatient program exclusively treating sex offenders and approved by the commissioner of corrections. If the court stays the execution of a sentence, it shall include the following as conditions of probation:

- (1) incarceration in a local jail or workhouse; and
- (2) a requirement that the offender successfully complete the treatment program and aftercare as directed by the court.

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Subd. 3. MANDATORY LIFE SENTENCE. (a) The court shall sentence a person to imprisonment for life, notwithstanding the statutory maximum sentence under section 609.342, if:

(1) the person has been indicted by a grand jury under this subdivision;

(2) the person is convicted under section 609.342; and

(3) the court determines on the record at the time of sentencing that any of the following circumstances exists:

(i) the person has previously been sentenced under section 609.1095;

(ii) the person has one previous sex offense conviction for a violation of section 609.342, 609.343, or 609.344 that occurred before August 1, 1989, for which the person was sentenced to prison in an upward durational departure from the sentencing guidelines that resulted in a sentence at least twice as long as the presumptive sentence; or

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

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

Subd. 4. MANDATORY 30-YEAR SENTENCE. (a) The court shall commit a person to the commissioner of corrections for not less than 30 years, notwithstanding the statutory maximum sentence under section 609.343, if:

(1) the person is convicted under section 609.342, subdivision 1, clause (c), (d), (e), or (f); or 609.343, subdivision 1, clause (c), (d), (e), or (f); and

(2) the court determines on the record at the time of sentencing that:

(i) the crime involved an aggravating factor that would provide grounds for an upward departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions; and

(ii) the person has a previous sex offense conviction under section 609.342, 609.343, or 609.344.

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

Subd. 5. PREVIOUS SEX OFFENSE CONVICTIONS. For the purposes of this section, a conviction is considered a previous sex offense conviction if the person was convicted of a sex offense before the commission of the present offense of conviction. A person has two previous sex offense convictions only if the person was convicted and sentenced for a sex offense committed after the person was earlier convicted and sentenced for a sex offense, both convictions preceded the commission of the present offense of conviction, and 15 years have not elapsed since the person was discharged from the sentence imposed for the second conviction. A "sex offense" is a violation of sections 609.342 to 609.345 or any similar statute of the United States, this state, or any other state.

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Subd. 6. MINIMUM DEPARTURE FOR SEX OFFENDERS. The court shall sentence a person to at least twice the presumptive sentence recommended by the sentencing guidelines if:

(1) the person is convicted under section 609.342, subdivision 1, clause (c), (d), (e), or (f); 609.343, subdivision 1, clause (c), (d), (e), or (f); or 609.344, subdivision 1, clause (c) or (d); and

(2) the court determines on the record at the time of sentencing that the crime involved an aggravating factor that would provide grounds for an upward departure under the sentencing guidelines.

Subd. 7. CONDITIONAL RELEASE OF SEX OFFENDERS. (a) Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court sentences a person to prison for a violation of section 609.342, 609.343, 609.344, or 609.345, the court shall provide that after the person has completed the sentence imposed, the commissioner of corrections shall place the person on conditional release. If the person was convicted for a violation of section 609.342, 609.343, 609.344, or 609.345, the person shall be placed on conditional release for five years, minus the time the person served on supervised release. If the person was convicted for a violation of one of those sections a second or subsequent time, or sentenced under subdivision 6 to a mandatory departure, the person shall be placed on conditional release for ten years, minus the time the person served on supervised release.

(b) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

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

(c) The commissioner shall pay the cost of treatment of a person released under this subdivision. This section does not require the commissioner to accept or retain an offender in a treatment program.

Sec. 7. [609.1095] INCREASED SENTENCES FOR CERTAIN DANGEROUS AND REPEAT FELONY OFFENDERS.

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

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

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

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(d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: section 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision 1e; 609.687; 609.855, subdivision 5; any provision of sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is punishable by a felony penalty; or any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more.

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

(1) the court determines on the record at the time of sentencing that the offender has two or more prior convictions for violent crimes; and

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

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

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

Subd. 3. MANDATORY SENTENCE FOR DANGEROUS OFFENDER WHO COMMITS A THIRD VIOLENT FELONY. (a) Unless a longer mandatory minimum sentence is otherwise required by law or the court imposes a longer aggravated durational departure under subdivision 2, a person who is convicted of a violent crime that is a felony must be committed to the commissioner of corrections for a mandatory sentence of at least the length of the presumptive sentence under the sentencing guidelines if the court determines on the record at the time of sentencing that the person has two or more prior felony convictions for violent crimes. The court shall impose and execute the prison sentence regardless of whether the guidelines presume an executed prison sentence.

Any person convicted and sentenced as required by this subdivision is not eligible for probation, parole, discharge, or work release, until that person has served the full term of imprisonment imposed by the court, notwithstanding sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

(b) For purposes of this subdivision, "violent crime" does not include a violation of section 152.023 or 152.024.

Subd. 4. INCREASED SENTENCE FOR OFFENDER WHO COMMITS A SIXTH FELONY. Whenever a person is convicted of a felony, and the judge is imposing

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an executed sentence based on a sentencing guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive sentence up to the statutory maximum sentence if the judge finds and specifies on the record that the offender has five or more prior felony convictions and that the present offense is a felony that was committed as part of a pattern of criminal conduct.

Sec. 8. Minnesota Statutes 1996, section 609.347, subdivision 1, is amended to read:

Subdivision 1. In a prosecution under sections 609.109 or 609.342 to ~~609.346~~ 609.3451, the testimony of a victim need not be corroborated.

Sec. 9. Minnesota Statutes 1996, section 609.347, subdivision 2, is amended to read:

Subd. 2. In a prosecution under sections 609.109 or 609.342 to ~~609.346~~ 609.3451, there is no need to show that the victim resisted the accused.

Sec. 10. Minnesota Statutes 1996, section 609.347, subdivision 3, is amended to read:

Subd. 3. In a prosecution under sections 609.109, 609.342 to ~~609.346~~ 609.3451, or 609.365, evidence of the victim's previous sexual conduct shall not be admitted nor shall any reference to such conduct be made in the presence of the jury, except by court order under the procedure provided in subdivision 4. The evidence can be admitted only if the probative value of the evidence is not substantially outweighed by its inflammatory or prejudicial nature and only in the circumstances set out in paragraphs (a) and (b). For the evidence to be admissible under paragraph (a), subsection (i), the judge must find by a preponderance of the evidence that the facts set out in the accused's offer of proof are true. For the evidence to be admissible under paragraph (a), subsection (ii) or paragraph (b), the judge must find that the evidence is sufficient to support a finding that the facts set out in the accused's offer of proof are true, as provided under Rule 901 of the Rules of Evidence.

(a) When consent of the victim is a defense in the case, the following evidence is admissible:

(i) evidence of the victim's previous sexual conduct tending to establish a common scheme or plan of similar sexual conduct under circumstances similar to the case at issue. In order to find a common scheme or plan, the judge must find that the victim made prior allegations of sexual assault which were fabricated; and

(ii) evidence of the victim's previous sexual conduct with the accused.

(b) When the prosecution's case includes evidence of semen, pregnancy, or disease at the time of the incident or, in the case of pregnancy, between the time of the incident and trial, evidence of specific instances of the victim's previous sexual conduct is admissible solely to show the source of the semen, pregnancy, or disease.

Sec. 11. Minnesota Statutes 1996, section 609.347, subdivision 5, is amended to read:

Subd. 5. In a prosecution under sections 609.109 or 609.342 to ~~609.346~~ 609.3451, the court shall not instruct the jury to the effect that:

(a) It may be inferred that a victim who has previously consented to sexual intercourse with persons other than the accused would be therefore more likely to consent to sexual intercourse again; or

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(b) The victim's previous or subsequent sexual conduct in and of itself may be considered in determining the credibility of the victim; or

(c) Criminal sexual conduct is a crime easily charged by a victim but very difficult to disprove by an accused because of the heinous nature of the crime; or

(d) The jury should scrutinize the testimony of the victim any more closely than it should scrutinize the testimony of any witness in any felony prosecution.

Sec. 12. Minnesota Statutes 1996, section 609.347, subdivision 6, is amended to read:

Subd. 6. (a) In a prosecution under sections 609.109 or 609.342 to 609.346 609.3451 involving a psychotherapist and patient, evidence of the patient's personal or medical history is not admissible except when:

(1) the accused requests a hearing at least three business days prior to trial and makes an offer of proof of the relevancy of the history; and

(2) the court finds that the history is relevant and that the probative value of the history outweighs its prejudicial value.

(b) The court shall allow the admission only of specific information or examples of conduct of the victim that are determined by the court to be relevant. The court's order shall detail the information or conduct that is admissible and no other evidence of the history may be introduced.

(c) Violation of the terms of the order is grounds for mistrial but does not prevent the retrial of the accused.

Sec. 13. Minnesota Statutes 1996, section 609.348, is amended to read:

609.348 MEDICAL PURPOSES; EXCLUSION.

Sections 609.109 and 609.342 to 609.346 609.3451 do not apply to sexual penetration or sexual contact when done for a bona fide medical purpose.

Sec. 14. Minnesota Statutes 1996, section 631.045, is amended to read:

631.045 EXCLUDING SPECTATORS FROM THE COURTROOM.

At the trial of a complaint or indictment for a violation of sections 609.109, 609.341 to 609.346 609.3451, or 617.246, subdivision 2, when a minor under 18 years of age is the person upon, with, or against whom the crime is alleged to have been committed, the judge may exclude the public from the courtroom during the victim's testimony or during all or part of the remainder of the trial upon a showing that closure is necessary to protect a witness or ensure fairness in the trial. The judge shall give the prosecutor, defendant and members of the public the opportunity to object to the closure before a closure order. The judge shall specify the reasons for closure in an order closing all or part of the trial. Upon closure the judge shall only admit persons who have a direct interest in the case.

Sec. 15. **REVISOR'S INSTRUCTION.**

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

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Column A	Column B	Column C
<u>171.3215, subd. 4</u>	<u>609.152</u>	<u>609.1095</u>
<u>241.67, subd. 3</u>	<u>609.1352</u>	<u>609.108</u>
<u>243.166, subd. 1</u>	<u>609.1352</u>	<u>609.108</u>
<u>244.04, subd. 1</u>	<u>609.1352</u>	<u>609.108</u>
<u>244.04, subd. 1</u>	<u>609.346</u>	<u>609.109</u>
<u>244.05, subd. 1</u>	<u>609.1352</u>	<u>609.108</u>
<u>244.05, subd. 3</u>	<u>609.1352</u>	<u>609.108</u>
<u>244.05, subd. 4</u>	<u>609.184</u>	<u>609.106</u>
<u>244.05, subd. 4</u>	<u>609.346</u>	<u>609.109</u>
<u>244.05, subd. 5</u>	<u>609.346</u>	<u>609.109</u>
<u>244.05, subd. 6</u>	<u>609.1352</u>	<u>609.108</u>
<u>244.05, subd. 7</u>	<u>609.1352</u>	<u>609.108</u>
<u>244.08, subd. 1</u>	<u>609.346</u>	<u>609.109</u>
<u>244.08, subd. 2</u>	<u>609.346</u>	<u>609.109</u>
<u>609.1351</u>	<u>609.1352</u>	<u>609.108</u>
<u>609.196</u>	<u>609.184</u>	<u>609.106</u>
<u>609.342, subd. 2</u>	<u>609.346</u>	<u>609.109</u>
<u>609.342, subd. 3</u>	<u>609.346</u>	<u>609.109</u>
<u>609.343, subd. 2</u>	<u>609.346</u>	<u>609.109</u>
<u>609.345, subd. 3</u>	<u>609.346</u>	<u>609.109</u>
<u>609.3461, subd. 1</u>	<u>609.1352</u>	<u>609.108</u>
<u>609.3461, subd. 2</u>	<u>609.1352</u>	<u>609.108</u>
<u>609.713, subd. 1</u>	<u>609.152</u>	<u>609.1095</u>
<u>611A.19, subd. 1</u>	<u>609.152</u>	<u>609.1095</u>

The revisor shall make any other cross-reference changes in the next edition of Minnesota Statutes that are necessary to implement the recodification of laws contained in sections 3 to 7 and 16, and if Minnesota Statutes, chapter 609, is further amended in the 1998 legislative session, the revisor shall codify the amendments in a manner consistent with this recodification.

Sec. 16. REPEALER.

Minnesota Statutes 1996, sections 609.1352; 609.152; 609.184; 609.196; and 609.346, are repealed.

Sec. 17. EFFECTIVE DATE.

Sections 1 to 16 are effective August 1, 1998.

ARTICLE 7

PRETRIAL AND CONDITIONAL RELEASE PROVISIONS

Section 1. Minnesota Statutes 1996, section 243.05, subdivision 1, is amended to read:

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

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

(b) (2) no inmate serving a life sentence for committing murder before May 1, 1980, who has been previously convicted of a felony or though not previously convicted of a felony is serving a life sentence for murder in the first degree committed in violation of clause (1) of section 609.185 shall be paroled without having served 25 years, less the diminution which would have been allowed for good conduct had the sentence been for 25 years;

(e) (3) any inmate sentenced prior to September 1, 1963, who would be eligible for parole had the inmate been sentenced after September 1, 1963, shall be eligible for parole; and

(d) (4) any new rule or policy or change of rule or policy adopted by the commissioner of corrections which has the effect of postponing eligibility for parole has prospective effect only and applies only with respect to persons committing offenses after the effective date of the new rule or policy or change.

(b) Upon being paroled and released, an inmate is and remains in the legal custody and under the control of the commissioner, subject at any time to be returned to a facility of the department of corrections established by law for the confinement or treatment of convicted persons and the parole rescinded by the commissioner.

(c) The written order of the commissioner of corrections, is sufficient authority for any peace officer, state correctional investigator, or state parole and probation agent to retake and place in actual custody any person on parole or supervised release, but, In addition, when it appears necessary in order to prevent escape or enforce discipline, any state parole and probation agent or state correctional investigator may, without order of warrant, when it appears necessary in order to prevent escape or enforce discipline, take and detain a parolee or person on supervised release or work release and bring the person to the commissioner for action.

(d) The written order of the commissioner of corrections is sufficient authority for any peace officer, state correctional investigator, or state parole and probation agent to retake and place in actual custody any person on probation under the supervision of the commissioner pursuant to section 609.135, but, Additionally, when it appears necessary in order to prevent escape or enforce discipline, any state parole and probation agent or state correctional investigator may, without an order, when it appears necessary in order to prevent escape or enforce discipline, retake and detain a probationer and bring the probationer before the court for further proceedings under section 609.14.

(e) The written order of the commissioner of corrections is sufficient authority for any peace officer, state correctional investigator, or state parole and probation agent to detain any person on pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release.

(f) Persons conditionally released, and those on probation under the supervision of the commissioner of corrections pursuant to section 609.135 may be placed within or out-

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side the boundaries of the state at the discretion of the commissioner of corrections or the court, and the limits fixed for these persons may be enlarged or reduced according to their conduct.

(g) Except as otherwise provided in subdivision 1b, in considering applications for conditional release or discharge, the commissioner is not required to hear oral argument from any attorney or other person not connected with an adult correctional facility of the department of corrections in favor of or against the parole or release of any inmates, but. The commissioner may institute inquiries by correspondence, taking testimony, or otherwise, as to the previous history, physical or mental condition, and character of the inmate, and, to that end shall have, has the authority to require the attendance of the chief executive officer of any state adult correctional facility and the production of the records of these facilities, and to compel the attendance of witnesses. The commissioner is authorized to administer oaths to witnesses for these purposes.

(h) Unless the district court directs otherwise, state parole and probation agents may require a person who is under the supervision of the commissioner of corrections to perform community work service for violating a condition of probation imposed by the court. Community work service may be imposed for the purpose of protecting the public, to aid the offender's rehabilitation, or both. Agents may impose up to eight hours of community work service for each violation and up to a total of 24 hours per offender per 12-month period, beginning with the date on which community work service is first imposed. The commissioner may authorize an additional 40 hours of community work services, for a total of 64 hours per offender per 12-month period, beginning with the date on which community work service is first imposed. At the time community work service is imposed, parole and probation agents are required to provide written notice to the offender that states:

- (1) the condition of probation that has been violated;
- (2) the number of hours of community work service imposed for the violation; and
- (3) the total number of hours of community work service imposed to date in the 12-month period.

