(2) when preparing for a left turn, in which case the operator shall stop and dismount at the right-hand curb or right edge of the roadway, and shall complete the turn by crossing the roadway on foot, subject to restrictions placed by law on pedestrians; or

(3) when reasonably necessary to avoid impediments or conditions that make it unsafe to continue along the right-hand curb or edge, including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or narrow lanes.

(b) A person may operate a motorized foot scooter on a bicycle path, bicycle lane, bicycle trail, or bikeway that is not reserved for the exclusive use of nonmotorized traffic, unless the local authority or governing body having jurisdiction over that path, lane, trail, or bikeway prohibits operation by law.

Sec. 7. Minnesota Statutes 2004, section 171.01, subdivision 41, is amended to read:

Subd. 41. **MOTORIZED BICYCLE.** "Motorized bicycle" means a bicycle that is propelled by a an electric or a liquid fuel motor of a piston displacement capacity of 50 cubic centimeters or less, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged. "Motorized bicycle" includes an electric-assisted bicycle as defined in section 169.01, subdivision 4b.

Presented to the governor May 31, 2005

Signed by the governor June 3, 2005, 11:00 a.m.

CHAPTER 136—H.F.No. 1

An act relating to public safety; appropriating money for the courts, public defenders, public safety, corrections, and other criminal justice agencies; establishing, funding, modifying, and regulating public safety, criminal justice, judiciary, law enforcement, corrections, and crime victim services, policies, programs, duties, activities, or practices; requiring studies and reports; imposing criminal and civil penalties; setting or increasing fines, surcharges, and fees; implementing comprehensive sex offender and methamphetamine policies; amending Minnesota Statutes 2004, sections 2.722, subdivision 1; 13.6905, subdivision 17; 13.82, by adding a subdivision; 13.871, subdivision 5; 14.03, subdivision 3; 16C.09; 43A.047; 84.362; 116L.30; 144A.135; 152.01, subdivision 10; 152.02, subdivisions 4, 5, 6, by adding a subdivision; 152.021, subdivisions 2a, 3; 152.027, subdivisions 1, 2; 152.135, subdivision 2; 168A.05, subdivision 3; 169.06, by adding a subdivision; 169.71, subdivision 1; 169A.275, subdivision 1; 169A.52, subdivision 4; 169A.53, subdivision 3; 169A.60, subdivisions 10, 11; 169A.63, subdivision 8; 169A.70, subdivision 3, by adding subdivisions; 171.09; 171.20, subdivision 4; 171.26; 171.30, subdivision 2a; 214.04, subdivision 1; 216D.08, subdivisions 1, 2; 231.08, subdivision 5, as added; 237.70, subdivision 7; 241.06; 241.67, subdivisions 3, 7, 8; 242.195, subdivision 1;

243.1606, subdivision 1; 243.166; 243.167; 243.24, subdivision 2; 244.04, subdivision 1; 244.05, subdivisions 2, 4, 5, 6, 7; 244.052, subdivisions 3, 4, by adding subdivisions; 244.09, subdivisions 5, 11; 244.10, subdivision 2a, by adding subdivisions; 244.18, subdivision 2; 245C.13, subdivision 2; 245C.15, subdivision 1; 245C.17, subdivisions 1, 2, 3; 245C.22, by adding a subdivision; 245C.24, subdivision 2; 246.13; 253B.08, subdivision 1; 253B.18, subdivisions 4a, 5, by adding a subdivision; 259.11; 259.24, subdivisions 1, 2a, 5, 6a; 260C.171, by adding a subdivision; 260C.201, subdivision 11; 260C.212, subdivision 4; 282.04, subdivision 2; 299A.38, subdivisions 2, 2a, 3; 299A.465, by adding subdivisions; 299C.03; 299C.08; 299C.093; 299C.095, subdivision 1; 299C.10, subdivision 1, by adding a subdivision; 299C.11; 299C.14; 299C.145, subdivision 3; 299C.155; 299C.21; 299C.65, subdivisions 1, 2, 5, by adding a subdivision; 299F.011, subdivision 7; 299F.014; 299F.05; 299F.051, subdivision 4; 299F.06, subdivision 1; 299F.19, subdivisions 1, 2; 299F.362, subdivisions 3, 4; 326.3382, by adding a subdivision; 326.3384, subdivision 1; 340A.301, subdivision 6; 340A.302, subdivision 3; 340A.311; 340A.404, subdivision 12; 340A.408, subdivision 4; 340A.414, subdivision 6; 340A.504, subdivisions 3, 7; 343.31; 357.021, subdivisions 2, 6, 7; 357.18; 403.02, subdivisions 7, 13, 17, by adding a subdivision; 403.025, subdivisions 3, 7; 403.05, subdivision 3; 403.07, subdivision 3; 403.08, subdivision 10; 403.11, subdivisions 1, 3, 3a; 403.113, subdivision 1; 403.21, subdivision 8; 403.27, subdivisions 1, 3; 403.30, subdivision 1; 505.08, subdivision 2; 508.82; 508A.82; 515B.1-116; 518B.01, subdivision 22, by adding a subdivision; 590.01, subdivision 1, by adding a subdivision; 604.15, subdivision 2, by adding a subdivision; 609.02, subdivision 16; 609.106, subdivision 2; 609.108, subdivisions 1, 3, 4, 6, 7; 609.109, subdivisions 2, 4, 5, 6, 7; 609.1095, subdivisions 1, 2, 4; 609.115, by adding a subdivision; 609.117; 609.1351; 609.185; 609.2231, by adding a subdivision; 609.2242, subdivision 3; 609.229, subdivision 3; 609.321, subdivisions 1, 7, 12, by adding subdivisions; 609.325, by adding a subdivision; 609.341, subdivision 14, by adding a subdivision; 609.342, subdivisions 2, 3; 609.343, subdivisions 2, 3; 609.344, subdivisions 2, 3; 609.345, subdivisions 2, 3; 609.3452, subdivision 1; 609.347; 609.3471; 609.348; 609.353; 609.485, subdivisions 2, 4; 609.487, by adding a subdivision; 609.50, subdivision 1; 609.505; 609.52, subdivision 2; 609.527, subdivisions 1, 3, 4, 6, by adding a subdivision; 609.531, subdivision 1; 609.5311, subdivisions 2, 3; 609.5312, subdivisions 1, 3, 4, by adding a subdivision; 609.5314, subdivision 1; 609.5315, subdivision 1, by adding a subdivision; 609.5317, subdivision 1; 609.5318, subdivision 1; 609.605, subdivisions 1, 4; 609.746, subdivision 1; 609.748, subdivisions 2, 3a, by adding a subdivision; 609.749, subdivision 2; 609.763, subdivision 3; 609.79, subdivision 2; 609.795, by adding a subdivision; 609A.02, subdivision 3; 609A.03, subdivision 7; 611.272; 611A.01; 611A.036; 611A.19; 611A.53, subdivision 1b; 617.81, subdivision 4; 617.85; 624.22, subdivision 1; 626.04; 626.556, subdivision 3; 626.557, subdivision 14; 628.26; 631.045; 631.425, subdivision 4; 641.21; proposing coding for new law in Minnesota Statutes, chapters 35; 152; 171; 237; 241; 244; 260C; 299A; 299C; 357; 403; 446A; 590; 609; 611; 629; repealing Minnesota Statutes 2004, sections 18C.005, subdivisions 1a, 35a; 18C.201, subdivisions 6, 7; 18D.331, subdivision 5; 69.011, subdivision 5; 243.162; 243.166, subdivisions 1, 8; 244.10, subdivisions 2a, 3; 246.017, subdivision 1; 299A.64; 299A.65; 299A.66; 299A.68; 299C.65, subdivisions 3, 4, 6, 7, 8, 8a, 9; 299F.011, subdivision 4c; 299F.015; 299F.10; 299F.11; 299F.12; 299F.13; 299F.14; 299F.15; 299F.16; 299F.17; 299F.361; 299F.451; 299F.452; 386.30; 403.30, subdivision 3; 609.108, subdivision 2; 609.109, subdivision 7; 609.119; 609.725; 624.04; Laws 2004, chapter 283, section 14.

