

**CHAPTER 111—H.F.No. 1140**

*An act relating to health; modifying requirements for an agreement to regulate nuclear materials; regulating the issuance of social work licenses and the payment of fees; amending Minnesota Statutes 2002, sections 144.1202, subdivision 4; 148B.18, subdivision 2a, by adding a subdivision; 148B.20, subdivision 3; 148B.21, subdivision 7; 148B.22, by adding a subdivision; 148B.26, subdivision 1; 148B.27, subdivisions 1, 2; Laws 2001, chapter 90, section 6; proposing coding for new law in Minnesota Statutes, chapter 148B; repealing Minnesota Rules, parts 8740.0200, subpart 3, item C; 8740.0222; 8740.0227; 8740.0290.*

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

Section 1. Minnesota Statutes 2002, section 144.1202, subdivision 4, is amended to read:

Subd. 4. **AGREEMENT; CONDITIONS OF IMPLEMENTATION.** (a) An agreement entered into before August 2, ~~2003~~ 2006, must remain in effect until terminated under the Atomic Energy Act of 1954, United States Code, title 42, section 2021, paragraph (j). The governor may not enter into an initial agreement with the Nuclear Regulatory Commission after August 1, ~~2003~~ 2006. If an agreement is not entered into by August 1, ~~2003~~ 2006, any rules adopted under this section are repealed effective August 1, ~~2003~~ 2006.

(b) An agreement authorized under subdivision 1 must be approved by law before it may be implemented.

Sec. 2. Minnesota Statutes 2002, section 148B.18, subdivision 2a, is amended to read:

Subd. 2a. **APPLICANT.** "Applicant" means a person who has submitted an application, with the appropriate fee, for licensure by the board, temporary licensure, or reinstatement of an expired license.

Sec. 3. Minnesota Statutes 2002, section 148B.18, is amended by adding a subdivision to read:

Subd. 13. **TEMPORARY LICENSEE.** "Temporary licensee" means a person licensed by the board under section 148B.21, subdivision 7.

Sec. 4. Minnesota Statutes 2002, section 148B.20, subdivision 3, is amended to read:

Subd. 3. **DUTIES OF THE BOARD.** The board shall ~~by rule~~ establish fees, including late fees, for licenses and renewals so that the total fees collected by the board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.1285. Fees must be credited to accounts in the special revenue fund.

Sec. 5. Minnesota Statutes 2002, section 148B.21, subdivision 7, is amended to read:

Subd. 7. **TEMPORARY PERMIT LICENSE.** (a) The board may issue a temporary ~~permit~~ license to practice social work to an applicant ~~in the following~~

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situations, provided the applicant meets all other requirements for licensure who is either:

(1) the applicant not licensed in any jurisdiction but has:

(i) applied for a license under section 148B.24;

(ii) applied for a temporary license on a form provided by the board;

(iii) submitted a form provided by the board authorizing the board to complete a criminal background check with the Minnesota bureau of criminal apprehension;

(iv) passed the applicable licensure examination provided for in section 148B.20, subdivision 1, paragraph (c); and

(v) the applicant's accredited program of social work has submitted an affidavit on attested on a form provided by the board verifying that the applicant's completion of applicant has completed the requirements for a baccalaureate or master's degree. The affidavit must be submitted within 15 days of the date of completion of the degree requirements. The temporary permit under this clause is valid for six months, or until a license is issued, whichever comes first, and is nonrenewable from a social work program accredited by the Council on Social Work Education or the requirements for a doctoral degree in social work; or

(2) the applicant has applied for licensure under section 148B.24 and the board determines that the applicant must pass the licensure examination before being licensed. The temporary permit under this clause is valid if the applicant passes the examination and completes the licensure process within the time periods specified by the board, and is nonrenewable; licensed in another jurisdiction, may or may not have applied for a license under section 148B.20, and has:

(i) applied for a temporary license on a form provided by the board;

(ii) submitted a form provided by the board authorizing the board to complete a criminal background check with the Minnesota bureau of criminal apprehension;

(iii) submitted evidence satisfactory to the board that the applicant is currently licensed or credentialed to practice social work in another jurisdiction; and

(iv) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or master's degree from a social work program accredited by the council on social work education or the requirements for a doctoral degree in social work.