An offender may challenge the imposition of community work service by filing a petition in district court. An offender must file the petition within five days of receiving written notice that community work service is being imposed. If the offender challenges the imposition of community work service, the state bears the burden of showing, by a preponderance of the evidence, that the imposition of community work service is reasonable under the circumstances.

Community work service includes sentencing to service.

Sec. 2. Minnesota Statutes 1997 Supplement, section 244.19, is amended by adding a subdivision to read:

Subd. 3a. INTERMEDIATE SANCTIONS. Unless the district court directs otherwise, county probation officers may require a person committed to the officer's care by the court to perform community work service for violating a condition of probation imposed by the court. Community work service may be imposed for the purpose of protecting the public, to aid the offender's rehabilitation, or both. County probation officers may impose up to eight hours of community work service for each violation and up to a

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total of 24 hours per offender per 12-month period, beginning with the date on which community work service is first imposed. The court services director may authorize an additional 40 hours of community work services, for a total of 64 hours per offender per 12-month period, beginning on the date on which community work service is first imposed. At the time community work service is imposed, county probation agents are required to provide written notice to the offender that states:

- (1) the condition of probation that has been violated;
- (2) the number of hours of community work service imposed for the violation; and
- (3) the total number of hours of community work service imposed to date in the 12-month period.

An offender may challenge the imposition of community work service by filing a petition in district court. An offender must file the petition within five days of receiving written notice that community work service is being imposed. If the offender challenges the imposition of community work service, the state bears the burden of showing, by a preponderance of the evidence, that the imposition of community work service is reasonable under the circumstances.

Community work service includes sentencing to service.

Sec. 3. [244.195] DETENTION AND RELEASE; PROBATIONERS, CONDITIONAL RELEASEES, AND PRETRIAL RELEASEES.

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

- (b) "Commissioner" means the commissioner of corrections.
- (c) "Conditional release" means parole, supervised release, conditional release as authorized by section 609.108, subdivision 6, or 609.109, subdivision 7, work release as authorized by sections 241.26, 244.065, and 631.425, probation, furlough, and any other authorized temporary release from a correctional facility.
- (d) "Court services director" means the director or designee of a county probation agency that is not organized under chapter 401.
- (e) "Detain" means to take into actual custody, including custody within a local correctional facility.
- (f) "Local correctional facility" has the meaning given in section 241.021, subdivision 1.
- (g) "Release" means to release from actual custody.

Subd. 2. DETENTION PENDING HEARING. When it appears necessary to enforce discipline or to prevent a person on conditional release from escaping or absconding from supervision, a court services director has the authority to issue a written order directing any peace officer in the county or any county probation officer serving the district and juvenile courts of the county to detain and bring the person before the court or the commissioner, whichever is appropriate, for disposition. This written order is sufficient authority for the peace officer or probation officer to detain the person for not more than 72 hours, excluding Saturdays, Sundays, and holidays, pending a hearing before the court or the commissioner.

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Subd. 3. RELEASE BEFORE HEARING. A court services director has the authority to issue a written order directing a county probation officer serving the district and juvenile courts of the county to release a person detained under subdivision 2 within 72 hours, excluding Saturdays, Sundays, and holidays, without an appearance before the court or the commissioner. This written order is sufficient authority for the county probation officer to release the detained person.

Subd. 4. DETENTION OF PRETRIAL RELEASEE. A court services director has the authority to issue a written order directing any peace officer in the county or any probation officer serving the district and juvenile courts of the county to detain any person on court-ordered pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release. A written order issued under this subdivision is sufficient authority for the peace officer or probation officer to detain the person.

Subd. 5. DETENTION BY STATE CORRECTIONAL INVESTIGATOR, OR BY PEACE OFFICER OR PROBATION OFFICER FROM OTHER COUNTY.

(a) A court services director has the authority to issue a written order directing any state correctional investigator or any peace officer, probation officer, or county probation officer from another county to detain a person under sentence or on probation who:

- (1) fails to report to serve a sentence at a local correctional facility;
- (2) fails to return from furlough or authorized temporary release from a local correctional facility;
- (3) escapes from a local correctional facility; or
- (4) absconds from court-ordered home detention.

(b) A court services director has the authority to issue a written order directing any state correctional investigator or any peace officer, probation officer, or county probation officer from another county to detain any person on court-ordered pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release.

(c) A written order issued under paragraph (a) or (b) is sufficient authority for the state correctional investigator, peace officer, probation officer, or county probation officer to detain the person.

Sec. 4. Minnesota Statutes 1996, section 299C.06, is amended to read:

299C.06 DIVISION POWERS AND DUTIES; LOCAL OFFICERS TO COOPERATE.

It shall be the duty of all sheriffs, chiefs of police, city marshals, constables, prison wardens, superintendents of insane hospitals, reformatories and correctional schools, probation and parole officers, school attendance officers, coroners, county attorneys, court clerks, the commissioner of public safety, the commissioner of transportation, and the state fire marshal to furnish to the division statistics and information regarding the number of crimes reported and discovered, arrests made, complaints, informations, and indictments, filed and the disposition made of same, pleas, convictions, acquittals, probations granted or denied, conditional release information, receipts, transfers, and discharges to and from prisons, reformatories, correctional schools, and other institutions, paroles granted and revoked, commutation of sentences and pardons granted and re-

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scinded, and all other data useful in determining the cause and amount of crime in this state and to form a basis for the study of crime, police methods, court procedure, and penal problems. Such statistics and information shall be furnished upon the request of the division and upon such forms as may be prescribed and furnished by it. The division shall have the power to inspect and prescribe the form and substance of the records kept by those officials from which the information is so furnished.

Sec. 5. Minnesota Statutes 1996, section 299C.09, is amended to read:

299C.09 SYSTEM FOR IDENTIFICATION OF CRIMINALS; RECORDS AND INDEXES.

The bureau shall install systems for identification of criminals, including the fingerprint system, the modus operandi system, the conditional release data system, and such others as the superintendent deems proper. The bureau shall keep a complete record and index of all information received in convenient form for consultation and comparison. The bureau shall obtain from wherever procurable and file for record finger and thumb prints, measurements, photographs, plates, outline pictures, descriptions, modus operandi statements, conditional release information, or such other information as the superintendent considers necessary, of persons who have been or shall hereafter be convicted of a felony, gross misdemeanor, or an attempt to commit a felony or gross misdemeanor, within the state, or who are known to be habitual criminals. To the extent that the superintendent may determine it to be necessary, the bureau shall obtain like information concerning persons convicted of a crime under the laws of another state or government, the central repository of this records system is the bureau of criminal apprehension in St. Paul.

Sec. 6. [299C.147] CONDITIONAL RELEASE DATA SYSTEM.

Subdivision 1. DEFINITION. As used in this section, "conditional release" means probation, conditional release, and supervised release.

Subd. 2. ESTABLISHMENT. The bureau shall administer and maintain a computerized data system for the purpose of assisting criminal justice agencies in monitoring and enforcing the conditions of conditional release imposed on criminal offenders by a sentencing court or the commissioner of corrections. 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, and to criminal justice agencies in other states in the conduct of their official duties.

Subd. 3. AUTHORITY TO ENTER OR RETRIEVE DATA. Only criminal justice agencies may submit data to and obtain data from the conditional release data system. The commissioner of corrections may require that any or all information be submitted to the conditional release data system. A consent to the release of data in the conditional release data system from the individual who is the subject of the data is not effective.

Subd. 4. PROCEDURES. The bureau shall adopt procedures to provide for the orderly collection, entry, retrieval, and deletion of data contained in the conditional release data system.

Sec. 7. Minnesota Statutes 1997 Supplement, section 401.01, subdivision 2, is amended to read:

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Subd. 2. **DEFINITIONS.** (a) For the purposes of sections 401.01 to 401.16, the following terms shall have the meanings given them:

(b) "CCA county" means a county that participates in the Community Corrections Act.

(c) "Commissioner" means the commissioner of corrections or a designee.

(e) (d) "Conditional release" means parole, supervised release, conditional release as authorized by section 609.108, subdivision 6, or 609.109, subdivision 7, work release as authorized by sections 241.26 and, 244.065, and includes 631.425, probation, furlough, and any other authorized temporary release from a correctional facility.

(e) "County probation officer" means a probation officer appointed under section 244.19.

(f) "Detain" means to take into actual custody, including custody within a local correctional facility.

(d) (g) "Joint board" means the board provided in section 471.59.

(h) "Local correctional facility" has the meaning given in section 241.021, subdivision 1.

(e) (i) "Local correctional service" means those services authorized by and employees, officers, and agents appointed under section 244.19, subdivision 1.

(j) "Release" means to release from actual custody.

Sec. 8. Minnesota Statutes 1996, section 401.02, is amended by adding a subdivision to read:

Subd. 5. **INTERMEDIATE SANCTIONS.** Unless the district court directs otherwise, county probation officers may require a person committed to the officer's care by the court to perform community work service for violating a condition of probation imposed by the court. Community work service may be imposed for the purpose of protecting the public, to aid the offender's rehabilitation, or both. Probation officers may impose up to eight hours of community work service for each violation and up to a total of 24 hours per offender per 12-month period, beginning on the date on which community work service is first imposed. The chief executive officer of a community corrections agency may authorize an additional 40 hours of community work service, for a total of 64 hours per offender per 12-month period, beginning with the date on which community work service is first imposed. At the time community work service is imposed, probation officers are required to provide written notice to the offender that states:

(1) the condition of probation that has been violated;

(2) the number of hours of community work service imposed for the violation; and

(3) the total number of hours of community work service imposed to date in the 12-month period.

An offender may challenge the imposition of community work service by filing a petition in district court. An offender must file the petition within five days of receiving written notice that community work service is being imposed. If the offender challenges

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the imposition of community work service, the state bears the burden of showing, by a preponderance of the evidence, that the imposition of community work service is reasonable under the circumstances.

Community work service includes sentencing to service.

Sec. 9. [401.025] DETENTION AND RELEASE; PROBATIONERS, CONDITIONAL RELEASEES, AND PRETRIAL RELEASEES.

Subdivision 1. PEACE OFFICERS AND PROBATION OFFICERS SERVING CCA COUNTIES. (a) When it appears necessary to enforce discipline or to prevent a person on conditional release from escaping or absconding from supervision, the chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing any peace officer in the county or any probation officer serving the district and juvenile courts of the county to detain and bring the person before the court or the commissioner, whichever is appropriate, for disposition. This written order is sufficient authority for the peace officer or probation officer to detain the person for not more than 72 hours, excluding Saturdays, Sundays, and holidays, pending a hearing before the court or the commissioner.

(b) The chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing a probation officer serving the district and juvenile courts of the county to release a person detained under paragraph (a) within 72 hours, excluding Saturdays, Sundays, and holidays, without an appearance before the court or the commissioner. This written order is sufficient authority for the probation officer to release the detained person.

(c) The chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing any peace officer in the county or any probation officer serving the district and juvenile courts of the county to detain any person on court-ordered pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release. A written order issued under this paragraph is sufficient authority for the peace officer or probation officer to detain the person.

Subd. 2. PEACE OFFICERS AND PROBATION OFFICERS IN OTHER COUNTIES AND STATE CORRECTIONAL INVESTIGATORS. (a) The chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing any state correctional investigator or any peace officer, probation officer, or county probation officer from another county to detain a person under sentence or on probation who:

- (1) fails to report to serve a sentence at a local correctional facility;
- (2) fails to return from furlough or authorized temporary release from a local correctional facility;
- (3) escapes from a local correctional facility; or
- (4) absconds from court-ordered home detention.

(b) The chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing any state correctional investigator or any peace officer, probation officer, or county probation officer from another

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er county to detain any person on court-ordered pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release.

(c) A written order issued under paragraph (a) or (b) is sufficient authority for the state correctional investigator, peace officer, probation officer, or county probation officer to detain the person.

Subd. 3. OFFENDERS UNDER DEPARTMENT OF CORRECTIONS COMMITMENT. CCA counties shall comply with the policies prescribed by the commissioner when providing supervision and other correctional services to persons conditionally released pursuant to sections 241.26, 242.19, 243.05, 243.16, 244.05, and 244.065, including intercounty transfer of persons on conditional release and the conduct of presentence investigations.

Sec. 10. Minnesota Statutes 1997 Supplement, 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:

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

(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. Unless the court directs otherwise, state parole and probation agents and probation officers may impose community work service for an offender's probation violation, consistent with section 243.05, subdivision 1; 244.19, subdivision 3a; or 401.02, subdivision 5.

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 workhouse, 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. 11. Minnesota Statutes 1996, section 629.34, subdivision 1, is amended to read:

Subdivision 1. **PEACE OFFICERS AND CONSTABLES.** (a) A peace officer, as defined in section 626.84, subdivision 1, clause (c), or a constable, as defined in section ~~367.40, subdivision 3,~~ who is on or off duty within the jurisdiction of the appointing authority, or on duty outside the jurisdiction of the appointing authority pursuant to section 629.40, may arrest a person without a warrant as provided under paragraph (c).

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(b) A part-time peace officer, as defined in section 626.84, subdivision 1, clause (f), who is on duty within the jurisdiction of the appointing authority, or on duty outside the jurisdiction of the appointing authority pursuant to section 629.40 may arrest a person without a warrant as provided under paragraph (c).

(c) A peace officer, ~~constable~~, or part-time peace officer who is authorized under paragraph (a) or (b) to make an arrest without a warrant may do so under the following circumstances:

(1) when a public offense has been committed or attempted in the officer's or ~~constable's~~ presence;

(2) when the person arrested has committed a felony, although not in the officer's or ~~constable's~~ presence;

(3) when a felony has in fact been committed, and the officer or ~~constable~~ has reasonable cause for believing the person arrested to have committed it;

(4) upon a charge based upon reasonable cause of the commission of a felony by the person arrested;

(5) under the circumstances described in clause (2), (3), or (4), when the offense is a gross misdemeanor violation of section 609.52, 609.595, 609.631, 609.749, or 609.821; or

(6) under circumstances described in clause (2), (3), or (4), when the offense is a nonfelony violation of a restraining order or no contact order previously issued by a court.

(d) To make an arrest authorized under this subdivision, the officer or ~~constable~~ may break open an outer or inner door or window of a dwelling house if, after notice of office and purpose, the officer or ~~constable~~ is refused admittance.

Sec. 12. [629.355] PEACE OFFICER AUTHORITY TO DETAIN PERSON ON CONDITIONAL RELEASE.

(a) A peace officer may detain a person on conditional release upon probable cause that the person has violated a condition of release. "Conditional release" has the meaning given in section 401.01, subdivision 2.

(b) Except as provided in paragraph (c), no person may be detained longer than the period provided in rule 27.04 of the Rules of Criminal Procedure. The detaining peace officer shall provide a detention report to the agency supervising the person as soon as possible. The detention by the peace officer may not exceed eight hours without the approval of the supervising agency. The supervising agency may release the person without commencing revocation proceedings or commence revocation proceedings under rule 27.04 of the Rules of Criminal Procedure.

(c) A person detained under paragraph (a) who is on supervised release or parole may not be detained longer than 72 hours. The detaining peace officer shall provide a detention report to the commissioner of corrections as soon as possible. The detention by the peace officer may not exceed eight hours without the approval of the commissioner or a designee. The commissioner may release the person without commencing revocation proceedings or request a hearing before the hearings and release division.

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Sec. 13. SUPREME COURT REQUESTED TO AMEND RULES OF CRIMINAL PROCEDURE.

The supreme court is requested to amend Rule 6.02 of the Rules of Criminal Procedure to allow a court, judge, or judicial officer to consider the safety of any person or the community when imposing a condition of release or combination of conditions of release on an offender who is released before trial.

Sec. 14. RELEASEE PLAN.

By August 1, 1998, the department of corrections, each county probation agency, and each community corrections act agency, in consultation with local law enforcement agencies, shall develop a plan to provide local law enforcement agencies with relevant information concerning conditional releasees, their terms of release, their offense history, and other factors that present a risk of violation of the terms and conditions of their release. This plan shall include strategies to identify those offenders most likely to violate the terms of release on an ongoing basis and methods to ensure compliance with the terms of release by those releasees.

Sec. 15. REPEALER.

Minnesota Statutes 1996, section 401.02, subdivision 4; and Minnesota Statutes 1997 Supplement, section 244.19, subdivision 3a, are repealed.

Sec. 16. EFFECTIVE DATE.

Sections 1 to 3 and 7 to 15 are effective August 1, 1998, and apply to acts occurring on or after that date.

