

Sec. 7. Laws 1986, chapter 398, article 1, section 18, as amended by Laws 1987, chapter 292, section 37; Laws 1989, chapter 350, article 16, section 8; Laws 1990, chapter 525, section 1; Laws 1991, chapter 208, section 2; Laws 1993, First Special Session chapter 2, article 6, section 2; Laws 1995, chapter 212, article 2, section 11; and Laws 1997, chapter 183, article 3, section 29, is amended to read:

Sec. 18. REPEALER.

Sections 1 to 17 and Minnesota Statutes, section 336.9-501, subsections (6) and (7), and sections 583.284, 583.285, 583.286, and 583.305, are repealed on July 1, ~~1998~~ 1999.

Sec. 8. APPROPRIATION.

\$8,800,000 is appropriated to the commissioner of agriculture for purposes of section 5 from the budget reserve and cash flow account under Minnesota Statutes, section 16A.152. Up to \$70,000 of this appropriation is available for necessary program administrative costs of the departments of agriculture and revenue. The commissioner of finance may transfer money appropriated in this section to the commissioner of revenue to pay for necessary program administration costs.

Sec. 9. EFFECTIVE DATE.

Section 1 is effective retroactively to January 1, 1998.

Sections 2, 3, and 7 are effective July 1, 1998.

Sections 4, 5, 6, and 8 are effective the day following final enactment.

Presented to the governor April 10, 1998

Signed by the governor April 21, 1998, 9:30 a.m.

CHAPTER 396—S.F.No. 2498

An act relating to corrections; requiring sex offender treatment facilities to provide certain information regarding sex offenders; clarifying which law enforcement agency may request the end-of-confinement review committee to reassess the risk level to which an offender has been assigned; adjusting the time within which certain requirements of the community notification law must be met; providing certain immunity; eliminating duplicative efforts on notifying victims of certain information; requiring a study of the confidentiality of statements made by offenders in the course of sex offender treatment; amending Minnesota Statutes 1996, sections 241.67, subdivision 8, and by adding a subdivision; 244.052, subdivision 1; and 611A.037, subdivision 2; Minnesota Statutes 1997 Supplement, section 244.052, subdivisions 3, 4, and 5.

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

Section 1. Minnesota Statutes 1996, section 241.67, subdivision 8, is amended to read:

Subd. 8. COMMUNITY-BASED SEX OFFENDER PROGRAM EVALUATION PROJECT. (a) For the purposes of this project, a sex offender is an adult who has been convicted, or a juvenile who has been adjudicated, for a sex offense or a sex-related

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offense and has been sentenced to sex offender treatment as a condition of probation which would require registration under section 243.166.

(b) The commissioner shall develop a long-term project to accomplish the following:

- (1) provide follow-up information on each sex offender for a period of three years following the offender's completion of or termination from treatment;
- (2) provide treatment programs in several geographical areas in the state;
- (3) provide the necessary data to form the basis to recommend a fiscally sound plan to provide a coordinated statewide system of effective sex offender treatment programming; and
- (4) provide an opportunity to local and regional governments, agencies, and programs to establish models of sex offender programs that are suited to the needs of that region.

(c) The commissioner shall provide the legislature with an annual report of the data collected and the status of the project by October 15 of each year, beginning in 1993.

(d) The commissioner shall establish an advisory task force consisting of county probation officers from community corrections act counties and other counties, court services providers, and other interested officials. The commissioner shall consult with the task force concerning the establishment and operation of the project.

Sec. 2. Minnesota Statutes 1996, section 241.67, is amended by adding a subdivision to read:

Subd. 9. INFORMATION ON SEX OFFENDER TREATMENT. (a) All sex offender treatment facilities that provide treatment to sex offenders who begin treatment as a condition of probation shall provide the commissioner relevant information on the treatment of those offenders as the commissioner requests for the purpose of this evaluation. The information disclosed to the commissioner shall only be reported in aggregate and that information must not be used to designate additional sanctions for any individual offender.