(3) the applicant has passed the licensure examination, has graduated from a program of social work in candidacy status with the Council on Social Work Education, and the program of social work has submitted an affidavit on a form provided by the board verifying the applicant's completion of the requirements for a degree. The affidavit must be submitted within 15 days of the date of completion of the degree requirements. The temporary permit under this clause is valid for six months, and may be extended at the board's discretion upon a showing that the social work program remains in good standing with the Council on Social Work Education. If the

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board receives notice from the Council on Social Work Education that the program of social work is not in good standing or that accreditation will not be granted to the program of social work, then the temporary permit shall be invalid immediately and the applicant shall not qualify for licensure; or

(4) the applicant was born in a foreign country, the applicant has taken and failed to pass the licensure examination, English is a second language for the applicant, and the applicant's accredited program of social work has submitted an affidavit on a form provided by the board verifying the applicant's completion of the requirements for a degree. The affidavit must be submitted within 15 days of the date of completion of the degree requirements. The temporary permit under this clause is valid for six months or until a license is issued, whichever comes first, and is nonrenewable. This clause expires August 1, 2005.

(b) An applicant for a temporary license must not practice social work in Minnesota until the applicant has been granted a temporary license. An applicant who is practicing social work at the time of application is ineligible for a temporary license.

(c) An applicant for a temporary license must pay the nonrefundable application fee described in section 148B.226 plus the required fee for the cost of the criminal background check. Only one fee for the cost of the criminal background check must be submitted when the applicant is applying for both a temporary license and a license under section 148B.20.

(d) An applicant who is not licensed in another jurisdiction and who obtains a temporary permit license may practice social work only under the supervision of a licensed social worker who is eligible to provide supervision under section 148B.18, subdivision 12. The applicant's supervisor must provide evidence to the board, before the applicant is approved by the board for licensure, that the applicant has practiced social work under supervision. This supervision will not apply applies toward the supervision requirement required after licensure.

(e) A temporary licensee who has provided evidence to the board that the licensee has completed the requirements for a baccalaureate degree in social work from a social work program accredited by the Council on Social Work Education may temporarily engage in the social work practice described in section 148B.18, subdivision 11, paragraph (b), but may not engage in the social work practice described in section 148B.18, subdivision 11, paragraph (c).

(f) A temporary licensee who has provided evidence to the board that the licensee has completed the requirements for a master's degree in social work from a social work program accredited by the Council on Social Work Education, or the requirements for a doctoral degree in social work, may temporarily engage in the social work practice described in section 148B.18, subdivision 11, paragraphs (b) and (c).

(g) A temporary licensee shall conduct all professional activities as a social worker in accordance with the requirements established by the statutes and rules of the board.

(h) A temporary licensee must use the title "Social Worker - Temporary Licensee" in all professional use of the temporary licensee's name.

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(i) The board may immediately revoke the temporary license of any temporary licensee who violates any requirements of this subdivision. A temporary licensee whose temporary license is revoked shall immediately return the temporary license to the board.

(e) (j) A temporary permit license is valid for six months, or until the board issues or denies a license, or until the board revokes the temporary license, whichever comes first, and is nonrenewable. An individual holding a temporary license may not practice social work for more than six months without a license under section 148B.24.

Sec. 6. Minnesota Statutes 2002, section 148B.22, is amended by adding a subdivision to read:

Subd. 1a. REINSTATEMENT OF EXPIRED LICENSES. (a) The board must reinstate an expired license under either of the following conditions:

(1) hardship cases in which the applicant has:

(i) demonstrated to the board's satisfaction that the applicant was unable to comply with the board's license renewal requirements due to a mental or physical condition;

(ii) submitted an application for reinstatement on a form provided by the board;

(iii) paid the applicable hardship reinstatement fee described in section 148B.226, subdivision 2, paragraph (j);

(iv) demonstrated to the board's satisfaction that the applicant was in compliance with the board's continuing education requirements at the time the license expired; and