ARTICLE 8

COURTS AND PUBLIC DEFENDERS

Section 1. Minnesota Statutes 1997 Supplement, section 97A.065, subdivision 2, is amended to read:

Subd. 2. **FINES AND FORFEITED BAIL.** (a) Fines and forfeited bail collected from prosecutions of violations of: the game and fish laws; sections 84.091 to 84.15; sections 84.81 to 84.88 84.91; section 169.121, when the violation involved an off-road recreational vehicle as defined in section 169.01, subdivision 86; chapter 348; and any other law relating to wild animals or aquatic vegetation, must be paid to the treasurer of the county where the violation is prosecuted. The county treasurer shall submit one-half of the receipts to the commissioner and credit the balance to the county general revenue fund except as provided in paragraphs (b), (c), and (d).

(b) The commissioner must reimburse a county, from the game and fish fund, for the cost of keeping prisoners prosecuted for violations under this section if the county board, by resolution, directs: (1) the county treasurer to submit all fines and forfeited bail to the commissioner; and (2) the county auditor to certify and submit monthly itemized statements to the commissioner.

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(c) ~~The county treasurer shall indicate the amount of the receipts that are assessments or surcharges imposed under section 609.101 and shall submit all of those receipts to the commissioner. The receipts must be credited to the game and fish fund to provide peace officer training for persons employed by the commissioner who are licensed under section 626.84, subdivision 1, clause (c), and who possess peace officer authority for the purpose of enforcing game and fish laws.~~

(d) ~~The county treasurer shall submit one-half of the receipts collected under paragraph (a) from prosecutions of violations of sections 84.81 to 84.91, and 169.121, including except receipts that are assessments or surcharges imposed under section 609.101 357.021, subdivision 6, to the commissioner state treasurer and credit the balance to the county general fund. The commissioner state treasurer shall credit these receipts to the snowmobile trails and enforcement account in the natural resources fund.~~

(d) The county treasurer shall indicate the amount of the receipts that are surcharges imposed under section 357.021, subdivision 6, and shall submit all of those receipts to the state treasurer.

Sec. 2. Minnesota Statutes 1996, section 169.121, subdivision 5a, is amended to read:

Subd. 5a. **CHEMICAL DEPENDENCY ASSESSMENT CHARGE, SURCHARGE.** When a court sentences a person convicted of an offense enumerated in section 169.126, subdivision 1, it shall impose a chemical dependency assessment charge of \$125. A person shall pay an additional surcharge of \$5 if the person is convicted of (i) a violation of section 169.129, or (ii) a violation of this section within five years of a prior impaired driving conviction, as defined in subdivision 3, or a prior conviction for an offense arising out of an arrest for a violation of section 169.121 or 169.129. This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the assessment charge and surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment charge and surcharge would create undue hardship for the convicted person or that person's immediate family.

The county shall collect and forward to the commissioner of finance \$25 of the chemical dependency assessment charge and the \$5 surcharge, if any, within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the general fund. The county shall collect and keep \$100 of the chemical dependency assessment charge.

The chemical dependency assessment charge and surcharge required under this section are in addition to the surcharge required by section ~~609.101~~ 357.021, subdivision 6.

Sec. 3. Minnesota Statutes 1996, section 171.16, subdivision 3, is amended to read:

Subd. 3. **SUSPENSION FOR FAILURE TO PAY FINE.** When any court reports to the commissioner that a person: (1) has been convicted of violating a law of this state or an ordinance of a political subdivision which regulates the operation or parking of motor vehicles, (2) has been sentenced to the payment of a fine or had a penalty assessment surcharge levied against that person, or sentenced to a fine upon which a penalty assessment surcharge was levied, and (3) has refused or failed to comply with that sentence or to pay

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the penalty assessment surcharge, notwithstanding the fact that the court has determined that the person has the ability to pay the fine or penalty assessment surcharge, the commissioner shall suspend the driver's license of such person for 30 days for a refusal or failure to pay or until notified by the court that the fine or penalty assessment surcharge, or both if a fine and penalty assessment surcharge were not paid, has been paid.

Sec. 4. Minnesota Statutes 1997 Supplement, section 357.021, subdivision 2, is amended to read:

Subd. 2. **FEE AMOUNTS.** The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, including any case arising under the tax laws of the state that could be transferred or appealed to the tax court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of \$122.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of \$122.

The party requesting a trial by jury shall pay \$75.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under chapter 103E, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding, \$10, and \$5 for an uncertified copy.

(3) Issuing a subpoena, \$3 for each name.

(4) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, \$10.

(5) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, \$7.50.

(6) Filing and entering a satisfaction of judgment, partial satisfaction, or assignment of judgment, \$5.

(7) Certificate as to existence or nonexistence of judgments docketed, \$5 for each name certified to.

(8) Filing and indexing trade name; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians, or optometrists, \$5.

(9) For the filing of each partial, final, or annual account in all trusteeships, \$10.

(10) For the deposit of a will, \$5.

(11) For recording notary commission, \$25, of which, notwithstanding subdivision 1a, paragraph (b), \$20 must be forwarded to the state treasurer to be deposited in the state treasury and credited to the general fund.

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

(12) ~~When a defendant pleads guilty to or is sentenced for a petty misdemeanor other than a parking violation, the defendant shall pay a fee of \$11.~~

(13) ~~Filing a motion or response to a motion for modification of child support, a fee fixed by rule or order of the supreme court.~~

(14) ~~(13) All other services required by law for which no fee is provided, such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.~~

(15) ~~(14) In addition to any other filing fees under this chapter, a surcharge in the amount of \$75 must be assessed in accordance with section 259.52, subdivision 14, for each adoption petition filed in district court to fund the putative fathers' adoption registry under section 259.52.~~

The fees in clauses (3) and (4) need not be paid by a public authority or the party the public authority represents.

Sec. 5. Minnesota Statutes 1996, section 357.021, is amended by adding a subdivision to read:

Subd. 6. SURCHARGES ON CRIMINAL AND TRAFFIC OFFENDERS. (a) The court shall impose and the court administrator shall collect a \$25 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the \$25 surcharge, collect the surcharge and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the state treasurer.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the state treasurer.

Sec. 6. Minnesota Statutes 1996, section 357.021, is amended by adding a subdivision to read:

Subd. 7. DISBURSEMENT OF SURCHARGES BY STATE TREASURER. The state treasurer shall disburse surcharges received under subdivision 6 and section 97A.065, subdivision 2, as follows:

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(1) one percent of the surcharge shall be credited to the game and fish fund to provide peace officer training for employees of the department of natural resources who are licensed under sections 626.84 to 626.863, and who possess peace officer authority for the purpose of enforcing game and fish laws;

(2) 39 percent of the surcharge shall be credited to the peace officers training account in the special revenue fund; and

(3) 60 percent of the surcharge shall be credited to the general fund.

Sec. 7. Minnesota Statutes 1996, section 488A.03, subdivision 11, is amended to read:

Subd. 11. **FEES PAYABLE TO ADMINISTRATOR.** (a) The civil fees payable to the administrator for services are the same in amount as the fees then payable to the district court of Hennepin county for like services. Library and filing fees are not required of the defendant in an unlawful detainer action. The fees payable to the administrator for all other services of the administrator or the court shall be fixed by rules promulgated by a majority of the judges.

(b) Fees are payable to the administrator in advance.

(c) Judgments will be entered only upon written application.

(d) The following fees shall be taxed in all cases for all charges where applicable: (a) The state of Minnesota and any governmental subdivision within the jurisdictional area of any municipal district court herein established may present cases for hearing before said municipal district court; (b) In the event the court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town in Hennepin county, all fines, penalties, and forfeitures collected shall be paid over to the treasurer of the governmental subdivision which submitted a case charges for prosecution under ordinance violation and to the county treasurer in all other cases charges except where a different disposition is provided by law, in which case, payment shall be made to the public official entitled thereto. The following fees shall be taxed to the county or to the state or governmental subdivision which would be entitled to payment of the fines, forfeiture or penalties in any case, and shall be paid to the court administrator for disposing of the matter:

(1) In all cases For each charge where the defendant is brought into court and pleads guilty and is sentenced, or the matter is otherwise disposed of without trial \$5.

(2) In arraignments where the defendant waives a preliminary examination \$10.

(3) In all other cases For all other charges where the defendant stands trial or has a preliminary examination by the court \$15.

(4) In all cases For all charges where a defendant was issued a statute, traffic, or ordinance violation tag citation and a fine is paid or the case is otherwise disposed of in a violations bureau \$1 \$10.

(5) Upon the effective date of a \$2 increase in the expired meter fine schedule that is enacted on or after August 1, 1987, the amount payable to the court administrator must be increased by \$1 for each expired meter violation disposed of in a violations bureau. the increase in clause (4), the fine schedule amounts shall be increased by \$10.

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Additional money, if any, received by the fourth judicial district administrator as a result of this section shall be used to fund an automated citation system and revenue collections initiative and to pay the related administrative costs of the court administrator's office.

Additional money, if any, received by the city of Minneapolis as a result of this section shall be used to provide additional funding to the city attorney for use in criminal investigations and prosecutions. This funding shall not be used to supplant existing city attorney positions or services.

Sec. 8. **STUDY OF FINE DISTRIBUTION.**

The court administrator for the fourth judicial district shall study the feasibility of modifying the fine distribution system in the fourth judicial district to recognize the incarceration costs that are absorbed by local municipalities. The study shall include the participation of local prosecutors and county and city officials. The fourth judicial court administrator shall make recommendations to the legislature on this issue by November 15, 1999.

Sec. 9. Minnesota Statutes 1996, section 588.01, subdivision 3, is amended to read:

Subd. 3. **CONSTRUCTIVE.** Constructive contempts are those not committed in the immediate presence of the court, and of which it has no personal knowledge, and may arise from any of the following acts or omissions:

(1) misbehavior in office, or other willful neglect or violation of duty, by an attorney, court administrator, sheriff, coroner, or other person appointed or elected to perform a judicial or ministerial service;

(2) deceit or abuse of the process or proceedings of the court by a party to an action or special proceeding;

(3) disobedience of any lawful judgment, order, or process of the court;

(4) assuming to be an attorney or other officer of the court, and acting as such without authority;

(5) rescuing any person or property in the custody of an officer by virtue of an order or process of the court;

(6) unlawfully detaining a witness or party to an action while going to, remaining at, or returning from the court where the action is to be tried;

(7) any other unlawful interference with the process or proceedings of a court;

(8) disobedience of a subpoena duly served, or refusing to be sworn or to answer as a witness;

(9) when summoned as a juror in a court, neglecting to attend or serve, improperly conversing with a party to an action to be tried at the court or with any person relative to the merits of the action, or receiving a communication from a party or other person in reference to it, and failing to immediately disclose the same to the court;

(10) disobedience, by an inferior tribunal or officer, of the lawful judgment, order, or process of a superior court, proceeding in an action or special proceeding in any court

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contrary to law after it has been removed from its jurisdiction, or disobedience of any lawful order or process of a judicial officer;

(11) failure or refusal to pay a ~~penalty assessment~~ surchage levied pursuant to section ~~626.864~~ 357.021, subdivision 6.

Sec. 10. Minnesota Statutes 1997 Supplement, 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, ~~surchage, or assessment~~ required by this section.

(b) If the defendant qualifies for the services of a public defender or the court finds on the record that the convicted person is indigent or that immediate payment of the fine, ~~surchage, 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, ~~surchage, or assessment~~ in installments.

Sec. 11. Minnesota Statutes 1996, section 609.3241, is amended to read:

609.3241 PENALTY ASSESSMENT AUTHORIZED.

When a court sentences an adult convicted of violating section 609.322, 609.323, or 609.324, while acting other than as a prostitute, the court shall impose an assessment of not less than \$250 and not more than \$500 for a violation of section 609.324, subdivision 2, or a misdemeanor violation of section 609.324, subdivision 3; otherwise the court shall impose an assessment of not less than \$500 and not more than \$1,000. The mandatory minimum portion of the assessment is to be used for the purposes described in section 626.558, subdivision 2a, and is in addition to the ~~assessment or surcharge~~ required by section ~~609.101~~ 357.021, subdivision 6. Any portion of the assessment imposed in excess of the mandatory minimum amount shall be forwarded to the general fund and is appropriated annually to the commissioner of corrections. The commissioner, with the assistance of the general crime victims advisory council, shall use money received under this section for grants to agencies that provide assistance to individuals who have stopped or wish to stop engaging in prostitution. Grant money may be used to provide these individuals with medical care, child care, temporary housing, and educational expenses.

Sec. 12. Minnesota Statutes 1996, section 611.14, is amended to read:

611.14 RIGHT TO REPRESENTATION BY PUBLIC DEFENDER.

The following persons who are financially unable to obtain counsel are entitled to be represented by a public defender:

(1) a person charged with a felony ~~or, gross misdemeanor, or misdemeanor~~ including a person charged under sections 629.01 to 629.29;

(2) a person appealing from a conviction of a felony or gross misdemeanor, or a person convicted of a felony or gross misdemeanor, who is pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction;

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(3) a person who is entitled to be represented by counsel under section 609.14, subdivision 2; or

(4) a minor who is entitled to be represented by counsel under section 260.155, subdivision 2, if the judge of the juvenile court concerned has requested and received the approval of a majority of the district court judges of the judicial district to utilize the services of the public defender in such cases, and approval of the compensation on a monthly, hourly, or per diem basis to be paid for such services under section 260.251, subdivision 2, clause (e); or

(5) a person, entitled by law to be represented by counsel, charged with an offense within the trial jurisdiction of a district court, if the trial judge or a majority of the trial judges of the court concerned have requested and received approval of a majority of the district court judges of the judicial district to utilize the services of the public defender in such cases and approval of the compensation on a monthly, hourly, or per diem basis to be paid for such services by the county within the court's jurisdiction.

Sec. 13. Minnesota Statutes 1996, section 611.20, subdivision 3, is amended to read:

Subd. 3. **REIMBURSEMENT.** In each fiscal year, the state treasurer shall deposit the first \$180,000 in the general fund. ~~payments in excess of \$180,000 shall be deposited in the general fund and credited credit them~~ to a separate account with the board of public defense. The amount credited to this account is appropriated to the board of public defense.

The balance of this account does not cancel but is available until expended. Expenditures by the board from this account for each judicial district public defense office must be based on the amount of the payments received by the state from the courts in each judicial district. A district public defender's office that receives money under this subdivision shall use the money to supplement office overhead payments to part-time attorneys providing public defense services in the district. By January 15 of each year, the board of public defense shall report to the chairs and ranking minority members of the senate and house divisions having jurisdiction over criminal justice funding on the amount appropriated under this subdivision, the number of cases handled by each district public defender's office, the number of cases in which reimbursements were ordered, the average amount of reimbursement ordered, and the average amount of money received by part-time attorneys under this subdivision.

Sec. 14. Minnesota Statutes 1996, section 611.20, subdivision 4, is amended to read:

Subd. 4. **EMPLOYED DEFENDANTS.** A court shall order a defendant who is employed when a public defender is appointed, or who becomes employed while represented by a public defender, shall to reimburse the state for the cost of the public defender. If reimbursement is required under this subdivision, the court shall order the reimbursement when a public defender is first appointed or as soon as possible after the court determines that reimbursement is required. The court may accept partial reimbursement from the defendant if the defendant's financial circumstances warrant a reduced reimbursement schedule. The court may consider the guidelines in subdivision 6 in determining a defendant's reimbursement schedule. If a defendant does not agree to make payments, the court may order the defendant's employer to withhold a percentage of the defendant's income to be turned over to the court. The percentage to be withheld may be determined under subdivision 6.

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Sec. 15. Minnesota Statutes 1996, section 611.20, subdivision 5, is amended to read:

Subd. 5. **REIMBURSEMENT RATE.** Legal fees required to be reimbursed under subdivision 4, shall be determined by multiplying the total number of hours worked on the case by a public defender by ~~\$30~~ \$40 per hour. The public defender assigned to the defendant's case shall provide to the court, upon the court's request, a written statement containing the total number of hours worked on the defendant's case up to the time of the request.

Sec. 16. Minnesota Statutes 1997 Supplement, section 611.25, subdivision 3, is amended to read:

Subd. 3. **DUTIES.** The state public defender shall prepare a biennial report to the board and a report to the governor and the supreme court on the operation of the state public defender's office, district defender systems, and public defense corporations. The biennial report is due on or before the beginning of the legislative session following the end of the biennium. The state public defender may require the reporting of statistical data, budget information, and other cost factors by the chief district public defenders and appointed counsel systems. The state public defender shall design and conduct programs for the training of all state and district public defenders, appointed counsel, and attorneys for public defense corporations funded under section 611.26. The state public defender shall establish policies and procedures to administer the district public defender system, consistent with standards adopted by the state board of public defense.