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

ARTICLE 1

PUBLIC SAFETY APPROPRIATIONS

Section 1. **PUBLIC SAFETY APPROPRIATIONS.**

The sums shown in the columns marked "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 "2006" and "2007" where used in this article, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 2006, or June 30, 2007, respectively. The term "first year" means the fiscal year ending June 30, 2006, and the term "second year" means the fiscal year ending June 30, 2007.

SUMMARY BY FUND

	2006	2007	TOTAL
General	$ 835,043,000	$ 849,704,000	$1,684,747,000
State Government Special Revenue	43,662,000	44,415,000	88,077,000
Environmental	49,000	49,000	98,000
Special Revenue	5,634,000	5,493,000	11,127,000
Trunk Highway	392,000	362,000	754,000
Bond Proceeds	62,500,000	-0-	62,500,000
TOTAL	$ 947,280,000	$ 900,023,000	$1,847,303,000

	APPROPRIATIONS Available for the Year Ending June 30	
	2006	2007
Sec. 2. SUPREME COURT		
Subdivision 1. Total Appropriations	$42,196,000	$42,171,000
Subd. 2. Supreme Court Operations	29,876,000	29,851,000

JUDICIAL SALARIES. Effective July 1, 2005, and July 1, 2006, the salaries of judges of the Supreme Court, Court of Appeals, and district court are increased by 1.5 percent.

CONTINGENT ACCOUNT. $5,000 each year is for a contingent account for expenses necessary for the normal operation

of the court for which no other reimbursement is provided.

CHIPS WORKING GROUP. The state court administrator shall convene a working group of stakeholders interested in and knowledgeable about issues related to the representation of children and adults in CHIPS proceedings. The state court administrator shall ensure broad representation in the group so that it includes members from diverse parts of the state and sufficient representation of all stakeholder groups on the issue. At a minimum, the working group shall study and make recommendations on the appropriate assignment and use of limited public defender resources and ways to minimize CHIPS proceedings through early intervention initiatives such as family group conferencing, mediation, and other innovative strategies. By January 15, 2006, the state court administrator shall report the working group's findings and recommendations to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice and civil law policy and funding.

Subd. 3. Civil Legal Services	12,320,000	12,320,000

LEGAL SERVICES TO LOW-INCOME CLIENTS IN FAMILY LAW MATTERS. Of this appropriation, $877,000 each year is to improve the access of low-income clients to legal representation in family law matters. This appropriation must be distributed under Minnesota Statutes, section 480.242, to the qualified legal services programs described in Minnesota Statutes, section 480.242, subdivision 2, paragraph (a). Any unencumbered balance remaining in the first year does not cancel and is available in the second year.

Sec. 3. COURT OF APPEALS	8,189,000	8,189,000
Sec. 4. TRIAL COURTS	231,039,000	231,386,000

SPECIALTY COURTS; REPORT. $250,000 each year is to develop or expand specialty courts such as drug courts and mental health courts.

By January 15, 2008, the state court administrator 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 how this money was used.

Sec. 5. TAX COURT	726,000	726,000
Sec. 6. UNIFORM LAWS COMMISSION	51,000	45,000

DUES OWED. $12,000 the first year and $6,000 the second year are for national conference dues.

Sec. 7. BOARD ON JUDICIAL STANDARDS	277,000	277,000

SPECIAL HEARINGS. $25,000 each year is for special hearings. This money may not be used for operating costs. This is a onetime appropriation.

Sec. 8. BOARD OF PUBLIC DEFENSE	60,703,000	61,801,000
Sec. 9. PUBLIC SAFETY		
Subdivision 1. Total Appropriation	188,774,000	126,747,000

Summary by Fund

General	81,581,000	81,332,000
Special Revenue	590,000	589,000
State Government Special Revenue	43,662,000	44,415,000
Environmental	49,000	49,000
Trunk Highway	392,000	362,000
Bond Proceeds	62,500,000	-0-

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

Subd. 2. Emergency Management		2,594,000	2,594,000
Summary by Fund			
General	2,545,000	2,545,000	
Environmental	49,000	49,000	

NONPROFIT AND FAITH-BASED ORGANIZATIONS; ANTITERRORISM GRANTS. Unless otherwise prohibited by statute, regulation, or other requirement, nonprofit and faith-based organizations may apply for and receive any funds or grants, whether federal or state, made available for antiterrorism efforts that are not distributed or encumbered for distribution to public safety entities within a year of receipt by the Department of Public Safety. These organizations must be considered under the same criteria applicable to any other eligible entity and must be given equal consideration.

