

facility within ten miles of an existing radiation therapy facility, then the provider incurring, or proposing to incur, the major spending commitment is subject to the procedures of prospective review and approval under Minnesota Statutes, section 62J.17, subdivision 6a. The provider shall be financially responsible for the cost of the prospective review and approval process. For purposes of this section, "provider" has the meaning specified in Minnesota Statutes, section 62J.17, subdivision 8. The provisions of this section do not apply to radiation therapy facilities owned and operated or managed by a hospital licensed under Minnesota Statutes, chapter 144. This section expires March 1, 2003.

#### Sec. 2. REPORT BY TASK FORCE.

The joint task force on health care costs and quality shall review prospective review and approval under Minnesota Statutes, section 62J.17, subdivision 6a, for a health care provider making a major spending commitment as defined in Minnesota Statutes, section 62J.17, and shall report to the legislature by December 15, 2002, on whether the provisions will reduce health care costs and/or improve health care quality.

Presented to the governor May 18, 2002

Signed by the governor May 21, 2002, 3:15 p.m.

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### CHAPTER 385—S.F.No. 3172

*An act relating to crimes; requiring a ten-year conditional release period when a person has a previous sex offense conviction regardless of the state in which it occurred; making it a ten-year felony when a person commits certain prohibited acts when the act is committed with sexual or aggressive intent; defining aggravated harassing conduct to include acts of criminal sexual conduct as predicate offenses for a pattern of harassing conduct; modifying notice requirements when moving for persons registered as predatory offenders; placing conditions and limitations on level III predatory offender locations of residence; clarifying predatory offender agency notification requirements; providing penalties for failure to report certain child abuse; requiring a report; prescribing penalties; amending Minnesota Statutes 2000, sections 244.052, subdivisions 1, 4, 4a; 609.109, subdivision 7; 609.749, subdivisions 1a, 3; 626.556, subdivision 6; Minnesota Statutes 2001 Supplement, section 609.749, subdivisions 4, 5.*

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

Section 1. Minnesota Statutes 2000, section 244.052, subdivision 1, is amended to read:

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

(1) "confinement" means confinement in a state correctional facility or a state treatment facility;

(2) "immediate household" means any and all individuals who live in the same household as the offender;

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(3) "law enforcement agency" means the law enforcement agency having primary jurisdiction over the location where the offender expects to reside upon release;

(3) (4) "residential facility" means a facility that is licensed as a residential program, as defined in section 245A.02, subdivision 14, by the commissioner of human services under chapter 245A, or the commissioner of corrections under section 241.021, whose staff are trained in the supervision of sex offenders; and

(4) (5) "predatory offender" and "offender" mean a person who is required to register as a predatory offender under section 243.166. However, the terms do not include persons required to register based solely on a delinquency adjudication.

Sec. 2. Minnesota Statutes 2000, 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 predatory 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), that is relevant and necessary to protect the public and to counteract the offender's dangerousness, consistent with the guidelines in paragraph (b). 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 employ 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 and to adult members of the offender's immediate household;

(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 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 shall disclose the information to the persons and entities described in clauses (1) and (2) and to other

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members of the community whom the offender is likely to encounter, unless the law enforcement agency determines that public safety would be compromised by the disclosure or that a more limited disclosure is necessary to protect the identity of the victim.

Notwithstanding the assignment of a predatory offender to risk level II or III, a law enforcement agency may not make the disclosures permitted or required by clause (2) or (3), if: the offender is placed or resides in a residential facility. However, if an offender is placed or resides in a residential 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 residential 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 shall make the disclosures permitted or required 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 discloses information under this subdivision shall make a good faith effort to make the notification 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 who discloses information under this subdivision shall not disclose the identity or any identifying characteristics of the victims of or witnesses to the offender's offenses.

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

(g) A law enforcement agency that is disclosing information on an offender assigned to risk level III to the public under this subdivision shall inform the

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commissioner of corrections what information is being disclosed and forward this information to the commissioner within two days of the agency's determination. The commissioner shall post this information on the Internet as required in subdivision 4b.

(h) A city council may adopt a policy that addresses when information disclosed under this subdivision must be presented in languages in addition to English. The policy may address when information must be presented orally, in writing, or both in additional languages by the law enforcement agency disclosing the information. The policy may provide for different approaches based on the prevalence of non-English languages in different neighborhoods.

Sec. 3. Minnesota Statutes 2000, section 244.052, subdivision 4a, is amended to read:

Subd. 4a. **LEVEL III OFFENDERS; LOCATION OF RESIDENCE.** (a) When an offender assigned to risk level III is released from confinement or a residential facility to reside in the community or changes residence while on supervised or conditional release, the agency responsible for the offender's supervision shall take into consideration the proximity of the offender's residence to that of other level III offenders and proximity to schools and, to the greatest extent feasible, shall mitigate the concentration of level III offenders and concentration of level III offenders near schools.

(b) If the owner or property manager of a hotel, motel, lodging establishment, or apartment building has an agreement with an agency that arranges or provides shelter for victims of domestic abuse, the owner or property manager may not knowingly rent rooms to both level III offenders and victims of domestic abuse at the same time. If the owner or property manager has an agreement with an agency to provide housing to domestic abuse victims and discovers or is informed that a tenant is a level III offender after signing a lease or otherwise renting to the offender, the owner or property manager may evict the offender.

Sec. 4. Minnesota Statutes 2000, section 609.109, subdivision 7, is amended to read:

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 after a previous sex offense conviction as defined in subdivision 5, 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.

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(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. 5. Minnesota Statutes 2000, section 609.749, subdivision 1a, is amended to read:

Subd. 1a. **NO PROOF OF SPECIFIC INTENT REQUIRED.** In a prosecution under this section, the state is not required to prove that the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted, or intimidated, or except as otherwise provided in subdivision 3, paragraph (a), clause (4), or paragraph (b), that the actor intended to cause any other result.