Sec. 17. Minnesota Statutes 1996, section 611.26, subdivision 2, is amended to read:

Subd. 2. **APPOINTMENT; TERMS.** The state board of public defense shall appoint a chief district public defender for each judicial district. When appointing a chief district public defender, the state board of public defense membership shall be increased to include two residents of the district appointed by the chief judge of the district to reflect the characteristics of the population served by the public defender in that district. The additional members shall serve only in the capacity of selecting the district public defender. The ad hoc state board of public defense shall appoint a chief district public defender only after requesting and giving reasonable time to receive any recommendations from the public, the local bar association, and the judges of the district, ~~and the county commissioners within the district.~~ Each chief district public defender shall be a qualified attorney, licensed to practice law in this state. The chief district public defender shall be appointed for a term of four years, beginning January 1, pursuant to the following staggered term schedule: (1) in ~~1992~~ 2000, the second and eighth districts; (2) in ~~1993~~ 2001, the first, third, fourth, and tenth districts; (3) in ~~1994~~ 2002, the fifth and ninth districts; and (4) in ~~1995~~ 1999, the sixth and seventh districts. ~~The~~ chief district public defenders shall serve for four-year terms and may be removed for cause upon the order of the state board of public defense. Vacancies in the office shall be filled by the appointing authority for the unexpired term.

Sec. 18. Minnesota Statutes 1996, section 611.26, subdivision 3, is amended to read:

Subd. 3. **COMPENSATION.** (a) ~~The compensation of the chief district public defender shall be set by the board of public defense, and the compensation of each assistant district public defender shall be set by the chief district public defender with the approval of the board of public defense.~~ To assist the board of public defense in determining compensation under this subdivision, counties shall provide to the board information on the

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compensation of county attorneys, including salaries and benefits, rent, secretarial staff, and other pertinent budget data. For purposes of this subdivision, compensation means salaries, cash payments, and employee benefits including paid time off and group insurance benefits, and other direct and indirect items of compensation including the value of office space provided by the employer.

(b) This subdivision does not limit the rights of public defenders to collectively bargain with their employers.

Sec. 19. Minnesota Statutes 1996, section 611.26, subdivision 3a, is amended to read:

Subd. 3a. **BUDGET; COMPENSATION.** (a) Notwithstanding subdivision 3 or any other law to the contrary, compensation and economic benefit increases for chief district public defenders and assistant district public defenders, who are full-time county employees, shall be paid out of the budget for that judicial district public defender's office.

(b) In the second judicial district, the district public defender's office shall be funded by the board of public defense. The budget for the second judicial public defender's office shall not include Ramsey county property taxes.

(c) In the fourth judicial district, the district public defender's office shall be funded by the board of public defense and by the Hennepin county board. Personnel expenses of state employees hired on or after January 1, 1999, in the fourth judicial district public defender's office shall be funded by the board of public defense.

(d) Those budgets for district public defender services in the second and fourth judicial districts under the jurisdiction of the state board of public defense shall be eligible for adjustments to their base budgets in the same manner as other state agencies. In making biennial budget base adjustments, the commissioner of finance shall consider the budgets for district public defender services in all judicial districts, as allocated by the state board of public defense, in the same manner as other state agencies.

Sec. 20. Minnesota Statutes 1996, section 611.263, is amended to read:

611.263 COUNTY IS EMPLOYER OF; RAMSEY, HENNEPIN DEFENDERS.

Subdivision 1. **EMPLOYEES.** (a) Except as provided in subdivision 3, the district public defender and assistant public defenders of the second judicial district are employees of Ramsey county in the unclassified service under section 383A.286.

(b) Except as provided in subdivision 3, the district public defender and assistant public defenders of the fourth judicial district are employees of Hennepin county under section 383B.63, subdivision 6.

Subd. 2. **PUBLIC EMPLOYER.** (a) Except as provided in subdivision 3, and notwithstanding section 179A.03, subdivision 15, clause (c), the Ramsey county board is the public employer under the public employment labor relations act for the district public defender and assistant public defenders of the second judicial district.

(b) Except as provided in subdivision 3, and notwithstanding section 179A.03, subdivision 15, clause (c), the Hennepin county board is the public employer under the pub-

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lic employment labor relations act for the district public defender and assistant public defenders of the fourth judicial district.

Subd. 3. EXCEPTION. Notwithstanding section 611.265, district public defenders and employees in the second and fourth judicial districts who are hired on or after January 1, 1999, are state employees of the board of public defense and are governed by the personnel rules adopted by the board of public defense. Employees of the public defender's office in the second and fourth judicial districts who are hired before January 1, 1999, remain employees of Ramsey and Hennepin counties, respectively, under subdivisions 1 and 2.

Sec. 21. Minnesota Statutes 1996, section 611.27, subdivision 1, is amended to read:

Subdivision 1. **COUNTY PAYMENT RESPONSIBILITY.** (a) ~~The total compensation and expenses, including office equipment and supplies, of the district public defender are to be paid by the county or counties comprising the judicial district.~~

(b) A chief district public defender shall annually submit a comprehensive budget to the state board of public defense. The budget shall be in compliance with standards and forms required by the board and must, at a minimum, include detailed substantiation as to all revenues and expenditures. The chief district public defender shall, at times and in the form required by the board, submit reports to the board concerning its operations, including the number of cases handled and funds expended for these services.

Within ten days after an assistant district public defender is appointed, the district public defender shall certify to the state board of public defense the compensation that has been recommended for the assistant.

(c) The state board of public defense shall transmit the proposed budget of each district public defender to the respective district court administrators and county budget officers for comment before the board's final approval of the budget. The board shall determine and certify to the respective county boards a final comprehensive budget for the office of the district public defender that includes all expenses. After the board determines the allocation of the state funds authorized pursuant to paragraph (e), the board shall apportion the expenses of the district public defenders among the several counties and each county shall pay its share in monthly installments. The county share is the proportion of the total expenses that the population in the county bears to the total population in the district as determined by the last federal census. If the district public defender or an assistant district public defender is temporarily transferred to a county not situated in that public defender's judicial district, said county shall pay the proportionate part of that public defender's expenses for the services performed in said county.

(d) Reimbursement for actual and necessary travel expenses in the conduct of the office of the district public defender shall be charged to either (1) the general expenses of the office, (2) the general expenses of the district for which the expenses were incurred if outside the district, or (3) the office of the state public defender if the services were rendered for that office.

(e) (b) Money appropriated to the state board of public defense for the board's administration, for the state public defender, for the judicial district public defenders, and for the public defense corporations shall be expended as determined by the board. In distributing funds to district public defenders, the board shall consider the geographic dis-

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tribution of public defenders, the equity of compensation among the judicial districts, public defender case loads, and the results of the weighted case load study.

Sec. 22. Minnesota Statutes 1996, section 611.27, subdivision 7, is amended to read:

Subd. 7. **PUBLIC DEFENDER SERVICES; RESPONSIBILITY.** ~~Notwithstanding subdivision 4, The state's obligation for the costs of the public defender services is limited to the appropriations made to the board of public defense. Services and expenses in cases where adequate representation cannot be provided by the district public defender shall be the responsibility of the state board of public defense.~~

Sec. 23. **REPORT ON SURCHARGES.**

The state court administrator shall collect information on the amount of revenue collected annually from the imposition of surcharges under Minnesota Statutes, section 97A.065, subdivision 2, or 357.021, subdivision 6, and shall report this information to the chairs and ranking minority members of the house and senate divisions having jurisdiction over criminal justice funding by January 15, 2001.

Sec. 24. **INSTRUCTION TO REVISOR.**

The revisor shall change the term "penalty assessment" or similar term to "surcharge" or similar term wherever the term appears in Minnesota Rules in connection with the board of peace officer standards and training.

Sec. 25. **EXPIRATION.**

The amendment made to Minnesota Statutes, section 488A.03, subdivision 11, expires July 1, 2000.

Sec. 26. **REPEALER.**

(a) Minnesota Statutes 1996, sections 609.101, subdivision 1; and 626.861, are repealed.

(b) Minnesota Statutes 1996, sections 611.216, subdivision 1a; 611.26, subdivision 9; and 611.27, subdivision 2; and Minnesota Statutes 1997 Supplement, section 611.27, subdivision 4, are repealed.

Sec. 27. **EFFECTIVE DATE.**

Sections 1 to 11, 23 to 25, and 26, paragraph (a), are effective January 1, 1999. Section 13 is effective July 1, 1999.

ARTICLE 9

CORRECTIONS

Section 1. Minnesota Statutes 1996, section 3.739, subdivision 1, is amended to read:

Subdivision 1. **PERMISSIBLE CLAIMS.** Claims and demands arising out of the circumstances described in this subdivision shall be presented to, heard, and determined as provided in subdivision 2:

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(1) an injury to or death of an inmate of a state, regional, or local correctional facility or county jail who has been conditionally released and ordered to perform uncompensated work for a state agency, a political subdivision or public corporation of this state, a nonprofit educational, medical, or social service agency, or a private business or individual, as a condition of the release, while performing the work;

(2) an injury to or death of a person sentenced by a court, granted a suspended sentence by a court, or subject to a court disposition order, and who, under court order, is performing work (a) in restitution, (b) in lieu of or to work off fines or court ordered costs, (c) in lieu of incarceration, or (d) as a term or condition of a sentence, suspended sentence, or disposition order, while performing the work;

(3) an injury to or death of a person, who has been diverted from the court system and who is performing work as described in paragraph (1) or (2) under a written agreement signed by the person, and if a juvenile, by a parent or guardian; or

(4) an injury to or death of any person caused by an individual who was performing work as described in paragraph (1), (2), or (3); or

(5) necessary medical care of offenders sentenced to the Camp Ripley work program described in section 241.277.

Sec. 2. Minnesota Statutes 1996, section 241.01, subdivision 7, is amended to read:

Subd. 7. USE OF FACILITIES BY OUTSIDE AGENCIES. The commissioner of corrections may authorize and permit public or private social service, educational, or rehabilitation agencies or organizations, and their clients; or lawyers, insurance companies, or others; to use the facilities, staff, and other resources of correctional facilities under the commissioner's control and may require the participating agencies or organizations to pay all or part of the costs thereof. All sums of money received pursuant to the agreements herein authorized shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner during that period, and are hereby appropriated annually to the commissioner of corrections for the purposes of this subdivision.

The commissioner may provide meals for staff and visitors for efficiency of operation and may require the participants to pay all or part of the costs of the meals. All sums of money received under this provision are appropriated to the commissioner and shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received.

Sec. 3. Minnesota Statutes 1996, section 241.01, is amended by adding a subdivision to read:

Subd. 9. LEASES FOR CORRECTIONAL FACILITY PROPERTY. Money collected as rent under section 16B.24, subdivision 5, for state property at any of the correctional facilities administered by the commissioner of corrections is appropriated to the commissioner and is dedicated to the correctional facility from which it is generated. Any balance remaining at the end of the fiscal year shall not cancel and is available until expended.

New language is indicated by underline, deletions by strikeout.

Sec. 4. Minnesota Statutes 1997 Supplement, section 241.015, is amended to read:
241.015 ANNUAL PERFORMANCE REPORTS REQUIRED.

Subdivision 1. ANNUAL REPORT. 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.

Subd. 2. RECIDIVISM ANALYSIS. The report required by subdivision 1 must include an evaluation and analysis of the programming in all department of corrections facilities. This evaluation and analysis must include:

(1) a description of the vocational, work, and industries programs and information on the recidivism rates for offenders who participated in these types of programming;

(2) a description of the educational programs and information on the recidivism rates for offenders who participated in educational programming; and

(3) a description of the chemical dependency, sex offender, and mental health treatment programs and information on the recidivism rates for offenders who participated in these treatment programs.

The analysis of recidivism rates must include a breakdown of recidivism rates for juvenile offenders, adult male offenders, and adult female offenders.

Sec. 5. Minnesota Statutes 1996, section 241.05, is amended to read:

241.05 RELIGIOUS INSTRUCTION ACTIVITIES.

The commissioner of corrections shall provide at least one hour, on the first day of each week, between 9:00 a.m. and 5:00 p.m., for religious instruction to allow inmates of all prisons and reformatories under the commissioner's control to participate in religious activities, during which members of the clergy of good standing in any church or denomination may freely administer and impart religious rites and instruction to those desiring the same them. The commissioner shall provide a private room where such instruction can be given by members of the clergy of the denomination desired by the inmate, or, in case of minors, by the parents or guardian, and, in case of sickness, some other day or hour may be designated; but all sectarian practices are prohibited, and no officer or employee of the institution shall attempt to influence the religious belief of any inmate, and none no inmate shall be required to attend religious services against the inmate's will.

Sec. 6. Minnesota Statutes 1997 Supplement, section 241.277, subdivision 6, is amended to read:

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. An offender whose program completion occurs on a Saturday, Sunday, or holiday shall be allowed to return to the community on the last day before the completion date that is not a Saturday, Sunday, or holiday. If the offender's stay in the program was extended due to a violation of the disciplinary rules and the offender's day of completion is a Saturday, Sunday, or holiday, the offender shall not be allowed to return to the community until the day following that is not a Saturday, Sunday, or holiday.

New language is indicated by underline, deletions by strikeout.

Sec. 7. Minnesota Statutes 1997 Supplement, section 241.277, is amended by adding a subdivision to read:

Subd. 6a. FURLOUGHS. The commissioner may furlough an offender for up to three days in the event of the death of a family member or spouse. If the commissioner determines that the offender requires serious and immediate medical attention, the commissioner may grant furloughs of up to three days to provide appropriate health care.

Sec. 8. Minnesota Statutes 1997 Supplement, section 241.277, subdivision 9, is amended to read:

Subd. 9. COSTS OF PROGRAM. Counties sentencing offenders to the program must pay 25 percent of the per diem expenses for the offender. Per diem money received from the counties are appropriated to the commissioner of corrections for program expenses. Sums of money received by the commissioner under this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received by the commissioner. 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. Costs of medical care must be paid according to the provisions of section 3.739.

Sec. 9. [241.278] AGREEMENTS FOR WORK FORCE OF STATE OR COUNTY JAIL INMATES.

The commissioner of corrections, in the interest of inmate rehabilitation, may enter into interagency agreements with state, county, or municipal agencies, or contract with nonprofit agencies to fund or partially fund the cost of programs that use state or county jail inmates as a work force. The commissioner is authorized to receive funds via these agreements and these funds are appropriated to the commissioner for community service programming.

Sec. 10. [241.85] EDUCATIONAL ASSESSMENTS.

Subdivision 1. ASSESSMENTS; PROGRAMMING PLANS. The commissioner of corrections shall develop an educational assessment to determine the educational status and needs of adults and juveniles in department of corrections facilities. The commissioner shall ensure that assessments are conducted on all individuals both upon their admittance and prior to their discharge from a facility. The commissioner shall create a programming plan for individuals on whom an admission assessment was conducted if the individual is admitted to an educational program. The plan must address any special needs identified by the assessment. The commissioner shall also determine methods to measure the educational progress of individuals during their stay at a facility.

Subd. 2. REPORT REQUIRED. By December 15, 1999, the commissioner of corrections shall report to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding on the educational assessments and programming plans described in subdivision 1.

Sec. 11. Minnesota Statutes 1997 Supplement, section 242.192, is amended to read:
242.192 **CHARGES TO COUNTIES.**

The commissioner shall charge counties or other appropriate jurisdictions for the actual per diem cost of confinement, excluding educational costs, of juveniles at the Min-

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nesota 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. 12. Minnesota Statutes 1996, section 242.32, subdivision 1, is amended to read:

Subdivision 1. **COMMUNITY-BASED PROGRAMMING.** The commissioner of corrections shall be charged with the duty of developing constructive programs for the prevention and decrease of delinquency and crime among youth. To that end, the commissioner shall cooperate with counties and existing agencies to encourage the establishment of new programming, both local and statewide, to provide a continuum of services for serious and repeat juvenile offenders who do not require secure placement. The commissioner shall work jointly with the commissioner of human services and counties and municipalities to develop and provide community-based services for residential placement of juvenile offenders and community-based services for nonresidential programming for juvenile offenders and their families.