Subd. 3. Criminal Apprehension		40,328,000	40,367,000
Summary by Fund			
General	39,520,000	39,560,000	
Special Revenue	440,000	439,000	
State Government Special Revenue	7,000	7,000	
Trunk Highway	361,000	361,000	

AGENCY CUT, DISTRIBUTION. The general fund appropriation includes a reduction of $245,000 the first year and $250,000 the second year. This reduction may be applied to any program funded under this section with the exception of the Office of Justice Programs.

COOPERATIVE INVESTIGATION OF CROSS-JURISDICTIONAL CRIMINAL ACTIVITY. $94,000 the first year and $93,000 the second year are appropriated from the Bureau of Criminal Apprehension account in the special revenue fund

for grants to local officials for the cooperative investigation of cross-jurisdictional criminal activity. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

LABORATORY ACTIVITIES. $346,000 each year is appropriated from the Bureau of Criminal Apprehension account in the special revenue fund for laboratory activities.

DWI LAB ANALYSIS; TRUNK HIGHWAY FUND. Notwithstanding Minnesota Statutes, section 161.20, subdivision 3, $361,000 each year is appropriated from the trunk highway fund for laboratory analysis related to driving-while-impaired cases.

DWI POLICY REFORMS. $60,000 the first year and $58,000 the second year are for costs associated with DWI policy reforms contained in article 18.

AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM. $1,533,000 the first year and $2,318,000 the second year are to replace the automated fingerprint identification system (AFIS).

PREDATORY OFFENDER REGISTRATION SYSTEM. $1,146,000 the first year and $564,000 the second year are to upgrade the predatory offender registration (POR) system and to increase the monitoring and tracking of registered offenders who become noncompliant with the law.

CRIMINAL JUSTICE INFORMATION SYSTEMS (CJIS) AUDIT TRAIL. $374,000 the first year and $203,000 the second year are for the Criminal Justice Information Systems (CJIS) audit trail.

DNA ANALYSIS. $757,000 the first year and $769,000 the second year are to fund DNA analyses of biological samples.

LIVESCAN. $66,000 the first year and $69,000 the second year are to fund the ongoing costs of Livescan.

TEN NEW AGENTS. $1,000,000 each year is for ten Bureau of Criminal Apprehension agents to be assigned exclusively to methamphetamine enforcement, including the investigation of manufacturing and distributing methamphetamine and related violence. These appropriations are intended to increase the current allocation of Bureau of Criminal Apprehension resources dedicated to methamphetamine enforcement. Positions funded by these appropriations may not supplant existing agent assignments or positions.

Subd. 4. Fire Marshal		2,845,000	2,832,000
Subd. 5. Alcohol and Gambling Enforcement		1,772,000	1,772,000
Summary by Fund			
General	1,622,000	1,622,000	
Special Revenue	150,000	150,000	
Subd. 6. Office of Justice Programs		34,440,000	34,035,000

GANG AND NARCOTICS STRIKE FORCES. $2,374,000 each year is for grants to the combined operations of the Criminal Gang Strike Force and Narcotics Task Forces.

CRIME VICTIM ASSISTANCE GRANTS INCREASE. $1,270,000 each year is to increase funding for crime victim assistance grants for abused children, sexual assault victims, battered women, and general crime victims.

BATTERED WOMEN'S SHELTER GRANTS. $400,000 each year is to in-

crease funding for battered women's shelters under Minnesota Statutes, section 611A.32, and for safe houses.

METHAMPHETAMINE TREATMENT GRANTS. $750,000 each year is for grants to counties for methamphetamine treatment programs. Priority should be given to those counties that demonstrate a treatment approach that incorporates best practices as defined by the Minnesota Department of Human Services. This is a onetime appropriation.

FINANCIAL CRIMES TASK FORCE. $750,000 each year is for the Financial Crimes Task Force. A cash or in-kind match totalling a minimum of $250,000 is required. Before the funds may be allocated, a financial work plan must be submitted to the commissioner of public safety.

HUMAN TRAFFICKING; ASSESSMENT, POLICY DEVELOPMENT, AND IMPLEMENTATION. $50,000 each year is to conduct the study and assessment of human trafficking under new Minnesota Statutes, sections 299A.78 and 299A.785.

YOUTH INTERVENTION PROGRAMS. $1,452,000 each year is for youth intervention programs currently under Minnesota Statutes, section 116L.30, but to be transferred to Minnesota Statutes, section 299A.73.

HOMELESSNESS PILOT PROJECTS. $400,000 the first year is for the homelessness pilot projects described in article 8, section 27. This is a onetime appropriation.

ADMINISTRATION COSTS. Up to 2.5 percent of the grant funds appropriated in this subdivision may be used to administer the grant programs.

Subd. 7. 911 Emergency Services/ARMER

43,655,000 44,408,000

This appropriation is from the state government special revenue fund for 911 emergency telecommunications services.

PRIOR 911 OBLIGATIONS. $3,442,000 the first year and $3,064,000 the second year are to fund a deficiency due to prior year obligations under Minnesota Statutes, section 403.11, that were estimated in the December 2004 911 fund statement to be $6,504,700 on July 1, 2005. "Prior year obligations" means reimbursable costs under Minnesota Statutes, section 403.11, subdivision 1, incurred under the terms and conditions of a contract with the state for a fiscal year preceding fiscal year 2004, that have been certified in a timely manner in accordance with Minnesota Statutes, section 403.11, subdivision 3a, and that are not barred by statute of limitation or other defense. The appropriations needed for this purpose are estimated to be none in fiscal year 2008 and thereafter.

PUBLIC SAFETY ANSWERING POINTS. $13,640,000 the first year and $13,664,000 the second year are to be distributed as provided in Minnesota Statutes, section 403.113, subdivision 2. This appropriation may only be used for public safety answering points that have implemented phase two wireless enhanced 911 service or whose governmental agency has made a binding commitment to the commissioner of public safety to implement phase two wireless enhanced 911 service by January 1, 2008. If revenue to the account is insufficient to support all appropriations from the account for a fiscal year, this appropriation takes priority over other appropriations, except the open appropriation in Minnesota Statutes, section 403.30,

subdivision 1, for debt service on bonds previously sold.

MEDICAL RESOURCE COMMUNICATION CENTERS. $682,000 the first year and $683,000 the second year are for grants to the Minnesota Emergency Medical Services Regulatory Board for the Metro East and Metro West Medical Resource Communication Centers that were in operation before January 1, 2000.