(b) All county corrections agencies or court services officers shall provide the commissioner information as requested regarding juveniles and adults as defined in subdivision 8, paragraph (a) for the purpose of completing the requirements of subdivision 8.

Sec. 3. Minnesota Statutes 1996, section 244.052, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** As used in this section:

- (1) ~~"accepted for supervision" means accepted from another state under a reciprocal agreement under the interstate compact authorized by section 243.16;~~
- (2) "confinement" means confinement in a state correctional facility or a state treatment facility;
- ~~(2)~~ (2) "law enforcement agency" means the law enforcement agency having primary jurisdiction over the location where the offender expects to reside upon release; and
- (3) "sex offender" and "offender" mean a person who has been convicted of an offense for which registration under section 243.166 is required or a person who has been

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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. 4. Minnesota Statutes 1997 Supplement, section 244.052, subdivision 3, is amended to read:

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

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

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

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

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

(2) a law enforcement officer;

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

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

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

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

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

(1) private medical data under section 13.42 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;

(2) private and confidential court services data under section 13.84;

(3) private and confidential corrections data under section 13.85; and

(4) private criminal history data under section 13.87.

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

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(d)(i) Except as otherwise provided in item (ii), at least 90 days before a sex offender is to be released from confinement or accepted for supervision, the commissioner of corrections shall convene the appropriate end-of-confinement review committee for the purpose of assessing the risk presented by the offender and determining the risk level to which the offender shall be assigned under paragraph (e). The offender and the law enforcement agency that was responsible for the charge resulting in confinement shall be notified of the time and place of the committee's meeting and. The offender has a right to be present and be heard at the meeting. The law enforcement agency may provide material in writing that is relevant to the offender's risk level to the chair of the committee. The committee shall use the risk factors described in paragraph (g) and the risk assessment scale developed under subdivision 2 to determine the offender's risk assessment score and risk level. Offenders scheduled for release from confinement shall be assessed by the committee established at the facility from which the offender is to be released. Offenders accepted for supervision shall be assessed by whichever committee the commissioner directs.

(ii) If an offender is received for confinement in a facility with less than 90 days remaining in the offender's term of confinement, the offender's risk shall be assessed at the first regularly scheduled end of confinement review committee that convenes after the appropriate documentation for the risk assessment is assembled by the committee. The commissioner shall make reasonable efforts to ensure that offender's risk is assessed and a risk level is assigned or reassigned at least 30 days before the offender's release date.

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

(f) Before the sex offender is released from confinement or accepted for supervision, the committee shall prepare a risk assessment report which specifies the risk level to which the offender has been assigned and the reasons underlying the committee's risk assessment decision. The committee shall give the report to the offender and to the law enforcement agency at least 60 days before an offender is released from confinement or accepted for supervision. If the risk assessment is performed under the circumstances described in paragraph (d), item (ii), the report shall be given to the offender and the law enforcement agency as soon as it is available. The committee also shall inform the offender of the availability of review under subdivision 6.