Notwithstanding any law to the contrary, the commissioner of corrections is authorized to contract with counties placing juveniles in the serious/chronic program, PRE-PARE, at the Minnesota correctional facility—Red Wing to provide necessary extended community transition programming. Funds resulting from the contracts shall be deposited in the state treasury and are appropriated to the commissioner for juvenile correctional purposes.

Sec. 13. Minnesota Statutes 1997 Supplement, 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. 14. Minnesota Statutes 1997 Supplement, 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.

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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. 15. Minnesota Statutes 1996, section 243.51, is amended by adding a subdivision to read:

Subd. 5. SPECIAL REVENUE FUND. Money received under contracts authorized in subdivisions 1 and 3 shall be deposited in the state treasury in an inmate housing account in the special revenue fund. The money deposited in this account may be expended only as provided by law. The purpose of this fund is for correctional purposes, including housing inmates under this section, and capital improvements.

Sec. 16. Minnesota Statutes 1996, section 390.11, subdivision 2, is amended to read:

Subd. 2. VIOLENT OR MYSTERIOUS DEATHS; AUTOPSIES. The coroner may conduct an autopsy in the case of any human death referred to in subdivision 1, clause (1) or (2), when the coroner judges that the public interest requires an autopsy, except that an autopsy must be conducted in all unattended inmate deaths that occur in a state correctional facility.

Sec. 17. Minnesota Statutes 1997 Supplement, 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, excluding educational costs, of those juveniles committed to the commissioner and confined in a state correctional facility. The commissioner shall annually determine costs making necessary adjustments to reflect the actual costs of confinement. 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. 18. Minnesota Statutes 1997 Supplement, section 609.113, subdivision 3, is amended to read:

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 the person has a serious and chronic condition requiring ongoing and continuous medical monitoring and treatment by a medical professional; 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.

Sec. 19. Laws 1997, chapter 239, article 1, section 12, subdivision 2, is amended to read:

Subd. 2. Correctional
Institutions

179,965,000 189,823,000

The commissioner may expend federal grant money in an amount up to \$1,000,000 to sup-

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plement 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~~ July 1, 1999, if the commissioner shows a demonstrated need for the opening and the legislature, by law, approves it.

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,

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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.

Sec. 20. Laws 1997, chapter 239, article 1, section 12, subdivision 4, is amended to read:

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

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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 delinquent 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.

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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.

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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.

Sec. 21. ACCOUNT BALANCE.

As of June 30, 1999, any balance remaining in the account containing money received through contracts authorized by Minnesota Statutes, section 243.51, subdivisions 1 and 3, is transferred to the inmate housing account in the special revenue fund.

Sec. 22. REPORT REQUIRED.

(a) By February 1, 1999, the commissioner of corrections shall report to the house and senate committees having jurisdiction over criminal justice policy and funding on how the department of corrections intends to collect information on job placement rates of inmates who have been discharged from department of corrections facilities. This report shall include information on how the department of corrections can collect summary data on job placement rates of former inmates who are on supervised release, including the types of jobs for which inmates have been hired and the wages earned by the inmates. The report also shall include information on the predischarge or postdischarge assistance that would assist inmates in obtaining employment.

(b) "Summary data" has the meaning given in Minnesota Statutes, section 13.02, subdivision 19.

Sec. 23. HEALTH CARE COST REDUCTIONS.

Subdivision 1. IMPLEMENTATION REPORT. The commissioner of corrections shall report to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding by December 15, 1998, on progress in implementing initiatives related to:

- (1) a review of the current health care delivery system within the department;
- (2) development of requests for proposals to consolidate contracts, negotiate discounts, regionalize health care delivery; reduce transportation costs; and implement other health care cost containment initiatives;
- (3) formalization of utilization review requirements;
- (4) expansion of telemedicine; and

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

(5) increasing the cost-effective use of infirmary services.

The report must also include the results of strategic planning efforts, including but not limited to planning efforts to improve fiscal management, improve record keeping and data collection, expand infirmary services, and expand mental health services.

Subd. 2. COST CONTAINMENT PLAN. The commissioner shall present to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding, by January 1, 1999, a plan to reduce inmate per diem health care costs over a four-year period. The plan must propose a strategy to reduce health care costs closer to the national average. In developing the plan, the commissioner shall consider the use of prepaid, capitated payments and other managed care techniques. The plan may also include health care initiatives currently being implemented by the commissioner, or being evaluated by the commissioner as part of the development of a strategic plan. The cost containment plan must include methods to improve data collection and analysis, so as to allow regular reporting of health care expenditures for specific services and procedures and effective monitoring of health care quality.

Subd. 3. CONSULTATION WITH THE COMMISSIONERS OF HEALTH AND HUMAN SERVICES. When preparing the report described in subdivision 1 and the plan described in subdivision 2, the commissioner of corrections shall consult with the commissioner of health and the commissioner of human services.

Sec. 24. REPEALER.

Minnesota Statutes 1997 Supplement, section 243.51, subdivision 4, is repealed.

Sec. 25. EFFECTIVE DATE.

Sections 1 to 3, 6 to 8, 12, and 18 are effective the day following final enactment. Sections 13 to 15, 21, and 24 are effective July 1, 1999.

ARTICLE 10

JUVENILES

Section 1. Minnesota Statutes 1996, section 241.021, is amended by adding a subdivision to read:

Subd. 2b. LICENSING PROHIBITION FOR CERTAIN JUVENILE FACILITIES. The commissioner may not:

(1) issue a license under this section to operate a correctional facility for the detention or confinement of juvenile offenders if the facility accepts juveniles who reside outside of Minnesota without an agreement with the entity placing the juvenile at the facility that obligates the entity to pay the educational expenses of the juvenile; or

(2) renew a license under this section to operate a correctional facility for the detention or confinement of juvenile offenders if the facility accepts juveniles who reside outside of Minnesota without an agreement with the entity placing the juvenile at the facility that obligates the entity to pay the educational expenses of the juvenile.

New language is indicated by underline, deletions by strikeout.

Sec. 2. Minnesota Statutes 1997 Supplement, section 242.32, subdivision 4, is amended to read:

Subd. 4. **EXCEPTION.** The 100-bed limitation in subdivision 3 does not apply to:

(1) up to 32 beds constructed and operated for long-term residential secure programming by a privately operated facility licensed by the commissioner in Rock county, Minnesota; and

(2) the campus at the state juvenile correctional facility at Red Wing, Minnesota.

Sec. 3. [245A.30] LICENSING PROHIBITION FOR CERTAIN JUVENILE FACILITIES.

The commissioner may not:

(1) issue any license under Minnesota Rules, parts 9545.0905 to 9545.1125, for the residential placement of juveniles at a facility if the facility accepts juveniles who reside outside of Minnesota without an agreement with the entity placing the juvenile at the facility that obligates the entity to pay the educational expenses of the juvenile; or

(2) renew a license under Minnesota Rules, parts 9545.0905 to 9545.1125, for the residential placement of juveniles if the facility accepts juveniles who reside outside of Minnesota without an agreement with the entity placing the juvenile at the facility that obligates the entity to pay the educational expenses of the juvenile.

Sec. 4. Minnesota Statutes 1997 Supplement, 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, (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

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

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 or a juvenile petty offense before becoming ten years old;

(11) is a runaway;

(12) is an habitual truant;

(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;

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

(15) has been found by the court to have committed domestic abuse perpetrated by a minor under Laws 1997, chapter 239, 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; or

(16) has engaged in prostitution, as defined in section 609.321, subdivision 9.

Sec. 5. Minnesota Statutes 1996, section 260.015, subdivision 21, is amended to read:

Subd. 21. JUVENILE PETTY OFFENDER; JUVENILE PETTY OFFENSE.

(a) "Juvenile petty offense" includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult.

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(b) Except as otherwise provided in paragraph (c), "juvenile petty offense" also includes an offense that would be a misdemeanor if committed by an adult.

(c) "Juvenile petty offense" does not include any of the following:

(1) a misdemeanor-level violation of section 588.20, 609.224, 609.2242, 609.324, 609.563, 609.576, 609.66, 609.746, 609.79, or 617.23;

(2) a major traffic offense or an adult court traffic offense, as described in section 260.193;

(3) a misdemeanor-level offense committed by a child whom the juvenile court previously has found to have committed a misdemeanor, gross misdemeanor, or felony offense; or

(4) a misdemeanor-level offense committed by a child whom the juvenile court has found to have committed a misdemeanor-level juvenile petty offense on two or more prior occasions, unless the county attorney designates the child on the petition as a juvenile petty offender notwithstanding this prior record. As used in this clause, "misdemeanor-level juvenile petty offense" includes a misdemeanor-level offense that would have been a juvenile petty offense if it had been committed on or after July 1, 1995.

(d) A child who commits a juvenile petty offense is a "juvenile petty offender."

Sec. 6. Minnesota Statutes 1996, section 260.131, is amended by adding a subdivision to read:

Subd. 5. CONCURRENT JURISDICTION. When a petition is filed alleging that a child has engaged in prostitution as defined in section 609.321, subdivision 9, the county attorney shall determine whether concurrent jurisdiction is necessary to provide appropriate intervention and, if so, proceed to file a petition alleging the child to be both delinquent and in need of protection or services.

Sec. 7. Minnesota Statutes 1996, section 260.155, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** (a) Except for hearings arising under section ~~260.261~~ 260.315, hearings on any matter shall be without a jury and may be conducted in an informal manner, except that a child who is prosecuted as an extended jurisdiction juvenile has the right to a jury trial on the issue of guilt. The rules of evidence promulgated pursuant to section 480.0591 and the law of evidence shall apply in adjudicatory proceedings involving a child alleged to be delinquent, an extended jurisdiction juvenile, or a juvenile petty offender, and hearings conducted pursuant to section 260.125 except to the extent that the rules themselves provide that they do not apply. In all adjudicatory proceedings involving a child alleged to be in need of protection or services, the court shall admit only evidence that would be admissible in a civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of protection or services must be proved by clear and convincing evidence.

(b) Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time. In proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific

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findings that the continuance or adjournment is in the best interests of the child. If a hearing is held on a petition involving physical or sexual abuse of a child who is alleged to be in need of protection or services or neglected and in foster care, the court shall file the decision with the court administrator as soon as possible but no later than 15 days after the matter is submitted to the court. When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260.011 to 260.301.

(c) Except as otherwise provided in this paragraph, the court shall exclude the general public from hearings under this chapter and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court. The court shall permit the victim of a child's delinquent act to attend any related delinquency proceeding, except that the court may exclude the victim:

(1) as a witness under the Rules of Criminal Procedure; and

(2) from portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public.

The court shall open the hearings to the public in delinquency or extended jurisdiction juvenile proceedings where the child is alleged to have committed an offense or has been proven to have committed an offense that would be a felony if committed by an adult and the child was at least 16 years of age at the time of the offense, except that the court may exclude the public from portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public in an adult proceeding.

(d) In all delinquency cases a person named in the charging clause of the petition as a person directly damaged in person or property shall be entitled, upon request, to be notified by the court administrator in writing, at the named person's last known address, of (1) the date of the certification or adjudicatory hearings, and (2) the disposition of the case.

(e) Adoption hearings shall be conducted in accordance with the provisions of laws relating to adoptions.

Sec. 8. Minnesota Statutes 1997 Supplement, section 260.161, subdivision 2, is amended to read:

Subd. 2. **PUBLIC INSPECTION OF RECORDS.** (a) 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):

(1) by order of a court, (b); or

(2) 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.

(b) The victim of the any alleged delinquent act may, 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, obtain the following information, unless it reasonably appears that the request is prompted by a desire on the part of the requester to engage in unlawful activities:

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- (1) the name and age of the juvenile;
- (2) the act for which the juvenile was petitioned and date of the offense; and
- (3) the disposition, including but not limited to, dismissal of the petition, diversion, probation and conditions of probation, detention, fines, or restitution.

(c) 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 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.

(d) 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.

(e) A county attorney may give a law enforcement agency that referred a delinquency matter to the county attorney a summary of the results of that referral, including the details of any juvenile court disposition.

Sec. 9. Minnesota Statutes 1997 Supplement, 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 Laws 1997, chapter 239, 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 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;

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(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 1 or 4.

Sec. 10. Minnesota Statutes 1996, section 260.165, is amended by adding a subdivision to read:

Subd. 2a. PROTECTIVE PAT-DOWN SEARCH OF CHILD AUTHORIZED. (a) A peace officer who takes a child of any age or gender into custody under the provisions of this section is authorized to perform a protective pat-down search of the child in order to protect the officer's safety.

(b) A peace officer also may perform a protective pat-down search of a child in order to protect the officer's safety in circumstances where the officer does not intend to take the child into custody, if this section authorizes the officer to take the child into custody.

(c) Evidence discovered in the course of a lawful search under this section is admissible.

Sec. 11. Minnesota Statutes 1996, section 260.255, is amended to read:

260.255 CIVIL JURISDICTION OVER PERSONS CONTRIBUTING TO DELINQUENCY, STATUS AS A JUVENILE PETTY OFFENDER, OR NEED FOR PROTECTION OR SERVICES; COURT ORDERS.

Subdivision 1. **JURISDICTION.** The juvenile court has civil jurisdiction over persons contributing to the delinquency, status as a juvenile petty offender, or need for protection or services of a child under the provisions of subdivision 2 or 3 this section.

Subd. 1a. PETITION; ORDER TO SHOW CAUSE. A request for jurisdiction over a person described in subdivision 1 shall be initiated by the filing of a verified petition by the county attorney having jurisdiction over the place where the child is found, resides, or where the alleged act of contributing occurred. A prior or pending petition alleging that the child is delinquent, a juvenile petty offender, or in need of protection or services is not a prerequisite to a petition under this section. The petition shall allege the factual basis for the claim that the person is contributing to the child's delinquency, status as a juvenile petty offender, or need for protection or services. If the court determines, upon review of the verified petition, that probable cause exists to believe that the person has contributed to the child's delinquency, status as a juvenile petty offender, or need for protection or services, the court shall issue an order to show cause why the person should not be subject to the jurisdiction of the court. The order to show cause and a copy of the verified petition shall be served personally upon the person and shall set forth the time and place of the hearing to be conducted under subdivision 2.

Subd. 2. HEARING. If in (a) The court shall conduct a hearing on the petition in accordance with the procedures contained in paragraph (b).

(b) Hearings under this subdivision shall be without a jury. The rules of evidence promulgated pursuant to section 480.0591 and the provisions under section 260.156 shall apply. In all proceedings under this section, the court shall admit only evidence that would be admissible in a civil trial. When the respondent is an adult, hearings under this

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subdivision shall be open to the public. Hearings shall be conducted within five days of personal service of the order to show cause and may be continued for a reasonable period of time if a continuance is in the best interest of the child or in the interests of justice.

(c) At the conclusion of the hearing of a case of a child alleged to be delinquent or in need of protection or services it appears, if the court finds by a fair preponderance of the evidence that any person has violated the provisions of the person has contributed to the child's delinquency, status as a juvenile petty offender, or need for protection or services, as defined in section 260.315, the court may make any of the following orders:

(a) (1) restrain the person from any further act or omission in violation of section 260.315; or

(b) (2) prohibit the person from associating or communicating in any manner with the child; or

(c) Provide for the maintenance or care of the child, if the person is responsible for such, and direct when, how, and where money for such maintenance or care shall be paid.

(3) require the person to participate in evaluation or services determined necessary by the court to correct the conditions that contributed to the child's delinquency, status as a juvenile petty offender, or need for protection or services;

(4) require the person to provide supervision, treatment, or other necessary care;

(5) require the person to pay restitution to a victim for pecuniary damages arising from an act of the child relating to the child's delinquency, status as a juvenile petty offender, or need for protection or services;

(6) require the person to pay the cost of services provided to the child or for the child's protection; or

(7) require the person to provide for the child's maintenance or care if the person is responsible for the maintenance or care, and direct when, how, and where money for the maintenance or care shall be paid. If the person is receiving public assistance for the child's maintenance or care, the court shall authorize the public agency responsible for administering the public assistance funds to make payments directly to vendors for the cost of food, shelter, medical care, utilities, and other necessary expenses.

(d) An order issued under this section shall be for a fixed period of time, not to exceed one year. The order may be renewed or modified prior to expiration upon notice and motion when there has not been compliance with the court's order or the order continues to be necessary to eliminate the contributing behavior or to mitigate its effect on the child.