800 MEGAHERTZ DEBT SERVICE. $6,138,000 the first year and $6,149,000 the second year are to the commissioner of finance to pay debt service on revenue bonds issued under Minnesota Statutes, section 403.275. Any portion of this appropriation not needed to pay debt service in a fiscal year may be used by the commissioner of public safety to pay cash for any of the capital improvements for which bond proceeds have been appropriated in subdivision 8.

METROPOLITAN COUNCIL DEBT SERVICE. $1,405,000 the first year and $1,410,000 the second year are to the commissioner of finance for payment to the Metropolitan Council for debt service on bonds issued under Minnesota Statutes, section 403.27.

800 MEGAHERTZ IMPROVEMENTS. $1,323,000 each year is for the Statewide Radio Board for costs of design, construction, maintenance of, and improvements to those elements of the first, second, and third phases that support mutual aid communications and emergency medical services, and for recurring charges for leased sites and equipment for those elements of the first, second, and third phases that support mutual aid and emergency medical communication services.

Subd. 8. 800 MHz Public Safety Radio and Communication System	62,500,000
The appropriations in this subdivision are from the 911 revenue bond proceeds account for the purposes indicated, to be available until the project is completed or abandoned, subject to Minnesota Statutes, section 16A.642.	
(a) Phase 2 Subsystems	8,000,000
To the commissioner of public safety for a grant to the Metropolitan Emergency Services Board to pay up to 50 percent of the cost to a local government unit of building a subsystem as part of the second phase of the public safety radio and communication system plan under Minnesota Statutes, section 403.36.	
(b) Phase 3 System Backbone	45,000,000
To the commissioner of transportation to construct the system backbone in the third phase of the public safety radio and communication system plan under Minnesota Statutes, section 403.36.	
(c) Phase 3 Subsystems	9,500,000
To the commissioner of public safety to reimburse local units of government for up to 50 percent of the cost of building a subsystem of the public safety radio and communication system established under Minnesota Statutes, section 403.36, in the southeast district of the State Patrol and the counties of Benton, Sherburne, Stearns, and Wright.	

(d) Bond Sale Authorization

To provide the money appropriated in this subdivision, the commissioner of finance shall sell and issue bonds of the state in an amount up to $62,500,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, section 403.275.

Subd. 9. Administration	609,000	738,000

PUBLIC SAFETY OFFICERS' HEALTH INSURANCE. $609,000 the first year and $738,000 the second year are for public safety officers' health insurance. The base for fiscal year 2008 is $885,000 and for fiscal year 2009 is $1,053,000.

Subd. 10. Driver and Vehicle Services	31,000	1,000

GASOLINE THEFT. This appropriation is from the trunk highway fund for costs associated with suspending licenses of persons under new section 171.175 for gasoline theft.

Sec. 10. PEACE OFFICER STANDARDS AND TRAINING BOARD (POST)	4,154,000	4,014,000

EXCESS AMOUNTS TRANSFERRED. This appropriation is from the peace officer training account in the special revenue fund. Any new receipts credited to that account in the first year in excess of $4,154,000 must be transferred and credited to the general fund. Any new receipts credited to that account in the second year in excess of $4,014,000 must be transferred and credited to the general fund.

TECHNOLOGY IMPROVEMENTS. $140,000 the first year is for technology improvements.

PEACE OFFICER TRAINING REIMBURSEMENT. $2,909,000 each year is

for reimbursements to local governments for peace officer training costs.

Sec. 11. BOARD OF PRIVATE DETECTIVE AND PROTECTIVE AGENT SERVICES	126,000	126,000
Sec. 12. HUMAN RIGHTS	3,490,000	3,490,000
Sec. 13. DEPARTMENT OF CORRECTIONS		
Subdivision 1. Total Appropriation	407,085,000	420,588,000
Summary by Fund		
General Fund	406,195,000	419,698,000
Special Revenue	890,000	890,000

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

Subd. 2. Correctional Institutions	288,296,000	301,986,000
Summary by Fund		
General Fund	287,716,000	301,406,000
Special Revenue	580,000	580,000

CONTRACTS FOR BEDS AT RUSH CITY. If the commissioner contracts with other states, local units of government, or the federal government to rent beds in the Rush City Correctional Facility, the commissioner shall charge a per diem under the contract, to the extent possible, that is equal to or greater than the per diem cost of housing Minnesota inmates in the facility.

Notwithstanding any law to the contrary, the commissioner may use per diems collected under contracts for beds at MCF-Rush City to operate the state correctional system.

LEVEL III OFFENDER TRACKING AND APPREHENSION. $70,000 each

year is to track and apprehend level III predatory offenders.

SEX OFFENDER TREATMENT AND TRANSITIONAL SERVICES. $1,500,000 each year is for sex offender treatment and transitional services.

HEALTH SERVICES. $3,085,000 the first year and $3,086,000 the second year are for increased funding for health services.

CHEMICAL DEPENDENCY TREATMENT. $1,000,000 each year is for increased funding for chemical dependency treatment programs.

WORKING GROUP ON INMATE LABOR; REPORT. The commissioner of corrections and the commissioner of the Minnesota Housing Finance Agency shall convene a working group to study the feasibility of using inmate labor to build low-income housing manufactured at MCF-Faribault. The working group shall consist of: the chief executive officer of MINNCOR Industries; representatives from the Builders Association of America, Minnesota AFL-CIO, Association of Minnesota Counties, Minnesota Manufactured Housing Association, Habitat for Humanity, and Minnesota Housing Partnership, selected by those organizations; and any other individuals deemed appropriate by the commissioners.

By January 15, 2006, the working group shall report its findings and recommendations to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice and jobs, housing, and community development policy and funding.

Subd. 3. Community Services		103,556,000	103,369,000
	Summary by Fund		
General Fund	103,456,000	103,269,000	
Special Revenue	100,000	100,000	

SHORT-TERM OFFENDERS. $1,207,000 each year is for costs associated with the housing and care of short-term offenders. The commissioner may use up to 20 percent of the total amount of the appropriation for inpatient medical care for short-term offenders with less than six months to serve as affected by the changes made to Minnesota Statutes, section 609.105, in 2003. All funds remaining at the end of the fiscal year not expended for inpatient medical care shall be added to and distributed with the housing funds. These funds shall be distributed proportionately based on the total number of days short-term offenders are placed locally, not to exceed $70 per day. Short-term offenders may be housed in a state correctional facility at the discretion of the commissioner.