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

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

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

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

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- (i) the relationship of prior victims to the offender;
 - (ii) the number of prior offenses or victims;
 - (iii) the duration of the offender's prior offense history;
 - (iv) the length of time since the offender's last prior offense while the offender was at risk to commit offenses; and
 - (v) the offender's prior history of other antisocial acts;
- (3) the offender's characteristics. This factor includes consideration of the following:
- (i) the offender's response to prior treatment efforts; and
 - (ii) the offender's history of substance abuse;
- (4) the availability of community supports to the offender. This factor includes consideration of the following:
- (i) the availability and likelihood that the offender will be involved in therapeutic treatment;
 - (ii) the availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location;
 - (iii) the offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and
 - (iv) the offender's lack of education or employment stability;
- (5) whether the offender has indicated or credible evidence in the record indicates that the offender will reoffend if released into the community; and
- (6) whether the offender demonstrates a physical condition that minimizes the risk of reoffense, including but not limited to, advanced age or a debilitating illness or physical condition.
- (h) Upon the request of the law enforcement agency or the offender's corrections agent, the commissioner may reconvene the end-of-confinement review committee for the purpose of reassessing the risk level to which an offender has been assigned under paragraph (e). In a request for a reassessment, the law enforcement agency which was responsible for the charge resulting in confinement or agent shall list the facts and circumstances arising after the initial assignment or facts and circumstances known to law enforcement or the agent but not considered by the committee under paragraph (e) which support the request for a reassessment. The request for reassessment must occur within 30 days of receipt of the report indicating the offender's risk level assignment. Upon review of the request, the end-of-confinement review committee may reassign an offender to a different risk level. If the offender is reassigned to a higher risk level, the offender has the right to seek review of the committee's determination under subdivision 6.
- (i) An offender may request the end-of-confinement review committee to reassess the offender's assigned risk level after two years have elapsed since the committee's initial risk assessment and may renew the request once every two years following subse-

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quent denials. In a request for reassessment, the offender shall list the facts and circumstances which demonstrate that the offender no longer poses the same degree of risk to the community. The committee shall follow the process outlined in paragraphs (a) to (e), and (g) in the reassessment.

(j) The commissioner shall establish an end-of-confinement review committee to assign a risk level to offenders who are released from a federal correctional facility in Minnesota or another state and who intend to reside in Minnesota, and to offenders accepted from another state under a reciprocal agreement for parole supervision under the interstate compact authorized by section 243.16. The committee shall make reasonable efforts to conform to the same timelines as applied to Minnesota cases. Offenders accepted from another state under a reciprocal agreement for probation supervision are not assigned a risk level, but are considered downward dispositional departures. The probation or court services officer and law enforcement officer shall manage such cases in accordance with section 244.10, subdivision 2a. The policies and procedures of the committee for federal offenders and interstate compact cases must be in accordance with all requirements as set forth in this section, unless restrictions caused by the nature of federal or interstate transfers prevents such conformance.

Sec. 5. Minnesota Statutes 1997 Supplement, section 244.052, subdivision 4, is amended to read:

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

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

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

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

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offender's pattern of offending or victim preference as documented in the information provided by the department of corrections or human services;

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

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

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

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

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

(d) A law enforcement agency or official who decides to disclose information under this subdivision shall make a good faith effort to make the notification at least 14 days before an offender is released from confinement or accepted for supervision within 14 days of receipt of a confirmed address from the department of corrections indicating that the offender will be, or has been, released from confinement, or accepted for supervision, or has moved to a new address and will reside at the address indicated. If a change occurs in the release plan, this notification provision does not require an extension of the release date.

(e) A law enforcement agency or official that decides to disclose information under this subdivision shall not disclose the identity of the victims of or witnesses to the offender's offenses.

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

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Sec. 6. Minnesota Statutes 1997 Supplement, section 244.052, subdivision 5, is amended to read:

Subd. 5. **RELEVANT INFORMATION PROVIDED TO LAW ENFORCEMENT.** At least 60 days before a sex offender is released from confinement or accepted for supervision, the department of corrections or the department of human services, in the case of a person who was committed under section 253B.185 or Minnesota Statutes 1992, section 526.10, shall give to the law enforcement agency that investigated the offender's crime of conviction or, where relevant, the law enforcement agency having primary jurisdiction where the offender was committed, all relevant information that the departments have concerning the offender, including information on risk factors in the offender's history. Within five days after receiving the offender's approved release plan from the office of adult release, the appropriate department shall give to the law enforcement agency having primary jurisdiction where the offender plans to reside all relevant information the department has concerning the offender, including information on risk factors in the offender's history and the risk level to which the offender was assigned. If the offender's risk level was assigned under the circumstances described in subdivision 3, paragraph (d), item (ii), the appropriate department shall give the law enforcement agency all relevant information that the department has concerning the offender, including information on the risk factors in the offender's history and the offender's risk level within five days of the risk level assignment or reassignment.