(v) if applicable, demonstrated to the board's satisfaction that the licensee is in compliance with the supervised practice requirements established by the board in rule and statute; or

(2) nonhardship cases in which the applicant has:

(i) submitted an application for reinstatement on a form provided by the board within one year of the date the license expired;

(ii) paid the applicable nonhardship reinstatement fee described in section 148B.226, subdivision 2, paragraph (k);

(iii) demonstrated to the board's satisfaction that the applicant was in compliance with the board's continuing education requirements at the time the license expired; and

(iv) if applicable, demonstrated to the board's satisfaction that the licensee is in compliance with the supervised practice requirements established by the board in rule and statute.

(b) When an applicant's expired license has been reinstated under paragraph (a), clause (1) or (2), the reinstated license is effective the day following the day the license expired.

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(c) A licensee whose license expired on or after August 1, 2001, may apply for reinstatement of an expired license pursuant to paragraph (a), clause (2). The application must be submitted no later than July 31, 2004.

**Sec. 7. [148B.224] ALTERNATIVE LICENSE STATUS.**

Subdivision 1. DEFINED; QUALIFICATIONS. A licensee may be placed on inactive status if a licensee is not practicing social work in Minnesota and the licensee does not wish to meet license renewal requirements every two years. A licensee qualifies for inactive status if the licensee demonstrates to the board that the licensee is not practicing social work, as defined by section 148B.18, in any setting in Minnesota.

Subd. 2. APPLICATION. (a) A licensee may apply for inactive status: (1) at any time by submitting a written application for inactive status; or (2) as an alternative to applying for the renewal of a license by so recording on the application for license renewal form and submitting the completed, signed form. The application for inactive status must be accompanied by the nonrefundable inactive status fee specified in section 148B.226, payable to the board of social work. An application that is not completed or signed, or which is not accompanied by the correct inactive status fee, shall be returned to the licensee and is void. If the application for inactive status is received after the expiration date, the licensee shall pay a late fee as specified in section 148B.226, payable to the board of social work, in addition to the inactive status fee, before the application for inactive status will be considered by the board.

(b) The licensee shall attest on a form provided by the board that the applicant will not use the title social worker and will not engage in social work practice in any setting in Minnesota after the date of the board's approval of the application for inactive status.

Subd. 3. APPROVAL. The board shall approve an application for inactive status if the qualifications and application requirements have been met.

Subd. 4. PRACTICE PROHIBITED. Licensees on inactive status shall not practice, attempt to practice, offer to practice, or advertise or hold themselves out as authorized to practice social work in any setting in Minnesota and shall use only the title "Social Worker - Inactive Status."

Subd. 5. TIME LIMIT ON INACTIVE STATUS. A licensee may maintain a license on inactive status for up to ten consecutive years. Within 30 days after the end of this ten-year period, the licensee must apply for reactivation of the license pursuant to subdivision 7 or the license expires. The board shall mail an application for reactivation to a licensee at least 45 days before the expiration date of the license. Placing the application for license reactivation in first class United States mail, addressed to the licensee at the licensee's last known mailing address with postage prepaid, constitutes valid mailing. Failure to receive the reactivation application does not release a license holder from the requirements of this section.

Subd. 6. CONTINUING EDUCATION REQUIREMENT. A licensee whose license is on inactive status must continue to obtain the continuing education hours required by rule that would be required if the licensee's license were on active status.

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**Subd. 7. REACTIVATING A LICENSE.** (a) To reactivate a license, a licensee must complete an application for reactivation of a license, in a form specified by the board; document compliance with the continuing education hours required by subdivision 6 and any continuing education hours not reported by the last expiration date of the license; submit a supervision plan under rules of the board, if required; pay a prorated license renewal fee for the balance of the biennial renewal cycle; and pay the duplicate license certificate fee specified in section 148B.226, if the licensee needs a license in order to meet the requirements of Minnesota Rules, part 8740.0340, subpart 4.