The Department of Corrections is exempt from the state contracting process for the purposes of Minnesota Statutes, section 609.105, as amended by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9.

GPS MONITORING OF SEX OFFENDERS. $500,000 the first year and $162,000 the second year are for the acquisition and service of bracelets equipped with tracking devices designed to track and monitor the movement and location of criminal offenders. The commissioner shall use the bracelets to monitor high-risk sex offenders who are on supervised release, conditional release, parole, or probation to help ensure that the offenders do not violate conditions of their release or probation.

END OF CONFINEMENT REVIEWS. $94,000 each year is for end of confinement reviews.

COMMUNITY SURVEILLANCE AND SUPERVISION. $1,370,000 each year is to provide housing options to maximize community surveillance and supervision.

INCREASE IN INTENSIVE SUPERVISED RELEASE SERVICES. $1,800,000 each year is to increase intensive supervised release services.

SEX OFFENDER ASSESSMENT REIMBURSEMENTS. $350,000 each year is to provide grants to counties for reimbursements for sex offender assessments as required under Minnesota Statutes, section 609.3452, subdivision 1, which is being renumbered as section 609.3457.

SEX OFFENDER TREATMENT AND POLYGRAPHS. $1,250,000 each year is to provide treatment for sex offenders on community supervision and to pay for polygraph testing.

INCREASED SUPERVISION OF SEX OFFENDERS, DOMESTIC VIOLENCE OFFENDERS, AND OTHER VIOLENT OFFENDERS. $1,500,000 each year is for the increased supervision of sex offenders and other violent offenders, including those convicted of domestic abuse. These appropriations may not be used to supplant existing state or county probation officer positions.

The commissioner shall distribute $1,050,000 in grants each year to Community Corrections Act counties and $450,000 each year to the Department of Corrections Probation and Supervised Release Unit. The commissioner shall distribute the funds to the Community Corrections Act counties according to the formula con-

tained in Minnesota Statutes, section 401.10.

Prior to the distribution of these funds, each Community Corrections Act jurisdiction and the Department of Corrections Probation and Supervised Release Unit shall submit to the commissioner an analysis of need along with a plan to meet their needs and reduce the number of sex offenders and other violent offenders, including domestic abuse offenders, on probation officer caseloads.

COUNTY PROBATION OFFICERS. $500,000 each year is to increase county probation officer reimbursements.

INTENSIVE SUPERVISION AND AFTERCARE FOR CONTROLLED SUBSTANCES OFFENDERS; REPORT. $600,000 each year is for intensive supervision and aftercare services for controlled substances offenders released from prison under Minnesota Statutes, section 244.055. These appropriations are not added to the department's base budget. By January 15, 2008, the commissioner shall report to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding on how this appropriation was spent.

REPORT ON ELECTRONIC MONITORING OF SEX OFFENDERS. By March 1, 2006, the commissioner shall report to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding on implementing an electronic monitoring system for sex offenders who are under community supervision. The report must address the following:

(1) the advantages and disadvantages in

implementing this system, including the impact on public safety;

(2) the types of sex offenders who should be subject to the monitoring;

(3) the time period that offenders should be subject to the monitoring;

(4) the financial costs associated with the monitoring and who should be responsible for these costs; and

(5) the technology available for the monitoring.

Subd. 4. Operations Support		15,233,000	15,233,000
General Fund	15,023,000	15,023,000	
Special Revenue	210,000	210,000	

AGENCY CUT, DISTRIBUTION. The general fund appropriation includes a reduction of $375,000 the first year and $325,000 the second year. This reduction may be applied to any program funded under this section.

REPORT ON CONDITIONAL RELEASE OF CONTROLLED SUBSTANCE OFFENDERS. $50,000 the first year is for the commissioner to contract with an organization to evaluate the conditional release of nonviolent controlled substance offender program described in Minnesota Statutes, section 244.055. To the degree feasible, the evaluation must address the recidivism rates of offenders released under the program. The commissioner shall determine other issues to be addressed in the evaluation. By January 15, 2008, the commissioner shall forward the completed evaluation to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding.

Sec. 14. SENTENCING GUIDELINES	463,000	463,000
Sec. 15. BOARD OF VETERINARY MEDICINE	7,000	-0-

METHAMPHETAMINE STUDY. This appropriation is for the study on animal products that may be used in the manufacture of methamphetamine described in article 7, section 20.

ARTICLE 2

SEX OFFENDERS:

MANDATORY LIFE SENTENCES FOR CERTAIN EGREGIOUS AND REPEAT SEX OFFENSES; CONDITIONAL RELEASE; OTHER SENTENCING CHANGES

Section 1. Minnesota Statutes 2004, section 244.04, subdivision 1, is amended to read:

Subdivision 1. **REDUCTION OF SENTENCE; INMATES SENTENCED FOR CRIMES COMMITTED BEFORE 1993.** Notwithstanding the provisions of section 609.11, subdivision 6, and section 609.109, subdivision 1, the term of imprisonment of any inmate sentenced to a presumptive fixed sentence after May 1, 1980, and whose crime was committed before August 1, 1993, shall be reduced in duration by one day for each two days during which the inmate violates none of the disciplinary offense rules promulgated by the commissioner. The reduction shall accrue to the period of supervised release to be served by the inmate, except that the period of supervised release for a sex offender ~~sentenced and~~ conditionally released by the commissioner under section ~~609.108, subdivision 5,~~ 609.3455 is governed by that provision.

Except as otherwise provided in subdivision 2, if an inmate whose crime was committed before August 1, 1993, violates a disciplinary offense rule promulgated by the commissioner, good time earned prior to the violation may not be taken away, but the inmate may be required to serve an appropriate portion of the term of imprisonment after the violation without earning good time.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2004, section 244.05, subdivision 2, is amended to read:

Subd. 2. **RULES.** The commissioner of corrections shall adopt by rule standards and procedures for the revocation of supervised or conditional release, and shall specify the period of revocation for each violation of ~~supervised~~ release. Procedures for the revocation of ~~supervised~~ release shall provide due process of law for the inmate.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2004, section 244.05, subdivision 4, is amended to read:

Subd. 4. **MINIMUM IMPRISONMENT, LIFE SENTENCE.** (a) An inmate serving a mandatory life sentence under section 609.106 or 609.3455, subdivision 2, must not be given supervised release under this section.