Sec. 7. Minnesota Statutes 1996, section 611A.037, subdivision 2, is amended to read:

Subd. 2. **NOTICE TO VICTIM.** The officer conducting a presentence or predispositional investigation shall make reasonable and good faith efforts to ~~contact~~ assure that the victim of that crime ~~and to provide that victim is provided~~ with the following information by contacting the victim or assuring that another public or private agency has contacted the victim: (i) the charge or juvenile court petition to which the defendant has been convicted or pleaded guilty, or the juvenile respondent has admitted in court or has been found to have committed by the juvenile court, and of any plea agreement between the prosecution and the defense counsel; (ii) the victim's right to request restitution pursuant to section 611A.04; (iii) the time and place of the sentencing or juvenile court disposition and the victim's right to be present; and (iv) the victim's right to object in writing to the court, prior to the time of sentencing or juvenile court disposition, to the proposed sentence or juvenile dispositional alternative, or to the terms of the proposed plea agreement. To assist the victim in making a recommendation under clause (iv), the officer shall provide the victim with information about the court's options for sentencing and other dispositions. Failure of the officer to comply with this subdivision does not give any rights or grounds for postconviction or postjuvenile disposition relief to the defendant or juvenile court respondent, nor does it entitle a defendant or a juvenile court respondent to withdraw a plea of guilty.

Sec. 8. STUDY OF CONFIDENTIALITY OF STATEMENTS MADE DURING SEX OFFENDER TREATMENT.

The commissioners of corrections and human services shall include in the report they are required to submit under Laws 1998, chapter 367, article 3, section 16, a recommendation concerning whether and to what extent statements made by sex offenders during the course of sex offender treatment should be treated as confidential. As used in this

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section, "sex offender" means a person who is required to register under Minnesota Statutes, section 243.166, the sex offender registration act.

Sec. 9. EFFECTIVE DATE.

Sections 1 to 7 are effective the day following final enactment and apply to offenders released from confinement, sentenced, or accepted for supervision on or after that date, or who move to a new address on or after that date. Section 8 is effective July 1, 1998.

Presented to the governor April 10, 1998

Signed by the governor April 20, 1998, 11:17 a.m.