Sec. 6. Minnesota Statutes 2000, section 609.749, subdivision 3, is amended to read:

Subd. 3. **AGGRAVATED VIOLATIONS.** (a) A person who commits any of the following acts 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:

(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) harasses another, 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.

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(b) A person who 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, and the act is committed with sexual or aggressive intent, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

Sec. 7. Minnesota Statutes 2001 Supplement, section 609.749, subdivision 4, is amended to read:

Subd. 4. **SECOND OR SUBSEQUENT VIOLATIONS; FELONY.** (a) A person is guilty of a felony who violates any provision of subdivision 2 during the time period between a previous qualified domestic violence-related offense conviction or adjudication of delinquency and the end of the ten years following discharge from sentence or disposition for that offense, 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 person is guilty of a felony who violates any provision of subdivision 2 during the time period between the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency and the end of ten years following discharge from sentence or disposition for that offense, 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.

Sec. 8. Minnesota Statutes 2001 Supplement, section 609.749, subdivision 5, is amended to read:

Subd. 5. **PATTERN OF HARASSING CONDUCT.** (a) A person who engages in a pattern of harassing conduct with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) For purposes of this subdivision, a "pattern of harassing conduct" means two or more acts within a five-year period that violate or attempt to violate the provisions of any of the following or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories:

- (1) this section;
- (2) section 609.713;
- (3) section 609.224;
- (4) section 609.2242;
- (5) section 518B.01, subdivision 14;
- (6) section 609.748, subdivision 6;
- (7) section 609.605, subdivision 1, paragraph (b), clauses (3), (4), and (7);

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- (8) section 609.79;
- (9) section 609.795;
- (10) section 609.582;
- (11) section 609.595; or
- (12) section 609.765; or
- (13) sections 609.342 to 609.3451.

(c) When acts constituting a violation of this subdivision are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts constituting the pattern.

Sec. 9. Minnesota Statutes 2000, section 626.556, subdivision 6, is amended to read:

Subd. 6. **FAILURE TO REPORT.** (a) A person mandated by this section to report who knows or has reason to believe that a child is neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor.

(b) A person mandated by this section to report who knows or has reason to believe that two or more children not related to the perpetrator have been physically or sexually abused, as defined in subdivision 2, by the same perpetrator within the preceding ten years, and fails to report is guilty of a gross misdemeanor.

(c) A parent, guardian, or caretaker who knows or reasonably should know that the child's health is in serious danger and who fails to report as required by subdivision 2, paragraph (c), is guilty of a gross misdemeanor if the child suffers substantial or great bodily harm because of the lack of medical care. If the child dies because of the lack of medical care, 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. The provision in section 609.378, subdivision 1, paragraph (a), clause (1), providing that a parent, guardian, or caretaker may, in good faith, select and depend on spiritual means or prayer for treatment or care of a child, does not exempt a parent, guardian, or caretaker from the duty to report under this subdivision.

#### Sec. 10. **REPORT.**

(a) By January 1, 2003, the commissioner of corrections must report to the chairs and ranking minority members of the house and senate committees with jurisdiction over criminal justice policy and finance on the issues outlined in paragraph (b). In developing the report, the commissioner must consult with representatives of local corrections agencies in noncommunity corrections act counties, community corrections act counties, and county probation officer counties. The commissioner may also consult other interested parties.

(b) The commissioner of corrections must report on the following issues involving level III sex offenders:

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(1) a detailed explanation of how offenders re-enter the community after being released from prison, specifically focusing on how housing and jobs are found and the role that state and local corrections agents play in helping an offender find housing and jobs, including anecdotal evidence;

(2) the statewide locations and concentrations of the offenders;

(3) the effects of having the offenders living in close proximity to one another, specifically including the effects of offenders living within 1,500 feet of one another, including the effect on offense rates and voluntary relocation of neighborhood residents;

(4) efforts under Minnesota Statutes, section 244.052, subdivision 4a, that have been undertaken by local and state corrections agencies to mitigate the concentration of the offenders, especially with regard to the proximity of the offenders to schools;

(5) the likely effects of a policy requiring that offenders live a certain distance from schools;

(6) the likely effects of a policy requiring that offenders not live within a certain distance of each other;

(7) the restricted zones that would result in the cities of Minneapolis and St. Paul if a 1,500 foot proximity restriction was adopted in relation to schools, parks, and other offenders, with detailed maps; and

(8) policies adopted by other states relating to mitigating the concentration of sex offenders.

#### Sec. 11. **EFFECTIVE DATE.**

Sections 1 to 3 are effective August 1, 2002, and apply to offenders released from confinement or residential facilities on or after that date and to changes of residence by offenders on or after that date. Sections 4 to 9 are effective August 1, 2002, and apply to crimes committed on or after that date.

Presented to the governor May 18, 2002

Signed by the governor May 21, 2002, 3:15 p.m.

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### CHAPTER 386—H.F.No. 3073

*An act relating to gambling; making technical, clarifying, and conforming changes; deleting obsolete language; providing and modifying certain definitions and prize amounts relating to lawful gambling; modifying procedures for pull-tab dispensing devices; regulating sales of certain gambling equipment; providing for the drafting of model rules and a report to the legislature; amending Minnesota Statutes 2000, sections 299L.07, subdivision 2; 349.151, subdivision 4b; 349.161, subdivision 4; 349.162, subdivision 2; 349.163, subdivisions 1, 2, 3, 5; 349.164, subdivision 4; 349.165, subdivision 2; 349.167, subdivision 7; 349.168, subdivision 5;*

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