(b) An inmate serving a mandatory life sentence under section 609.185, clause ~~(1),~~ (3), (5), or (6); or 609.109, subdivision ~~2a~~ 3, must not be given supervised release under this section without having served a minimum term of 30 years.

(c) An inmate serving a mandatory life sentence under section 609.385 must not be given supervised release under this section without having served a minimum term of imprisonment of 17 years.

(d) An inmate serving a mandatory life sentence under section 609.3455, subdivision 3 or 4, must not be given supervised release under this section without having served the minimum term of imprisonment specified by the court in its sentence.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2004, section 244.05, subdivision 5, is amended to read:

Subd. 5. **SUPERVISED RELEASE, LIFE SENTENCE.** (a) The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence under section 609.185, clause ~~(1),~~ (3), (5), or (6); 609.109, subdivision ~~2a~~ 3; 609.3455, subdivision 3 or 4; or 609.385 after the inmate has served the minimum term of imprisonment specified in subdivision 4.

(b) The commissioner shall require the preparation of a community investigation report and shall consider the findings of the report when making a supervised release decision under this subdivision. The report shall reflect the sentiment of the various elements of the community toward the inmate, both at the time of the offense and at the present time. The report shall include the views of the sentencing judge, the prosecutor, any law enforcement personnel who may have been involved in the case, and any successors to these individuals who may have information relevant to the supervised release decision. The report shall also include the views of the victim and the victim's family unless the victim or the victim's family chooses not to participate.

(c) The commissioner shall make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's supervised release review hearing. The victim has a right to submit an oral or written statement at the review hearing. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be given supervised release at this time. The commissioner must consider the victim's statement when making the supervised release decision.

(d) When considering whether to give supervised release to an inmate serving a life sentence under section 609.3455, subdivision 3 or 4, the commissioner shall consider, at a minimum, the following: the risk the inmate poses to the community if released, the inmate's progress in treatment, the inmate's behavior while incarcerated, psychological or other diagnostic evaluations of the inmate, the inmate's criminal history, and any other relevant conduct of the inmate while incarcerated or before incarceration. The commissioner may not give supervised release to the inmate unless:

(1) while in prison:

(i) the inmate has successfully completed appropriate sex offender treatment;

(ii) the inmate has been assessed for chemical dependency needs and, if appropriate, has successfully completed chemical dependency treatment; and

(iii) the inmate has been assessed for mental health needs and, if appropriate, has successfully completed mental health treatment; and

(2) a comprehensive individual release plan is in place for the inmate that ensures that, after release, the inmate will have suitable housing and receive appropriate aftercare and community-based treatment. The comprehensive plan also must include a postprison employment or education plan for the inmate.

(e) As used in this subdivision, "victim" means the individual who suffered harm as a result of the inmate's crime or, if the individual is deceased, the deceased's surviving spouse or next of kin.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2004, section 609.106, 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, paragraph (a), clause (1), (2), (4), or (7);

(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. 6. Minnesota Statutes 2004, section 609.108, subdivision 1, is amended to read:

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 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~~ 609.3453;

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

(3) the ~~court finds~~ factfinder determines that the ~~offender needs long-term treatment or supervision~~ offender's criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term treatment or supervision extending 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.~~

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2004, section 609.108, subdivision 3, is amended to read:

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.~~ As used in this section, "predatory crime" has the meaning given in section 609.341, subdivision 22.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2004, section 609.108, subdivision 4, is amended to read:

Subd. 4. **DANGER TO PUBLIC SAFETY.** The ~~court shall base its finding~~ factfinder shall base its determination 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

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

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2004, section 609.108, subdivision 6, is amended to read:

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 terms of conditional release are governed by section 609.3455.

~~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.~~

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2004, section 609.341, subdivision 14, is amended to read:

Subd. 14. **COERCION.** "Coercion" means the use by the actor of words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon~~, or hold in confinement,~~ the complainant or another, or ~~force~~ the use by the actor of confinement, or superior size or strength, against the complainant that causes the complainant to submit to sexual penetration or contact~~, but~~ against the complainant's will. Proof of coercion does not require proof of a specific act or threat.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2004, section 609.341, is amended by adding a subdivision to read:

Subd. 22. **PREDATORY CRIME.** "Predatory crime" means a felony violation of section 609.185 (first-degree murder), 609.19 (second-degree murder), 609.195 (third-degree murder), 609.20 (first-degree manslaughter), 609.205 (second-degree manslaughter), 609.221 (first-degree assault), 609.222 (second-degree assault), 609.223 (third-degree assault), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.498 (tampering with a witness), 609.561 (first-degree arson), or 609.582, subdivision 1 (first-degree burglary).

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2004, section 609.342, subdivision 2, is amended to read:

Subd. 2. **PENALTY.** (a) Except as otherwise provided in section 609.109 or 609.3455, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 30 years or to a payment of a fine of not more than $40,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 144 months must be imposed on an offender convicted of violating this section. Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(c) A person convicted under this section is also subject to conditional release under section 609.3455.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2004, section 609.342, subdivision 3, is amended to read:

Subd. 3. **STAY.** Except when imprisonment is required under section 609.109 or 609.3455, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2004, section 609.343, subdivision 2, is amended to read:

Subd. 2. **PENALTY.** (a) Except as otherwise provided in section 609.109 or 609.3455, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 25 years or to a payment of a fine of not more than $35,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 90 months must be imposed on an offender convicted of violating subdivision 1, clause (c), (d), (e), (f), or (h). Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(c) A person convicted under this section is also subject to conditional release under section 609.3455.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2004, section 609.343, subdivision 3, is amended to read:

Subd. 3. **STAY.** Except when imprisonment is required under section 609.109 or 609.3455, if a person is convicted under subdivision 1, clause (g), the court may stay

imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2004, section 609.344, subdivision 2, is amended to read:

Subd. 2. **PENALTY.** Except as otherwise provided in section 609.3455, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 15 years or to a payment of a fine of not more than $30,000, or both. A person convicted under this section is also subject to conditional release under section 609.3455.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2004, section 609.344, subdivision 3, is amended to read:

Subd. 3. **STAY.** Except when imprisonment is required under section 609.109 or 609.3455, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 18. Minnesota Statutes 2004, section 609.345, subdivision 2, is amended to read:

Subd. 2. **PENALTY.** Except as otherwise provided in section 609.3455, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten years or to a payment of a fine of not more than $20,000, or both. A person convicted under this section is also subject to conditional release under section 609.3455.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 19. Minnesota Statutes 2004, section 609.345, subdivision 3, is amended to read:

Subd. 3. **STAY.** Except when imprisonment is required under section 609.109 or 609.3455, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 20. **[609.3453] CRIMINAL SEXUAL PREDATORY CONDUCT.**

Subdivision 1. **CRIME DEFINED.** A person is guilty of criminal sexual predatory conduct if the person commits a predatory crime that 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.