CHAPTER 397—S.F.No. 2082

An act relating to education; recodifying and making technical amendments to kindergarten through grade 12 education statutes; amending Minnesota Statutes 1996, sections 120.02, subdivisions 1, 13, 14, 15, and 18; 120.06, subdivisions 1 and 2a; 120.062, subdivisions 4, 5, and 8a; 120.0621, as amended; 120.064, subdivisions 4, 4a, 5, 7, 9, 11, 12, 13, 14, 15, 17, 19, 20, 21, 22, and 24; 120.075, subdivisions 1, 2, 3a, and 4; 120.0751, subdivisions 1, 2, 3, 4, and 5; 120.0752, subdivisions 1, 2, and 3; 120.08; 120.101, subdivisions 5a, 7, 8, 9, and 10; 120.102, subdivisions 1, 3, and 4; 120.103, subdivisions 3, 4, 5, and 6; 120.11; 120.14; 120.17, subdivisions 1, 1b, 2, 3, 3a, 3b, 3d, 4, 4a, 5, 5a, 6, 7, 7a, 8a, 9, 10, 16, 18, and 19; 120.1701, subdivisions 2, 4, 5, 6, 7, 8, 8a, 9, 10, 11, 12, 15, 17, 19, 20, 21, and 22; 120.172, subdivision 2; 120.173, subdivisions 1, 3, 4, and 6; 120.1811; 120.182; 120.183; 120.185; 120.188; 120.189; 120.190; 120.59; 120.60; 120.61; 120.62; 120.63; 120.64; 120.66; 120.73, subdivisions 1, 2a, 2b, 3, and 4; 120.74; 120.75; 120.76; 120.80; 121.11, subdivision 7; 121.1115, subdivisions 1 and 2; 121.155; 121.201; 121.203, subdivision 1; 121.207, subdivisions 2 and 3; 121.585, subdivisions 2, 6, and 7; 121.615, subdivision 11; 121.704; 121.705, subdivision 2; 121.706; 121.707, subdivisions 3, 4, 5, 6, and 7; 121.708; 121.710, subdivisions 2 and 3; 121.831, subdivisions 6, 7, 8, 9, 10, 11, and 12; 121.835, subdivisions 4, 5, 7, and 8; 121.8355, subdivisions 2, 3, 5, and 6; 121.88, subdivisions 2, 3, 4, 6, 7, and 9; 121.882, subdivisions 1, 2b, 3, 7, 7a, 8, and 9; 121.885, subdivisions 1 and 4; 121.904, subdivisions 1, 2, 3, 4c, and 13; 121.906; 121.908; 121.911; 121.912, subdivisions 1a, 1b, 2, 3, 5, and 6; 121.9121, subdivisions 2 and 4; 121.914, subdivisions 2, 3, 4, 5, 6, 7, and 8; 121.917; 122.01; 122.02; 122.03; 122.21; 122.22, subdivisions 1, 4, 5, 6, 7a, 9, 13, 14, 18, 20, and 21; 122.23, subdivisions 2, 2b, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 16c, 18, 18a, and 20; 122.241; 122.242, subdivisions 1, 3, 8, and 9; 122.243; 122.245, subdivision 2; 122.246; 122.247, subdivisions 2 and 2a; 122.248; 122.25, subdivisions 2 and 3; 122.32; 122.34; 122.355; 122.41; 122.43; 122.44; 122.45, subdivisions 2 and 3a; 122.46; 122.47; 122.48; 122.531, subdivisions 2c, 5a, and 9; 122.5311, subdivision 1; 122.532, subdivisions 2, 3a, and 4; 122.535, subdivisions 2, 3, 4, 5, and 6; 122.541, subdivisions 1, 2, 4, 5, 6, and 7; 122.895; 122.91, subdivisions 2, 2a, 3a, 4, and 6; 122.93, subdivisions 3 and 8; 122.95, subdivisions 1, 1a, 2, and 4; 123.11, subdivisions 1, 2, 3, 4, and 7; 123.12; 123.13; 123.15; 123.33, subdivisions 1, 2, 2a, 3, 4, 6, 7, 11, and 11a; 123.335; 123.34, subdivisions 1, 2, 7, 8, 9, 9a, and 10; 123.35, subdivisions 1, 2, 4, 5, 8a, 9b, 12, 13, 15, 19a, 19b, 20, and 21; 123.351, subdivisions 1, 3, 4, 5, 8, and 8a; 123.3513; 123.3514, subdivisions 3, 4b, 4d, 5, 6, 6b, 7a, and 7b; 123.36, subdivisions 1, 5, 10, 11, 13, and 14; 123.37, subdivisions 1, 1a, and 1b; 123.38, subdivisions 1, 2, 2a, 2b, and 3; 123.39, subdivisions 1, 2, 8, 8a, 8b, 8c, 8d, 8e, 9a, 11, 12, 13, 14, 15, and 16; 123.40, subdivisions 1, 2, and 8; 123.41; 123.582, subdivision 2; 123.63; 123.64; 123.66; 123.681; 123.70, subdivisions 2, 4, and 8; 123.702, subdivisions 1, 1b, 2, 3, 4, 4a, 5, 6, and 7; 123.704; 123.7045; 123.71; 123.72; 123.75, subdivisions 2, 3, and 5; 123.751, subdivisions 1, 2, and 3; 123.76; 123.78; 123.78, subdivisions 1a and 2; 123.79, subdivision 1;

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