(b) If a licensee who reactivates a license has been on inactive status for five or more consecutive years and has not practiced social work during this period, the licensee must receive at least 38 hours of supervision for the first year of full-time practice or 2,000 hours of part-time practice, in accordance with the supervised practice requirements in rules of the board, for application to the licensee's current level. A licensee must submit a supervision plan before beginning practice, in accordance with rules of the board. A licensee must have the supervisor submit verification of the supervised practice in a form specified by the board within 30 days of completing this supervised practice requirement. This supervision requirement must be waived if the licensee can document at least two years of social work practice, outside of Minnesota, within the previous five-year period.

(c) For licensed social workers, the completed hours of supervised practice required under this subpart apply toward any remaining hours required by Minnesota Rules, part 8740.0130, subpart 3.

(d) Licensed graduate social workers and licensed independent social workers shall complete this supervised practice requirement before applying for another social work license. Supervised practice hours obtained to meet this requirement may be applied toward the supervised practice requirement for another social work license.

**Subd. 8. LICENSE OR RENEWAL FEE.** A licensee who is approved for inactive status before the end of the renewal cycle may not receive a refund for any portion of the license fee or renewal fee.

**Subd. 9. DISCIPLINARY OR CORRECTIVE ACTION.** The board shall retain jurisdiction over a license on inactive status and may take disciplinary or corrective action against the license based on conduct occurring before inactive status was granted or during the inactive status period.

**Sec. 8. [148B.225] EMERITUS STATUS.**

**Subdivision 1. DEFINED; QUALIFICATIONS.** A licensee may apply for an emeritus license if the licensee is retired from social work practice and does not intend to practice social work in any setting in Minnesota. A licensee shall qualify for an emeritus license if the licensee demonstrates to the board that the licensee is not practicing social work, as defined in section 148B.18, and verifies that the licensee is retired from social work practice.

**Subd. 2. APPLICATION.** (a) A licensee may apply for an emeritus license: (1) at any time by submitting a written application for an emeritus license; or (2) as an

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alternative to applying for the renewal of a license by so recording on the application for license renewal form and submitting a completed, signed form. The application for an emeritus license must be accompanied by the onetime, nonrefundable emeritus license fee specified in section 148B.226, payable to the board of social work. An application which is not completed or signed, or which is not accompanied by the correct emeritus license fee must be returned to the licensee and is void.

(b) An applicant for an emeritus license shall attest on a form provided by the board that the licensee will not use the title "social worker" and will not engage in social work practice in any setting in Minnesota after the date of the board's approval of the application for an emeritus license.

Subd. 3. APPROVAL. The board shall approve an application for an emeritus license if the qualifications and application requirements have been met. Upon approval of an application for an emeritus license, the board shall issue an emeritus license certificate.

Subd. 4. PRACTICE PROHIBITED. A licensee with an emeritus license shall not practice, attempt to practice, offer to practice, or advertise or hold out as authorized to practice social work in any setting in Minnesota, and shall use only the title "social worker emeritus."

Subd. 5. REACTIVATING A LICENSE. A licensee with an emeritus license may reactivate a license by meeting the requirements of section 148B.224, subdivision 7.

Subd. 6. LICENSE OR RENEWAL FEE. A licensee who applies for and is approved for an emeritus license before the end of the renewal cycle may not receive a refund for any portion of the license fee or renewal fee.

Subd. 7. DISCIPLINARY ACTION. (a) The board may resolve any pending complaints against a licensee before approving an application for an emeritus license.

(b) The board shall retain jurisdiction and may take disciplinary action against a licensee holding an emeritus license based on conduct occurring before issuance of the emeritus license.

#### Sec. 9. [148B.226] FEES.

Subdivision 1. HOW PAYABLE. The fees in subdivision 2 must be paid by personal check, bank draft, cashier's check, or money order payable to the board of social work. All fees are nonrefundable.

Subd. 2. FEE AMOUNTS. (a) Application fees for licensure are as follows:

- (1) for a licensed social worker or a licensed graduate social worker, \$45;
- (2) for a licensed independent social worker or a licensed independent clinical social worker, \$90;
- (3) for a reciprocity application for licensure at all levels, \$150; and
- (4) for a temporary license application, \$50.