Subd. 3. CRIMINAL PROCEEDINGS. Before making any order under subdivision 2 the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the charges made against the person and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The county attorney may bring both a criminal proceeding under section 260.315 and a civil action under this section.

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Sec. 12. Minnesota Statutes 1996, section 260.315, is amended to read:

260.315 CRIMINAL JURISDICTION FOR CONTRIBUTING TO NEED FOR PROTECTION OR SERVICES, STATUS AS A JUVENILE PETTY OFFENDER, OR DELINQUENCY.

Subdivision 1. CRIMES. (a) Any person who by act, word, or omission encourages, causes, or contributes to the need for protection or services or delinquency of a child, or to a child's status as a juvenile petty offender, is guilty of a gross misdemeanor.

(b) This section does not apply to licensed social service agencies and outreach workers who, while acting within the scope of their professional duties, provide services to runaway children.

Subd. 2. COMPLAINT; VENUE. A complaint under this section may be filed by the county attorney having jurisdiction where the child is found, resides, or where the alleged act of contributing occurred. The complaint may be filed in either the juvenile or criminal divisions of the district court. A prior or pending petition alleging that the child is delinquent, a juvenile petty offender, or in need of protection or services is not a prerequisite to a complaint or a conviction under this section.

Subd. 3. AFFIRMATIVE DEFENSE. If the child is alleged to be delinquent or a juvenile petty offender, or if the child's conduct is the basis for the child's need for protection or services, it is an affirmative defense to a prosecution under subdivision 1 if the defendant proves, by a preponderance of the evidence, that the defendant took reasonable steps to control the child's conduct.

Sec. 13. Laws 1997, chapter 239, article 1, section 12, subdivision 3, is amended to read:

Subd. 3. Juvenile Services
17,070,000 17,790,000

\$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 and youth at risk. All youth shall be 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 juveniles 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

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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.

Sec. 14. [260.162] REPORT ON JUVENILE DELINQUENCY PETITIONS.

The state court administrator shall annually prepare and present to the chairs and ranking minority members of the house judiciary committee and the senate crime prevention committee aggregate data by judicial district on juvenile delinquency petitions. The report must include, but need not be limited to, information on the act for which a delinquency petition is filed, the age of the juvenile, the county where the petition was filed, the outcome of the petition, such as dismissal, continuance for dismissal, continuance without adjudication, and the disposition of the petition such as diversion, detention,

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probation, restitution, or fine. The report must be prepared on a calendar year basis and be submitted annually beginning July 1, 1999.

Sec. 15. LICENSING MORATORIUM; JUVENILE FACILITIES.

Subdivision 1. MORATORIUM; COMMISSIONER OF CORRECTIONS. Except as provided in subdivision 4, the commissioner of corrections may not:

(1) issue any license under Minnesota Statutes, section 241.021, to operate a new correctional facility for the detention or confinement of juvenile offenders that will include more than 25 beds for juveniles; or

(2) renew a license under Minnesota Statutes, section 241.021, to operate a correctional facility licensed before the effective date of this moratorium, for the detention or confinement of juvenile offenders, if the number of beds in the facility will increase by more than 25 beds since the time the most recent license was issued.

Subd. 2. MORATORIUM; COMMISSIONER OF HUMAN SERVICES. Except as provided in subdivision 4, the commissioner of human services may not:

(1) issue any license under Minnesota Rules, parts 9545.0905 to 9545.1125, for the residential placement of juveniles at a facility that will include more than 25 beds for juveniles; or

(2) renew a license under Minnesota Rules, parts 9545.0905 to 9545.1125, for the residential placement of juveniles at a facility licensed before the effective date of this moratorium, if the number of beds in the facility will increase by more than 25 beds since the time the most recent license was issued.

Subd. 3. MORATORIUM; OTHER BEDS. Except as provided in subdivision 4, no state agency may:

(1) issue a license for any new facility that will provide an out-of-home placement for more than 25 juveniles at one time; or

(2) renew a license for any existing facility licensed before the effective date of this moratorium, if the number of beds in the facility will increase by more than 25 beds since the time the most recent license was issued.

For the purposes of this subdivision, "juvenile" means a delinquent child, as defined in Minnesota Statutes, section 260.015, subdivision 5; a juvenile petty offender, as defined in Minnesota Statutes, section 260.015, subdivision 21; or a child in need of protection or services, as defined in Minnesota Statutes, section 260.015, subdivision 2a.

Subd. 4. EXEMPTIONS. The moratorium in this section does not apply to:

(1) any secure juvenile detention and treatment facility, which is funded in part through a grant under Laws 1994, chapter 643, section 79;

(2) the department of corrections facilities at Red Wing and Sauk Centre;

(3) the proposed department of corrections facility at Camp Ripley;

(4) any facility that submitted a formal request for licensure under Minnesota Statutes, section 241.021, before December 31, 1997;

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(5) any residential academy receiving state funding for fiscal year 1998 or 1999 for capital improvements;

(6) a license that replaces an existing license issued by the commissioner of health to a psychiatric hospital in Rice county that primarily serves children and adolescents, which new license replaces one-for-one the number of beds previously licensed by the commissioner of health; and

(7) the department of human services juvenile treatment programs located at Brainerd regional human services center and Willmar regional treatment center, which receive court-ordered admissions.

Subd. 5. MORATORIUM; LENGTH. The moratorium in this section stays in effect until June 30, 1999.

Sec. 16. JUVENILE PLACEMENT STUDY.

The legislative audit commission is requested to direct the legislative auditor to conduct a study of juvenile out-of-home placements. The study must include:

(1) an evaluation of existing placements for juveniles, including, but not limited to, the number of beds at each facility, the average number of beds occupied each day at each facility, and the location of each facility, and an analysis of the projected need for an increased number of beds for juvenile out-of-home placements, including the geographic area where beds will be needed;

(2) an evaluation of existing services and programming provided in juvenile out-of-home placements and an assessment of the types of services and programming that are needed in juvenile out-of-home placements, by geographic area;

(3) an evaluation of the utilization of continuum of care;

(4) an assessment of the reasons why juveniles are placed outside their homes;

(5) a summary of the demographics of juveniles placed outside their homes, by county, including information on race, gender, age, and other relevant factors;

(6) a summary of the geographic distance between the juvenile's home and the location of the out-of-home placement, including observations for the reasons a juvenile was placed at a particular location;

(7) a determination of the average length of time that a juvenile in Minnesota spends in an out-of-home placement and a determination of the average length of time that a juvenile spends in each type of out-of-home placement, including, but not limited to, residential treatment centers, correctional facilities, and group homes;

(8) a determination of the completion rates of juveniles participating in programming in out-of-home placements and an analysis of the reasons for noncompletion of programming;

(9) a determination of the percentage of juveniles whose out-of-home placement ends due to the juvenile's failure to meet the rules and conditions of the out-of-home placement and an analysis of the reasons the juvenile failed;

(10) an analysis of the effectiveness of the juvenile out-of-home placement, including information on recidivism, where applicable, and the child's performance after returning to the child's home;

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(11) an estimate of the cost each county spends on juvenile out-of-home placements;

(12) a description and examination of the per diem components per offender at state, local, and private facilities providing placements for juveniles; and

(13) any other issues that may affect juvenile out-of-home placements.

If the commission directs the auditor to conduct this study, the auditor shall report its findings to the chairs and ranking minority members of the house and senate committees and divisions with jurisdiction over criminal justice policy and funding by January 15, 1999.

Sec. 17. REPEALER.

Minnesota Statutes 1996, section 260.261, is repealed.

Sec. 18. EFFECTIVE DATE.

Sections 1 and 3 are effective July 1, 1998. Sections 2, 9, 10, 13, 15, and 16 are effective the day following final enactment. Sections 4 to 8, 11, 12, 14, and 17 are effective August 1, 1998, and apply to acts occurring on or after that date.

ARTICLE 11

OTHER PROVISIONS

Section 1. Minnesota Statutes 1996, section 12.09, is amended by adding a subdivision to read:

Subd. 9. VOLUNTEER RESOURCES COORDINATION. The division shall provide ongoing coordination of a network of state, local, and federal government agencies and private organizations to ensure the smooth coordination of donations and volunteerism during major disasters. Duties include:

(1) hotline management, including training, staffing, information distribution, and coordination with emergency operations management;

(2) coordination between government and private relief agencies;

(3) networking with volunteer organizations;

(4) locating resources for anticipated disaster needs and making these resources available to local governments in a database;

(5) training in disaster preparation;

(6) revising existing plans based on experience with disasters and testing the plans with simulated disasters; and

(7) maintaining public information about disaster donations and volunteerism.

Sec. 2. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 90c. ARSON INVESTIGATIVE DATA SYSTEM. Data in the arson investigative data system are classified in section 299F.04, subdivision 3a.

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Sec. 3. Minnesota Statutes 1997 Supplement, section 168.042, subdivision 11a, is amended to read:

Subd. 11a. **CHARGE FOR REINSTATEMENT OF REGISTRATION PLATES IN CERTAIN SITUATIONS.** When the registrar of motor vehicles reinstates a person's registration plates after impoundment for reasons other than those described in subdivision 11, the registrar shall charge the person ~~\$25~~ \$50 for each vehicle for which the registration plates are being reinstated. ~~Money raised under this subdivision must be paid into the state treasury and credited to the highway user tax distribution fund.~~

Sec. 4. Minnesota Statutes 1996, section 168.042, subdivision 12, is amended to read:

Subd. 12. **ISSUANCE OF SPECIAL REGISTRATION PLATES.** A violator or registered owner may apply to the commissioner for new registration plates, which must bear a special series of numbers or letters so as to be readily identified by traffic law enforcement officers. The commissioner may authorize the issuance of special plates if:

- (1) the violator has a qualified licensed driver whom the violator must identify;
- (2) the violator or registered owner has a limited license issued under section 171.30;
- (3) the registered owner is not the violator and the registered owner has a valid or limited driver's license; or
- (4) a member of the registered owner's household has a valid driver's license.

The commissioner may issue the special plates on payment of a ~~\$25~~ \$50 fee for each vehicle for which special plates are requested.

Sec. 5. Minnesota Statutes 1996, section 168.042, subdivision 15, is amended to read:

Subd. 15. **FEES CREDITED TO HIGHWAY USER FUND.** Fees collected from the sale or reinstatement of license plates under this section must be paid into the state treasury and credited one-half to the highway user tax distribution fund and one-half to the general fund.

Sec. 6. **[169.1219] REMOTE ELECTRONIC ALCOHOL MONITORING PROGRAM.**

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

(a) "Breath analyzer unit" means a device that performs breath alcohol testing and is connected to a remote electronic alcohol monitoring system.

(b) "Remote electronic alcohol monitoring system" means a system that electronically monitors the alcohol concentration of individuals in their homes or other locations to ensure compliance with conditions of pretrial release, supervised release, or probation.

Subd. 2. 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 program to use breath analyzer units to

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monitor DWI offenders who are ordered to abstain from alcohol use as a condition of pre-trial release, supervised release, or probation. The program must include procedures to ensure that violators of this condition of release receive swift consequences for the violation.

Subd. 3. COSTS OF PROGRAM. Offenders who are ordered to participate in the program 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 in a manner proportional to their use of remote electronic alcohol monitoring for any costs the districts incur in participating in the program.

Subd. 4. REPORT REQUIRED. After five years, the commissioner of corrections shall evaluate the effectiveness of the program and report the results of this evaluation to the conference of chief judges, the state court administrator, the commissioner of public safety, and the chairs and ranking minority members of the house and senate committees and divisions having jurisdiction over criminal justice policy and funding.

Sec. 7. Minnesota Statutes 1997 Supplement, 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 \$40 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 is appropriated as follows:

(i) The first \$200,000 in a fiscal year is to the commissioner of children, families, and learning for programs in elementary and secondary schools.

(ii) The remainder credited in a fiscal year is appropriated to the commissioner of transportation to be spent as grants to the Minnesota highway safety center at St. Cloud State University for programs relating to alcohol and highway safety education 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).

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(c) The \$10 \$40 surcharge shall be credited to a separate account to be known as the remote electronic alcohol monitoring pilot program account. 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. 8. Minnesota Statutes 1996, section 299A.61, is amended by adding a subdivision to read:

Subd. 4. CHARGES FOR SERVICES AUTHORIZED. The commissioner of public safety may charge a fee to members of the network for the services that the network provides. Money collected from these fees is appropriated to the commissioner of public safety and must be used for network expenses.

Sec. 9. Minnesota Statutes 1996, section 299F.04, is amended by adding a subdivision to read:

Subd. 3a. ARSON INVESTIGATIVE DATA SYSTEM. (a) As used in this section, "criminal justice agency" means state and local prosecution authorities, state and local law enforcement agencies, local fire departments, and the office of state fire marshal.

(b) The state fire marshal shall administer and maintain a computerized arson investigative data system for the purpose of assisting criminal justice agencies in the investigation and prosecution of suspected arson violations. This data system is separate from the reporting system maintained by the department of public safety under section 299F.05, subdivision 2. The system consists of data on individuals who are 14 years old or older who law enforcement agencies determine are or may be engaged in arson activity. Notwithstanding section 260.161, subdivision 3, data in the system on adults and juveniles may be maintained together. Data in the system must be submitted and maintained as provided in this subdivision.

(c) Subject to the provisions of paragraph (d), a criminal justice agency may submit the following data on suspected arson violations to the arson investigative data system:

- (1) the suspect's name, known aliases, if any, and other identifying characteristics;
- (2) the modus operandi used to commit the violation, including means of ignition;
- (3) any known motive for the violation;
- (4) any other crimes committed as part of the same behavioral incident;
- (5) the address of the building, the building owner's identity, and the building occupant's identity; and
- (6) the name of the reporting agency and a contact person.

A criminal justice agency that reports data to the arson investigative data system shall maintain records documenting the data in its own records system for at least the time period specified in paragraph (e).

(d) The state fire marshal shall maintain in the arson investigative data system any of the data reported under paragraph (c) that the fire marshal believes will assist in the investigation and prosecution of arson cases. In lieu of or in connection with any of these data,

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the state fire marshal may include in the data system a reference to the criminal justice agency that originally reported the data, with a notation to system users that the agency is the repository of more detailed information on the particular suspected arson violation.

(e) Notwithstanding section 138.17, the state fire marshal shall destroy data on juveniles entered into the system when three years have elapsed since the data were entered into the system, except as otherwise provided in this paragraph. If the fire marshal has information that, since entry of data into the system, the juvenile 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, the data must be maintained until three years have elapsed since the last record of a conviction, adjudication, or stayed adjudication of the individual. Upon request of the criminal justice agency that submitted data to the system, the state fire marshal shall destroy the data regardless of whether three years have elapsed since the data were entered into the system.

(f) Data in the arson investigative data system are confidential data on individuals as defined in section 13.02, subdivision 3, but are accessible to criminal justice agencies.

Sec. 10. Minnesota Statutes 1996, section 299M.01, subdivision 7, is amended to read:

Subd. 7. **FIRE PROTECTION SYSTEM.** "Fire protection system" means a sprinkler, standpipe, hose system, or other special hazard system for fire protection purposes only, that is composed of an integrated system of underground and overhead piping connected to a potable water source. "Fire protection system" does not include the water service piping to a city water main, or piping used for potable water purposes, or piping used for heating or cooling purposes. Openings from potable water piping for fire protection systems must be made by persons properly licensed under section 326.40. Persons properly licensed under section 326.40 may also sell, design, install, modify or inspect a standpipe, hose system only.

Sec. 11. Minnesota Statutes 1996, section 299M.02, is amended to read:

299M.02 ADVISORY COUNCIL.

Subdivision 1. **COMPENSATION; REMOVAL; EXPIRATION CREATION.** The Minnesota commissioner shall establish a fire protection advisory council on fire protection systems and its members are governed by section 15.059, except that the terms of members are governed by subdivision 2.

Subd. 2. **MEMBERSHIP.** The council consists of the commissioner of public safety, or the commissioner's designee, the commissioner of labor and industry or the commissioner's designee, and eight members appointed for a term of three years by the governor commissioner. Two members must be licensed fire protection contractors or full-time, managing employees actively engaged in a licensed fire protection contractor business. Two members must be journeyman sprinkler fitters certified as competent under this chapter. One member of the council must be an active member of the Minnesota State Fire Chiefs Association. One member must be an active member of the Fire Marshals Association of Minnesota. One member must be a building official certified by the department of administration, who is professionally competent in fire protection system inspection. One member must be a member of the general public. The commissioners commissioner or their designees are designee is a nonvoting members member.