Subd. 2. **PENALTY.** (a) Except as provided in section 609.3455, the statutory maximum sentence for a violation of subdivision 1 is: (1) 25 percent longer than for the underlying predatory crime; or (2) 50 percent longer than for the underlying predatory crime, if the violation is committed by a person with a previous sex offense conviction, as defined in section 609.3455, subdivision 1.

(b) In addition to the sentence imposed under paragraph (a), the person may also be sentenced to the payment of a fine of not more than $20,000.

(c) A person convicted under this section is also subject to conditional release under section 609.3455.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 21. **[609.3455] DANGEROUS SEX OFFENDERS; LIFE SENTENCES; CONDITIONAL RELEASE.**

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

(b) "Conviction" includes a conviction as an extended jurisdiction juvenile under section 260B.130 for a violation of, or an attempt to violate, section 609.342, 609.343, 609.344, or 609.3453, if the adult sentence has been executed.

(c) "Extreme inhumane conditions" mean situations where, either before or after the sexual penetration or sexual contact, the offender knowingly causes or permits the complainant to be placed in a situation likely to cause the complainant severe ongoing mental, emotional, or psychological harm, or causes the complainant's death.

(d) A "heinous element" includes:

(1) the offender tortured the complainant;

(2) the offender intentionally inflicted great bodily harm upon the complainant;

(3) the offender intentionally mutilated the complainant;

(4) the offender exposed the complainant to extreme inhumane conditions;

(5) the offender was 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 used or threatened to use the weapon or article to cause the complainant to submit;

(6) the offense involved sexual penetration or sexual contact with more than one victim;

(7) the offense involved more than one perpetrator engaging in sexual penetration or sexual contact with the complainant; or

(8) the offender, without the complainant's consent, removed the complainant from one place to another and did not release the complainant in a safe place.

(e) "Mutilation" means the intentional infliction of physical abuse designed to cause serious permanent disfigurement or permanent or protracted loss or impairment of the functions of any bodily member or organ, where the offender relishes the infliction of the abuse, evidencing debasement or perversion.

(f) A conviction is considered a "previous sex offense conviction" if the offender was convicted and sentenced for a sex offense before the commission of the present offense.

(g) A conviction is considered a "prior sex offense conviction" if the offender was convicted of committing a sex offense before the offender has been convicted of the present offense, regardless of whether the offender was convicted for the first offense before the commission of the present offense, and the convictions involved separate behavioral incidents.

(h) "Sex offense" means any violation of, or attempt to violate, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or any similar statute of the United States, this state, or any other state.

(i) "Torture" means the intentional infliction of extreme mental anguish, or extreme psychological or physical abuse, when committed in an especially depraved manner.

(j) An offender has "two previous sex offense convictions" only if the offender was convicted and sentenced for a sex offense committed after the offender was earlier convicted and sentenced for a sex offense and both convictions preceded the commission of the present offense of conviction.

Subd. 2. **MANDATORY LIFE SENTENCE WITHOUT RELEASE FOR PARTICULARLY EGREGIOUS FIRST-TIME AND REPEAT OFFENDERS.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person convicted under section 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h); or 609.343, subdivision 1, paragraph (c), (d), (e), (f), or (h), to life without the possibility of release if:

(1) the factfinder determines that two or more heinous elements exist; or

(2) the person has a previous sex offense conviction for a violation of section 609.342, 609.343, or 609.344, and the fact finder determines that a heinous element exists for the present offense.

(b) A factfinder may not consider a heinous element if it is an element of the underlying specified violation of section 609.342 or 609.343. In addition, when determining whether two or more heinous elements exist, the factfinder may not use the same underlying facts to support a determination that more than one element exists.

Subd. 3. **MANDATORY LIFE SENTENCE FOR EGREGIOUS FIRST-TIME OFFENDERS.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person to imprisonment for life if the person is convicted under section 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h), or 609.343, subdivision 1, paragraph (c), (d), (e), (f), or (h); and the factfinder determines that a heinous element exists.

(b) The factfinder may not consider a heinous element if it is an element of the underlying specified violation of section 609.342 or 609.343.

Subd. 4. **MANDATORY LIFE SENTENCE; REPEAT OFFENDERS.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person to imprisonment for life if the person is convicted of violating section 609.342, 609.343, 609.344, 609.345, or 609.3453 and:

(1) the person has two previous sex offense convictions;

(2) the person has a previous sex offense conviction and:

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

(ii) the person received an upward durational departure from the sentencing guidelines for the previous sex offense conviction; or

(iii) the person was sentenced under section 609.108 for the previous sex offense conviction; or

(3) the person has two prior sex offense convictions, the prior convictions and present offense involved at least three separate victims, and:

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

(ii) the person received an upward durational departure from the sentencing guidelines for one of the prior sex offense convictions; or

(iii) the person was sentenced under section 609.108 for one of the prior sex offense convictions.

(b) Notwithstanding paragraph (a), a court may not sentence a person to imprisonment for life for a violation of section 609.345, unless the person's previous or prior sex offense convictions that are being used as the basis for the sentence are for violations of section 609.342, 609.343, 609.344, or 609.3453, or any similar statute of the United States, this state, or any other state.

Subd. 5. **LIFE SENTENCES; MINIMUM TERM OF IMPRISONMENT.** At the time of sentencing under subdivision 3 or 4, the court shall specify a minimum term of imprisonment, based on the sentencing guidelines or any applicable mandatory minimum sentence, that must be served before the offender may be considered for supervised release.

Subd. 6. **MANDATORY TEN-YEAR CONDITIONAL RELEASE TERM.** Notwithstanding the statutory maximum sentence otherwise applicable to the offense and unless a longer conditional release term is required in subdivision 7, when a court commits an offender to the custody of the commissioner of corrections for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453, the court shall provide that, after the offender has completed the sentence imposed, the commissioner shall place the offender on conditional release for ten years, minus the time the offender served on supervised release.