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(b) A criminal background check fee must be paid in the amount determined by the bureau of criminal apprehension.

(c) License fees payable in addition to application fees for licensure are as follows:

- (1) licensed social worker, \$115.20;
- (2) licensed graduate social worker, \$201.60;
- (3) licensed independent social worker, \$302.40; and
- (4) licensed independent clinical social worker, \$331.20.

(d) License renewal fees are as follows:

- (1) licensed social worker, \$115.20;
- (2) licensed graduate social worker, \$201.60;
- (3) licensed independent social worker, \$302.40; and
- (4) licensed independent clinical social worker, \$331.20.

(e) An emeritus license fee is \$43.20.

(f) A duplicate license wall certificate is \$30.

(g) Inactive status fees are as follows:

- (1) licensed social worker, \$115.20;
- (2) licensed graduate social worker, \$201.60;
- (3) licensed independent social worker, \$302.40; and
- (4) licensed independent clinical social worker, \$331.20.

(h) A duplicate license card is \$10.

(i) A late fee is one-half of the applicable license renewal fee or inactive status fee.

(j) Hardship reinstatement fees are as follows:

- (1) licensed social worker, \$172.80;
- (2) licensed graduate social worker, \$302.40;
- (3) licensed independent social worker, \$453.60; and
- (4) licensed independent clinical social worker, \$496.80.

(k) Nonhardship reinstatement fees are as follows:

- (1) licensed social worker, \$230.40;
- (2) licensed graduate social worker, \$403.20;
- (3) licensed independent social worker, \$604.80; and
- (4) licensed independent clinical social worker, \$662.40.

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Sec. 10. Minnesota Statutes 2002, section 148B.26, subdivision 1, is amended to read:

Subdivision 1. **GROUND**s. The following conduct is grounds for the board to deny the application for or the renewal of a temporary ~~permit~~ or license, to take disciplinary or other action against a license as provided for in section 148B.281, or to take corrective action against a licensee as provided for in chapter 214:

- (1) engaging in any conduct which violates any statute or rule enforced by the board, or any other law that is related to the practice of social work;
- (2) violating any order issued by the board;
- (3) practicing outside the scope of practice authorized by this chapter for each level of licensure;
- (4) failing to demonstrate the qualifications or satisfy the requirements for licensure, with the burden of proof on the applicant to demonstrate the qualifications or the satisfaction of the requirements;
- (5) obtaining a temporary ~~permit~~, license, or license renewal by fraud, bribery, or cheating, or attempting to subvert the examination process;
- (6) making a false statement or misrepresentation to the board;
- (7) having been the subject of revocation, suspension, or surrender of a social work or related license or of other adverse action related to a social work or related license in another jurisdiction or country;
- (8) failing to report the revocation, suspension, or surrender of a social work or related license or other adverse action related to a social work or related license in another jurisdiction or country, failing to report that a complaint or other charges regarding the person's license have been brought in this or another jurisdiction or country, or having been refused a license by any other jurisdiction or country;
- (9) engaging in unprofessional conduct or any other conduct which has the potential for causing harm to the public, including any departure from or failure to conform to the minimum standards of acceptable and prevailing practice without actual injury having to be established;
- (10) engaging in unethical conduct or conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a client, or engaging in a practice which is professionally incompetent with proof of actual injury not having to be established;
- (11) being adjudicated by a court of competent jurisdiction, within or without this state, as incapacitated, mentally incompetent or mentally ill, chemically dependent, mentally ill and dangerous to the public, or a psychopathic personality;
- (12) being unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals or any other materials, or as a result of any mental or physical condition;

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(13) engaging in improper or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(14) obtaining money, property, or services from a client through the use of undue influence, harassment, duress, deception, or fraud or through the improper use of a professional position;

(15) engaging in sexual contact, as defined in section 148A.01, with a client or conduct that is or may reasonably be interpreted by the client as sexual, engaging in verbal behavior that is or may reasonably be interpreted as sexually seductive or sexually demeaning to a client, or engaging in conduct that violates section 617.23;