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Subd. 3. **DUTIES.** The council shall advise the ~~commissioners~~ commissioner of public safety and labor and industry on matters within the council's expertise or under the regulation of the ~~commissioners~~ commissioner.

Sec. 12. Minnesota Statutes 1996, section 299M.03, subdivision 1, is amended to read:

Subdivision 1. **CONTRACTOR LICENSE.** Except for residential installations by the owner of an occupied one- or two-family dwelling, a person may not sell, design, install, modify, or inspect a fire protection system, its parts, or related equipment, or offer to do so, unless annually licensed to perform these duties as a fire protection contractor. No license is required under this section for a person licensed as a professional engineer under section 326.03 who is competent in fire protection system design or a person licensed as an alarm and communication contractor under section 326.2421 for performing activities authorized by that license.

Sec. 13. Minnesota Statutes 1996, section 299M.03, subdivision 2, is amended to read:

Subd. 2. **JOURNEYMAN CERTIFICATE.** Except for residential installations by the owner of an occupied one- or two-family dwelling, a person may not install, connect, alter, repair, or add to a fire protection system, under the supervision of a fire protection contractor, unless annually certified to perform those duties as a journeyman sprinkler fitter or as a registered apprentice sprinkler fitter. This subdivision does not apply to a person altering or repairing a fire protection system if the system uses low pressure water and the system is located in a facility regulated under the federal Mine Occupational Safety and Health Act.

Sec. 14. Minnesota Statutes 1996, section 299M.04, is amended to read:

299M.04 RULES; SETTING FEES; ORDERS; PENALTIES.

The commissioner shall adopt permanent rules for operation of the council; regulation by municipalities; permit, filing, inspection, certificate, and license fees; qualifications, examination, and licensing of fire protection contractors; certification of journeyman sprinkler fitters; registration of apprentices; and the administration and enforcement of this chapter. Fees must be set under section 16A.1285. Permit fees must be a percentage of the total cost of the fire protection work.

The commissioner may issue a cease and desist order to cease an activity considered an immediate risk to public health or public safety. The commissioner shall adopt permanent rules governing when an order may be issued; how long the order is effective; notice requirements; and other procedures and requirements necessary to implement, administer, and enforce the provisions of this chapter.

The commissioner, in place of or in addition to licensing sanctions allowed under this chapter, may impose a civil penalty not greater than \$1,000 for each violation of this chapter or rule adopted under this chapter, for each day of violation. The commissioner shall adopt permanent rules governing and establishing procedures for implementation, administration, and enforcement of this paragraph.

Sec. 15. Minnesota Statutes 1996, section 299M.08, is amended to read:

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299M.08 PENALTY.

It is a misdemeanor for any person to intentionally commit or direct another person to commit either of the following acts:

(1) to make a false statement in a license application, request for inspection, certificate, or other form or statement authorized or required under this chapter; or

(2) to perform fire protection system work without a proper permit, when required, and or without a license or certificate for that work.

Sec. 16. Minnesota Statutes 1996, section 299M.12, is amended to read:

299M.12 CONFLICTS OF LAWS.

This chapter is not intended to conflict with and does not supersede the Minnesota state building code, or the Minnesota uniform fire code, or other state law.

Sec. 17. Minnesota Statutes 1997 Supplement, section 504.181, subdivision 1, is amended to read:

Subdivision 1. **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 covenant that:

(1) neither will:

(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; or

(iv) allow stolen property or property obtained by robbery in those 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 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. 18. **[604.12] RESTRICTIONS ON DENYING ACCESS TO PLACES OF PUBLIC ACCOMMODATION; CIVIL ACTIONS.**

Subdivision 1. DEFINITIONS. As used in this section:

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(1) "place of public accommodation" has the meaning given in section 363.01, subdivision 33, but excludes recreational trails;

(2) "criminal gang" has the meaning given in section 609.229, subdivision 1; and

(3) "obscene" has the meaning given in section 617.241, subdivision 1.

Subd. 2. PROHIBITION. (a) A place of public accommodation may not restrict access, admission, or usage to a person solely because the person operates a motorcycle or is wearing clothing that displays the name of an organization or association.

(b) This subdivision does not prohibit the restriction of access, admission, or usage to a person because:

(1) the person's conduct poses a risk to the health or safety of another or to the property of another; or

(2) the clothing worn by the person is obscene or includes the name or symbol of a criminal gang.

Subd. 3. CIVIL CAUSE OF ACTION. A person injured by a violation of subdivision 2 may bring an action for actual damages, punitive damages under sections 549.191 and 549.20 in an amount not to exceed \$500, injunctive relief, and reasonable attorney fees in an amount not to exceed \$500.

Subd. 4. VIOLATION NOT A CRIME. Notwithstanding section 645.241, a violation of subdivision 2 is not a crime.

Sec. 19. Minnesota Statutes 1996, section 609A.03, subdivision 2, is amended to read:

Subd. 2. CONTENTS OF PETITION. A petition for expungement shall be signed under oath by the petitioner and shall state the following:

(1) the petitioner's full name and all other legal names or aliases by which the petitioner has been known at any time;

(2) the petitioner's date of birth;

(3) all of the petitioner's addresses from the date of the offense or alleged offense in connection with which an expungement order is sought, to the date of the petition;

(4) why expungement is sought, if it is for employment or licensure purposes, the statutory or other legal authority under which it is sought, and why it should be granted;

(5) the details of the offense or arrest for which expungement is sought, including date and jurisdiction of the occurrence, court file number, and date of conviction or of dismissal;

(6) in the case of a conviction, what steps the petitioner has taken since the time of the offense toward personal rehabilitation, including treatment, work, or other personal history that demonstrates rehabilitation;

(7) petitioner's criminal conviction record indicating all convictions for misdemeanors, gross misdemeanors, or felonies in this state, and for all comparable convictions in any other state, federal court, or foreign country, whether the convictions occurred before or after the arrest or conviction for which expungement is sought; and

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(8) petitioner's criminal charges record indicating all prior and pending criminal charges against the petitioner in this state or another jurisdiction, including all criminal charges that have been continued for dismissal or stayed for adjudication, or have been the subject of pretrial diversion; and

(9) all prior requests by the petitioner, whether for the present offense or for any other offenses, in this state or any other state or federal court, for pardon, return of arrest records, or expungement or sealing of a criminal record, whether granted or not, and all stays of adjudication or imposition of sentence involving the petitioner.

Sec. 20. [626.74] COMPENSATION FOR DAMAGE CAUSED BY PEACE OFFICERS IN PERFORMING LAW ENFORCEMENT DUTIES.

Subdivision 1. DEFINITIONS. As used in this section:

(1) "just compensation" means the compensation owed to an innocent third party under the state constitution by a Minnesota local government unit due to property damage caused by a peace officer in the course of executing a search warrant or apprehending a criminal suspect; and

(2) "peace officer" has the meaning given in section 626.84.

Subd. 2. RESPONSIBLE GOVERNMENT UNIT; EXECUTION OF SEARCH WARRANT. If just compensation is owed for damage caused in the execution of a search warrant or the apprehension of a criminal suspect, the Minnesota local government unit employing the peace officer who sought issuance of the warrant or initiated the apprehension is responsible for paying the compensation. Except as otherwise provided in this subdivision, if the search warrant is executed or the apprehension is accomplished by a peace officer from another Minnesota local government unit in aid of the officer originating the warrant or initiating the apprehension, the responsibility for paying just compensation remains with the Minnesota local government unit employing the officer who originated the warrant or initiated the apprehension. In the event the property damage is caused by the negligence of a peace officer, the Minnesota local government unit employing that peace officer is responsible for paying just compensation.

Sec. 21. [626.92] ENFORCEMENT AUTHORITY; FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA.

Subdivision 1. DEFINITION. As used in this section, "band" means the Fond du Lac Band of Lake Superior Chippewa, a federally recognized Indian tribe organized pursuant to the Indian Reorganization Act of 1934, 25 United States Code, section 476, and which occupies the Fond du Lac reservation pursuant to the Treaty of LaPointe, 10 Stat. 1109.

Subd. 2. LAW ENFORCEMENT AGENCY. (a) The band has the powers of a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (h), if all of the requirements of clauses (1) to (4) and paragraph (b) are met:

(1) the band agrees to be subject to liability for its torts and those of its officers, employees, and agents acting within the scope of their employment or duties arising out of the law enforcement agency powers conferred by this section to the same extent as a municipality under chapter 466, and the band further agrees, notwithstanding section 16B.06, subdivision 6, to waive its sovereign immunity for purposes of claims arising out of this liability;

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(2) the band files with the board of peace officer standards and training a bond or certificate of insurance for liability coverage for the maximum amounts set forth in section 466.04 or establishes that liability coverage exists under the Federal Torts Claims Act, 28 United States Code, section 1346(b), et. al., as extended to the band pursuant to the Indian Self-Determination and Education Assistance Act of 1975, 25 United States Code, section 450f(c);

(3) the band files with the board of peace officer standards and training a certificate of insurance for liability of its law enforcement officers, employees, and agents for lawsuits under the United States Constitution or establishes that liability coverage exists under the Federal Torts Claims Act, 28 United States Code, section 1346(b) et al., as extended to the band pursuant to the Indian Self-Determination and Education Assistance Act of 1975, 25 United States Code, section 450F(c); and

(4) the band agrees to be subject to section 13.82 and any other laws of the state relating to data practices of law enforcement agencies.

(b) By July 1, 1998, the band shall enter into written mutual aid or cooperative agreements with the Carlton county sheriff, the St. Louis county sheriff, and the city of Cloquet under section 471.59 to define and regulate the provision of law enforcement services under this section. The agreements must define the following:

- (1) the trust property involved in the joint powers agreement;
- (2) the responsibilities of the county sheriffs;
- (3) the responsibilities of the county attorneys; and
- (4) the responsibilities of the city of Cloquet city attorney and police department.

Subd. 3. CONCURRENT JURISDICTION. The band shall have concurrent jurisdictional authority under this section with the Carlton county and St. Louis county sheriffs' departments over crimes committed within the boundaries of the Fond du Lac reservation as indicated by the mutual aid or cooperative agreements entered into under subdivision 2, paragraph (b), and any exhibits or attachments to those agreements.

Subd. 4. PEACE OFFICERS. If the band complies with the requirements set forth in subdivision 2, the band is authorized to appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), who have the same powers as peace officers employed by local units of government.

Subd. 5. EFFECT ON FEDERAL LAW. Nothing in this section shall be construed to restrict the band's authority under federal law.

Subd. 6. CONSTRUCTION. This section is limited to law enforcement authority only, and nothing in this section shall affect any other jurisdictional relationships or disputes involving the band.

Sec. 22. AUTOMOBILE THEFT PREVENTION BOARD; REPORT REQUIRED.

By February 15, 1999, the automobile theft prevention board shall report to the chairs and ranking minority members of the house and senate committees and divisions having jurisdiction over criminal justice policy and funding on the board's activities

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since its inception. The report must include detailed information on all facets of the automobile theft prevention program, including but not limited to, money distributed; educational programs conducted; automobile theft prevention plans, programs, and strategies developed or sponsored; and audits conducted pursuant to Minnesota Statutes, section 168A.40. In addition, and if possible, the report must include information on automobile theft rates, how automobile thefts are treated in the criminal justice system, and the types of criminal sanctions generally imposed on offenders who are convicted of automobile theft. The report must indicate any changes or trends related to automobile thefts occurring over the past two years.

Sec. 23. FAIR HOUSING GRANTS.

Subdivision 1. DEFINITIONS. For the purposes of this section, the following terms have the meanings given:

(1) "Eligible organization" means a nonprofit organization that has at least one year of experience in at least two of the following fair housing activities:

(a) housing discrimination complaint intake and investigation;

(b) testing for housing discrimination;

(c) community auditing for housing discrimination;

(d) public education about rights and obligations under fair housing laws; and

(e) outreach programs to build public support for fair housing and to prevent housing discrimination; and

(2) "Housing discrimination" means a violation of a federal or state law, or of a local ordinance, that prohibits housing discrimination, including, but not limited to, an unfair discriminatory practice under Minnesota Statutes, section 363.03, subdivision 2 or 2a, and a discriminatory housing practice in violation of the federal Fair Housing Act, United States Code, title 42, section 3601, et seq.

Subd. 2. GRANTS. The commissioner of human rights may make grants to eligible organizations to:

(1) provide public education concerning fair housing;

(2) undertake outreach efforts to build community support for fair housing;

(3) undertake testing and community auditing for housing discrimination; and

(4) perform other fair housing and housing discrimination research.

Testing for housing discrimination funded by grants made under this section may be conducted only by persons trained in testing techniques and may not be conducted by a person convicted of a felony or other crime involving fraud or dishonesty.

Sec. 24. LICENSING STUDY.

The commissioner of public safety shall study the issue of licensing private fire investigators and report findings to the chairs and ranking minority members of the senate crime prevention and house judiciary committees by January 15, 1999.

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Sec. 25. CONVEYANCE OF STATE LAND TO CITY OF FARIBAULT.

Subdivision 1. CONVEYANCE. Notwithstanding Minnesota Statutes, sections 92.45 and 94.09 to 94.16, the commissioner of administration shall convey to the city of Faribault for no consideration the land described in subdivision 3.

Subd. 2. FORM. The conveyance must be in a form approved by the attorney general and must provide that the land reverts to the state if Parcels A and B cease to be used for a nature interpretive center and recreational trail system or if Parcel C ceases to be used for a municipal park.

Subd. 3. DESCRIPTION. (a) The land to be conveyed are those parts of Section 31, 32, and 33 in Township 110 North, Range 20 West, and those parts of Sections 4, 5, 6, and 8 in Township 109 North, Range 20 West, in the city of Faribault, Rice county, Minnesota, described as follows:

(1) Parcel A: Beginning at the Southeast corner of the Southeast Quarter of said Section 31; thence South 89 degrees, 58 minutes, 35 seconds West, along the South line of said Southeast Quarter (for purposes of this description bearings are assumed and based on said South line being South 89 degrees, 58 minutes, 35 seconds West), 299.47 feet to a point in the easterly right-of-way line of the Chicago, Rock Island and Pacific railroad; thence North 8 degrees, 28 minutes, 35 seconds East, along said easterly right-of-way line, 64.53 feet to a point in the center line of the Straight river; thence along said river center line on the following six courses: (1) North 38 degrees, 39 minutes, 35 seconds East, 291.75 feet; (2) thence North 20 degrees, 9 minutes, 45 seconds East, 681.78 feet; (3) thence North 34 degrees, 19 minutes, 49 seconds East, 248.24 feet; (4) thence North 0 degrees, 39 minutes, 31 seconds East, 435.03 feet; (5) thence North 18 degrees, 9 minutes, 34 seconds West, 657.76 feet; (6) thence North 46 degrees, 16 minutes, 23 seconds West, 98.54 feet to a point in the West line of the Southwest Quarter of said Section 32; thence North 0 degrees, 5 minutes, 56 seconds West, along said West line, 161.66 feet to a point in the southwesterly right-of-way line of a street known as Institute Place; thence along said southwesterly line of Institute Place on the following three courses: (1) South 61 degrees, 31 minutes, 27 seconds East, 56.14 feet; (2) thence South 53 degrees, 22 minutes, 44 seconds East, 87.77 feet; (3) thence South 44 degrees, 26 minutes, 3 seconds East, 215.06 feet to the Northeast corner of Block 1 in AUDITOR'S PLAT NO. 1 OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 110 NORTH, RANGE 20 WEST OF THE FIFTH PRINCIPAL MERIDIAN, FARIBAULT, RICE COUNTY, MINNESOTA; thence North 89 degrees, 21 minutes, 4 seconds West, along the North line of said Block 1, a distance of 111.58 feet to the Northwest corner of said Block 1; thence South 11 degrees, 41 minutes, 14 seconds East, along the West line of said Block 1, a distance of 202.66 feet; thence South 12 degrees, 51 minutes, 4 seconds East, along said westerly line of Block 1, a distance of 349.14 feet to the Southwest corner of said Block 1; thence South 74 degrees, 6 minutes, 4 seconds East, along the southerly line of said Block 1, a distance of 205.26 feet; thence South 82 degrees, 21 minutes, 4 seconds East, along said southerly line of Block 1, a distance of 106.92 feet to the Southeast corner of said Block 1; thence South 38 degrees, 13 minutes, 56 seconds West,