(16) being convicted, including a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, an admission of guilt, or a no contest plea, of a crime against a minor;

(17) being convicted, including a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, an admission of guilt, or a no contest plea of a felony, gross misdemeanor, or misdemeanor reasonably related to the practice of social work, as evidenced by a certified copy of the conviction;

(18) engaging in an unfair discriminatory practice prohibited by chapter 363 of an employee of the applicant, licensee, or facility in which the applicant or licensee practices;

(19) engaging in false, fraudulent, deceptive, or misleading advertising; or

(20) revealing a privileged communication from or relating to a client except when otherwise required or permitted by law.

Sec. 11. Minnesota Statutes 2002, section 148B.27, subdivision 1, is amended to read:

Subdivision 1. **PRACTICE.** No individual shall engage in social work practice unless that individual holds a valid temporary permit license or a license as a licensed social worker, licensed graduate social worker, licensed independent social worker, or licensed independent clinical social worker.

Sec. 12. Minnesota Statutes 2002, section 148B.27, subdivision 2, is amended to read:

Subd. 2. **USE OF TITLES.** No individual shall be presented to the public by any title incorporating the words "social work" or "social worker" unless that individual holds a valid temporary permit license or a license issued under sections 148B.18 to 148B.289. City, county, and state agency social workers who are not licensed under sections 148B.18 to 148B.289 may use only the title city agency social worker or county agency social worker or state agency social worker.

Sec. 13. Laws 2001, chapter 90, section 6, is amended to read:

Sec. 6. **STUDY OF THE SOCIAL WORKER LICENSE EXAMINATION.**

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(a) The board of social work shall, upon receipt of funding from federal or private sources, commission a study by an independent researcher to determine the extent to which the social work licensure examination failure rate for applicants who were born in a foreign country and for whom English is not their first language is greater than the failure rate for applicants from other populations taking the licensure examination, and the underlying cause of any such disparity. The study shall include consultations with and the collection of data from Minnesota social work educators; representatives of culturally based community organizations, including, but not limited to, the Asian-Pacific, Chicano/Latino, and Somali populations; and the national organization that develops, owns, and maintains the social work examinations used by the board. The study shall also include the collection and review of relevant data from other health-related boards in Minnesota, as well as relevant data from social work and health-related boards in other states. The results of the study shall be reported directly to the board.

(b) Provided funding is received to conduct the study, the board shall submit a report to the legislature by September 1, ~~2003~~ 2004. The report shall include the results of the study as well as recommendations on possible remedies to address any disparity in examination failure rates among different populations.

**Sec. 14. REVISOR INSTRUCTION.**

The revisor shall change references in Minnesota Rules from "part 8740.0290" to "Minnesota Statutes, section 148B.226."

**Sec. 15. REPEALER.**

Minnesota Rules, parts 8740.0200, subpart 3, item C; 8740.0222; 8740.0227; and 8740.0290, are repealed.

**Sec. 16. EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Presented to the governor May 23, 2003

Signed by the governor May 27, 2003, 4:07 p.m.

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**CHAPTER 112—H.F.No. 943**

*An act relating to state government; modifying practices and procedures relating to state finance; transferring state treasurer duties to the commissioner of finance; amending Minnesota Statutes 2002, sections 7.26; 15.62, subdivisions 2, 3; 16A.10, subdivisions 1, 2; 16A.127, subdivision 4; 16A.129, subdivision 3; 16A.133, subdivision 1; 16A.14, subdivision 3; 16A.17, by adding a subdivision; 16A.27, subdivision 5; 16A.40; 16A.46; 16A.501; 16A.626; 16A.642, subdivision 1; 16D.09, subdivision 1; 16D.13, subdivisions 1, 2; 35.08; 35.09, subdivision 3; 49.24, subdivisions 13, 16; 84A.11; 84A.23, subdivision 4; 84A.33, subdivision 4; 84A.40; 85A.05, subdivision 2; 94.53; 115A.58, subdivision 2; 116.16, subdivision 4; 116.17, subdivision*

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