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194.00 feet; thence South 0 degrees, 13 minutes, 56 seconds West, 1000.00 feet; thence South 46 degrees, 15 minutes, 16 seconds West, 626.46 feet to said point of beginning;

(2) Parcel B: Commencing at the Northwest corner of the Northeast Quarter of said Section 5; thence South 89 degrees, 30 minutes, 57 seconds East, along the North line of said Northeast Quarter of Section 5 (for purposes of this description bearings are assumed and based on said North line being South 89 degrees, 30 minutes, 57 seconds East), a distance of 937.89 feet to the point of beginning of the parcel to be herein described; thence northwesterly along a nontangential curve, concave southwesterly (curve data: delta angle = 64 degrees, 8 minutes, 9 seconds; radius = 500.00 feet; chord bearing and distance = North 57 degrees, 57 minutes, 11 seconds West, 530.92 feet), an arc distance of 559.69 feet; thence South 89 degrees, 58 minutes, 44 seconds West, 175.00 feet; thence northwesterly, along a tangential curve, concave northeasterly (curve data: delta angle = 90 degrees, 0 minutes, 0 seconds; radius = 80.00 feet; chord bearing and distance = North 45 degrees, 1 minute, 16 seconds West, 113.14 feet), an arc distance of 125.66 feet; thence North 0 degrees, 1 minute, 16 seconds West, 309.89 feet to a point in the North line of the South One-fourth of the Southeast Quarter of said Section 32; thence South 89 degrees, 28 minutes, 9 seconds East, along said North line, 2413.98 feet to a point in the East line of said Southeast Quarter of Section 32; thence South 0 degrees, 1 minute, 9 seconds East, along said East line, 399.59 feet; thence South 89 degrees, 38 minutes, 30 seconds East, 826.74 feet; thence South 0 degrees, 21 minutes, 30 seconds West, 264.00 feet to a point in the North line of the West One-half of the Northwest Quarter of said Section 4; thence South 89 degrees, 38 minutes, 30 seconds East, along said North line, 490.37 feet to the Northeast corner of said West One-half of the Northwest Quarter; thence South 0 degrees, 24 minutes, 20 seconds West, along the East line of said West One-half of the Northwest Quarter, 2670.04 feet to the Southeast corner of said West One-half of the Northwest Quarter; thence South 0 degrees, 24 minutes, 20 seconds West, along the East line of the Northwest Quarter of the Southwest Quarter of said Section 4, a distance of 598.97 feet to a point in the center line of the Straight river; thence South 34 degrees, 34 minutes, 54 seconds West, along said river center line, 447.98 feet; thence continue along said river center line, South 13 degrees, 53 minutes, 50 seconds West, 359.52 feet to a point in the South line of the Northwest Quarter of the Southwest Quarter of said Section 4; thence North 89 degrees, 35 minutes, 28 seconds West, along said South line of the Northwest Quarter of the Southwest Quarter, 983.94 feet to the Southwest corner of said Northwest Quarter of the Southwest Quarter; thence North 89 degrees, 38 minutes, 42 seconds West, along the South line of the Northeast Quarter of the Southeast Quarter of said Section 5, a distance of 1328.17 feet to the Southwest corner of said Northeast Quarter of the Southeast Quarter; thence South 0 degrees, 31 minutes, 57 seconds West, along the East line of the Southwest Quarter of the Southeast Quarter of said Section 5, a distance of 1320.78 feet to the Southeast corner of said Southwest Quarter of the Southeast Quarter; thence North 89 degrees, 54 minutes, 59 seconds West, along the South line of said Southwest Quarter of

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the Southeast Quarter, 1329.77 feet to the Southwest corner of said Southwest Quarter of the Southeast Quarter; thence North 89 degrees, 16 minutes, 29 seconds West, along the North line of the Northwest Quarter of said Section 8, a distance of 435.63 feet to a point in the northwesterly line of the City of Faribault Trail; thence South 61 degrees, 6 minutes, 11 seconds West, along said Faribault Trail, 20.70 feet to the beginning of a spiral curve; thence southwesterly along said Faribault Trail on said spiral curve, concave northwesterly (center line curve data: radius = 1644.62 feet; spiral angle = 3 degrees, 26 minutes, 57 seconds; spiral arc = 198.00 feet; chord bearing and distance = South 62 degrees, 14 minutes, 7 seconds West, 191.95 feet), to the beginning of a circular curve; thence continue southwesterly along said Faribault Trail on a circular curve, concave northwesterly (curve data: delta angle = 1 degree, 55 minutes, 51 seconds; radius = 1544.62 feet; chord bearing and distance = South 65 degrees, 31 minutes, 4 seconds West, 52.05 feet), an arc distance of 52.05 feet; thence continue along said Faribault Trail, South 23 degrees, 31 minutes, 1 second East, 50.00 feet; thence continue southwesterly along said Faribault Trail, on a curve, concave northwesterly (curve data: delta angle = 38 degrees, 51 minutes, 59 seconds; radius = 1594.62 feet; chord bearing and distance = South 85 degrees, 54 minutes, 58 seconds West, 1061.08 feet), an arc distance of 1081.70 feet; thence South 21 degrees, 30 minutes, 5 seconds West, 465.54 feet to a point in the center line of Glynview Trail (county state aid highway 19); thence North 48 degrees, 33 minutes, 14 seconds West, along said Glynview Trail center line, 214.36 feet; thence North 29 degrees, 20 minutes, 41 seconds East, 285.93 feet to a point in the southwesterly line of said Faribault Trail; thence North 11 degrees, 41 minutes, 14 seconds East, 101.49 feet to a point in the northwesterly line of said Faribault Trail; thence North 40 degrees, 40 minutes, 22 seconds East, 265.18 feet to a point in said North line of the Northwest Quarter of Section 8; thence North 42 degrees, 10 minutes, 22 seconds East, 308.20 feet; thence North 62 degrees, 10 minutes, 22 seconds East, 205.00 feet to a point in the West line of the Southeast Quarter of the Southwest Quarter of said Section 5; thence North 0 degrees, 40 minutes, 22 seconds East, along said West line, 410.33 feet to a point in the center line of said Straight river; thence northwesterly along said river center line on the following 5 courses: (1) North 54 degrees, 15 minutes, 52 seconds West, 456.31 feet; (2) North 32 degrees, 45 minutes, 20 seconds West, 850.19 feet; (3) North 6 degrees, 42 minutes, 35 seconds East, 513.52 feet; (4) North 67 degrees, 45 minutes, 4 seconds West, 356.55 feet; (5) South 88 degrees, 6 minutes, 43 seconds West, 200.73 feet to a point in the West line of the Southwest Quarter of said Section 5; thence North 0 degrees, 44 minutes, 44 seconds East, along said West line, 307.02 feet to the Southwest corner of the Northwest Quarter of said Section 5; thence North 0 degrees, 37 minutes, 43 seconds East, along the West line of said Northwest Quarter of Section 5, a distance of 264.00 feet; thence North 30 degrees, 52 minutes, 17 seconds West, 396.00 feet; thence North 49 degrees, 52 minutes, 17 seconds West, 178.86 feet; thence South 51 degrees, 7 minutes, 43 seconds West, 264.00 feet; thence North 81 degrees, 22 minutes, 17 seconds West, 198.00 feet; thence North 48 degrees, 22 minutes, 17 seconds West, 132.00 feet to a point in the center line of said Straight river; thence northerly and westerly along

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said river center line on the following 4 courses: (1) North 19 degrees, 25 minutes, 39 seconds East, 131.22 feet; (2) North 42 degrees, 27 minutes, 59 seconds West, 399.91 feet; (3) North 85 degrees, 54 minutes, 52 seconds West, 280.71 feet; (4) North 5 degrees, 57 minutes, 52 seconds West, 229.98 feet to a point in the North line of the South One-half of the Northeast Quarter of said Section 6; thence South 89 degrees, 55 minutes, 31 seconds East, along said North line, 721.93 feet; thence North 29 degrees, 34 minutes, 29 seconds East, 384.78 feet; thence North 47 degrees, 4 minutes, 29 seconds East, 195.36 feet; thence South 86 degrees, 25 minutes, 31 seconds East, 108.44 feet to a point in the southwesterly right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific railroad; thence southeasterly along said railroad right-of-way line on a curve, concave northeasterly (curve data: delta angle = 0 degrees, 43 minutes, 5 seconds; radius = 2964.77 feet; chord bearing and distance = South 23 degrees, 57 minutes, 58 seconds East, 37.16 feet), an arc distance of 37.16 feet; thence North 65 degrees, 40 minutes, 30 seconds East, 200.00 feet to a point in the northeasterly right-of-way line of said railroad; thence South 78 degrees, 31 minutes, 31 seconds East, 644.57 feet; thence South 41 degrees, 58 minutes, 52 seconds East, 980.53 feet to a point in a line 49.50 feet westerly from and parallel with the East line of the Southwest Quarter of the Northwest Quarter of said Section 5; thence South 0 degrees, 36 minutes, 52 seconds West, along said parallel line, 1003.61 feet to a point in the North line of the Northwest Quarter of the Southwest Quarter of said Section 5; thence South 0 degrees, 40 minutes, 22 seconds West, along a line parallel with and 49.50 feet westerly of the East line of said Northwest Quarter of the Southwest Quarter of Section 5, a distance of 86.04 feet; thence South 66 degrees, 3 minutes, 0 seconds West, 600.24 feet; thence South 9 degrees, 16 minutes, 10 seconds West, 117.00 feet; thence South 55 degrees, 34 minutes, 0 seconds East, 451.30 feet; thence South 80 degrees, 13 minutes, 0 seconds East, 257.20 feet to a point in a line 16.50 feet easterly from and parallel with the West line of the Northeast Quarter of the Southwest Quarter of said Section 5; thence North 0 degrees, 40 minutes, 22 seconds East, along said parallel line, 410.00 feet; thence South 89 degrees, 19 minutes, 38 seconds East, 190.00 feet; thence North 0 degrees, 40 minutes, 22 seconds East, 200.00 feet; thence North 89 degrees, 19 minutes, 38 seconds West, 190.00 feet to a point in said line 16.50 feet easterly from and parallel with the West line of the Northeast Quarter of the Southwest Quarter of said Section 5; thence North 0 degrees, 40 minutes, 22 seconds East, along said parallel line, 133.39 feet to a point in the South line of the Southeast Quarter of the Northwest Quarter of said Section 5; thence North 0 degrees, 36 minutes, 52 seconds East, along a line parallel with and 16.50 feet easterly of the West line of said Southeast Quarter of the Northwest Quarter of Section 5, a distance of 720.09 feet; thence South 89 degrees, 14 minutes, 13 seconds East, 1302.89 feet to a point in the East line of said Southeast Quarter of the Northwest Quarter of Section 5; thence South 89 degrees, 30 minutes, 56 seconds East, 70.81 feet; thence North 40 degrees, 24 minutes, 41 seconds East, 564.03 feet; thence North 18 degrees, 38 minutes, 14 seconds West, 124.13 feet; thence North 2 degrees, 6 minutes, 24 seconds East, 187.00 feet; thence North 23 degrees, 19 minutes, 8 seconds East, 108.46 feet to a point designated as Point A; thence North 56 degrees, 4 min-

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utes, 42 seconds East, 446.55 feet; thence North 52 degrees, 19 minutes, 41 seconds East, 270.10 feet; thence North 2 degrees, 38 minutes, 16 seconds West, 500.00 feet; thence along a tangential curve, concave westerly (curve data: delta angle = 23 degrees, 14 minutes, 51 seconds; radius = 500.00 feet; chord bearing and distance = North 14 degrees, 15 minutes, 41 seconds West, 201.48 feet), an arc distance of 202.87 feet to said point of beginning; and

(3) Parcel C: Beginning at the Northeast corner of the Southwest Quarter of said section 32; thence southerly, along the East line of said Southwest Quarter (for purposes of this description bearing of said East line is assumed South 0 degrees, 4 minutes, 9 seconds West), a distance of 1638.76 feet; thence North 89 degrees, 18 minutes, 51 seconds West, 33.00 feet to the Southeast corner of Block 1, FARIBAULT STATE HOSPITAL ADDITION, FARIBAULT, RICE COUNTY, MINNESOTA, said Southeast corner being a point in the West line of Tenth Avenue Northeast and the true point of beginning of the parcel to be herein described; thence South 0 degrees, 4 minutes, 9 seconds West, along said West line of Tenth Avenue Northeast, 360.00 feet; thence North 89 degrees, 18 minutes, 51 seconds West, 826.98 feet to a point in the East line of vacated State Avenue; thence North 0 degrees, 4 minutes, 9 seconds East, along said East line of vacated State Avenue, 360.00 feet to the Southwest corner of said Block 1; thence South 89 degrees, 18 minutes, 51 seconds East, along the South line of said Block 1, 826.98 feet to said true point of beginning.

(b) The following land is excepted from the land described in paragraph (a):

(1) Parcel D: That part of the North One-half of the Northeast Quarter of Section 6 and that part of the North One-half of the Northwest Quarter of Section 5, all in Township 109 North, Range 20 West, in the city of Faribault, Rice county, Minnesota, described as follows: Beginning at a point in the East line of said Northeast Quarter of Section 6 (for purposes of this description bearings are assumed and based on said East line being South 0 degrees, 37 minutes, 43 seconds West), a distance of 1309.61 feet southerly from the Northeast corner of said Northeast Quarter; thence South 86 degrees, 27 minutes, 58 seconds West, 153.73 feet; thence North 0 degrees, 13 minutes, 34 seconds East, 252.29 feet; thence South 89 degrees, 34 minutes, 30 seconds East, 82.53 feet to a point in the southwesterly right-of-way line of the Chicago, Rock Island and Pacific railroad; thence southeasterly, along said railroad right-of-way line, on a curve, concave northeasterly (curve data: radius = 2914.77 feet; delta angle = 5 degrees, 27 minutes, 8 seconds; chord bearing and distance = South 30 degrees, 58 minutes, 52 seconds East, 277.26 feet), an arc distance of 277.37 feet; thence South 86 degrees, 27 minutes, 58 seconds West, 72.95 feet to said point of beginning; and

(2) the property deeded to the Chicago, Rock Island and Pacific railroad, and City of Faribault Trail.

(c) The land described in paragraph (a) is subject to:

(1) Glynview Trail (county state aid highway 19) over the southwesterly side thereof;

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(2) 220th Street East over part of the southerly side of Section 5;

(3) Fifth Street Northeast over part of the northerly side of the South One-quarter of the Southeast Quarter of Section 32;

(4) an easement for ingress and egress over and across Parcel B, said easement being a strip of land 30.00 feet in width lying immediately adjacent to and southwesterly of the southwesterly right-of-way line of said Chicago, Rock Island and Pacific railroad, bounded on the North by the southerly line of Parcel D, and bounded on the East by a line 49.50 feet westerly of and parallel with said East line of the Southwest Quarter of the Northwest Quarter of Section 5; and

(5) an easement for access to and maintenance of a deep sewer tunnel over, under, and across part of Parcel B, being a strip of land 100.00 feet in width, 50.00 feet on both sides of the following described center line: Commencing at said Point A in Parcel B; thence North 56 degrees, 4 minutes, 42 seconds East, 267.00 feet to the point of beginning of said easement center line; thence South 53 degrees, 14 minutes, 0 seconds East, 300.00 feet and there terminating; the side lines of said easement to be lengthened or shortened to meet in said course herein described as North 56 degrees, 4 minutes, 42 seconds East.

Subd. 4. PURPOSE. The land to be conveyed is no longer utilized by the department of corrections in Faribault. The city of Faribault intends to continue to use Parcels A and B for a nature interpretive center and recreational trail system and Parcel C for a municipal park.

Sec. 26. Laws 1996, chapter 365, section 3, is amended to read:

Sec. 3. REPEALER.

Section 2 is repealed when the project is completed, or June 30, 1998 2000, whichever occurs earlier.

Sec. 27. REPEALER.

Minnesota Statutes 1996, sections 299M.05; and 299M.11, subdivision 3, are repealed.

Sec. 28. EFFECTIVE DATE.

Section 25 is effective the day following final enactment. Section 21 is effective upon its acceptance by the boards of commissioners of Carlton and St. Louis counties and the city council of the city of Cloquet, but only if those acceptances occur on or before July 1, 1998.

Presented to the governor April 2, 1998

Signed by the governor April 6, 1998, 2:35 p.m.

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