Subd. 7. **MANDATORY LIFETIME CONDITIONAL RELEASE TERM.** (a) When a court sentences an offender under subdivision 3 or 4, the court shall provide that, if the offender is released from prison, the commissioner of corrections shall place the offender on conditional release for the remainder of the offender's life.

(b) Notwithstanding the statutory maximum sentence otherwise applicable to the offense, when the court commits an offender to the custody of the commissioner of corrections for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453, and the offender has a previous or prior sex offense conviction, the court shall provide that, after the offender has completed the sentence imposed, the commissioner shall place the offender on conditional release for the remainder of the offender's life.

(c) Notwithstanding paragraph (b), an offender may not be placed on lifetime conditional release for a violation of section 609.345, unless the offender's previous or prior sex offense conviction is for a violation of section 609.342, 609.343, 609.344, or 609.3453, or any similar statute of the United States, this state, or any other state.

Subd. 8. **TERMS OF CONDITIONAL RELEASE; APPLICABLE TO ALL SEX OFFENDERS.** (a) The provisions of this subdivision relating to conditional release apply to all sex offenders sentenced to prison for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453. Except as provided in this subdivision, conditional release of sex offenders is governed by provisions relating to supervised release. The commissioner of corrections may not dismiss an offender on conditional release from supervision until the offender's conditional release term expires.

(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. Before the offender is placed on conditional release, the commissioner shall notify the sentencing court and the prosecutor in the jurisdiction where the offender was sentenced of the terms of the offender's conditional release. The commissioner also shall make reasonable efforts to notify the victim of the offender's crime 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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 22. **SENTENCING GUIDELINES, MODIFICATIONS.**

(a) By January 15, 2006, the Sentencing Guidelines Commission shall propose to the legislature modifications to the sentencing guidelines, including the guidelines grid, regarding sex offenders. When proposing the modifications, the commission must propose a separate sex offender grid based on the sentencing changes made in this act relating to sex offenders.

(b) Modifications proposed by the commission under this section take effect August 1, 2006, unless the legislature by law provides otherwise.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 23. **REPEALER.**

Minnesota Statutes 2004, sections 609.108, subdivision 2; and 609.109, subdivision 7, are repealed.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

ARTICLE 3

SEX OFFENDERS: PREDATORY OFFENDER REGISTRATION; COMMUNITY NOTIFICATION; MISCELLANEOUS PROVISIONS

Section 1. Minnesota Statutes 2004, section 13.82, is amended by adding a subdivision to read:

Subd. 28. **DISCLOSURE OF PREDATORY OFFENDER REGISTRANT STATUS.** Law enforcement agency disclosure to health facilities of the registrant status of a registered predatory offender is governed by section 244.052.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 2. Minnesota Statutes 2004, section 144A.135, is amended to read:

144A.135 **TRANSFER AND DISCHARGE APPEALS.**

(a) The commissioner shall establish a mechanism for hearing appeals on transfers and discharges of residents by nursing homes or boarding care homes licensed by the commissioner. The commissioner may adopt permanent rules to implement this section.

(b) Until federal regulations are adopted under sections 1819(f)(3) and 1919(f)(3) of the Social Security Act that govern appeals of the discharges or transfers of residents from nursing homes and boarding care homes certified for participation in Medicare or medical assistance, the commissioner shall provide hearings under sections 14.57 to 14.62 and the rules adopted by the Office of Administrative Hearings governing contested cases. To appeal the discharge or transfer, or notification of an intended discharge or transfer, a resident or the resident's representative must request a hearing in writing no later than 30 days after receiving written notice, which conforms to state and federal law, of the intended discharge or transfer.

(c) Hearings under this section shall be held no later than 14 days after receipt of the request for hearing, unless impractical to do so or unless the parties agree otherwise. Hearings shall be held in the facility in which the resident resides, unless impractical to do so or unless the parties agree otherwise.

(d) A resident who timely appeals a notice of discharge or transfer, and who resides in a certified nursing home or boarding care home, may not be discharged or transferred by the nursing home or boarding care home until resolution of the appeal. The commissioner can order the facility to readmit the resident if the discharge or transfer was in violation of state or federal law. If the resident is required to be hospitalized for medical necessity before resolution of the appeal, the facility shall readmit the resident unless the resident's attending physician documents, in writing, why the resident's specific health care needs cannot be met in the facility.

(e) The commissioner and Office of Administrative Hearings shall conduct the hearings in compliance with the federal regulations described in paragraph (b), when adopted.

(f) Nothing in this section limits the right of a resident or the resident's representative to request or receive assistance from the Office of Ombudsman for Older Minnesotans or the Office of Health Facility Complaints with respect to an intended discharge or transfer.

(g) A person required to inform a health care facility of the person's status as a registered predatory offender under section 243.166, subdivision 4b, who knowingly fails to do so shall be deemed to have endangered the safety of individuals in the facility under Code of Federal Regulations, chapter 42, section 483.12. Notwithstanding paragraph (d), any appeal of the notice and discharge shall not constitute a stay of the discharge.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 3. Minnesota Statutes 2004, section 241.06, is amended to read:

241.06 **RECORD OF INMATES; DEPARTMENT OF CORRECTIONS.**

Subdivision 1. **GENERAL.** The commissioner of corrections shall keep in the commissioner's office, accessible only by the commissioner's consent or on the order of a judge or court of record, a record showing the residence, sex, age, nativity, occupation, civil condition, and date of entrance or commitment of every person, inmate, or convict in the facilities under the commissioner's exclusive control, the date of discharge and whether such discharge was final, the condition of such person when the person left the facility, and the date and cause of all deaths. The records shall state every transfer from one facility to another, naming each. This information shall be furnished to the commissioner of corrections by each facility, with such other obtainable facts as the commissioner may from time to time require. The chief executive officer of each such facility, within ten days after the commitment or entrance thereto of a person, inmate, or convict, shall cause a true copy of the entrance record to be forwarded to the commissioner of corrections. When a person, inmate, or convict leaves, is discharged or transferred, or dies in any facility, the chief executive officer, or other person in charge shall inform the commissioner of corrections within ten days thereafter on forms furnished by the commissioner.

The commissioner of corrections may authorize the chief executive officer of any facility under the commissioner's control to release to probation officers, local social

services agencies or other specifically designated interested persons or agencies any information regarding any person, inmate, or convict thereat, if, in the opinion of the commissioner, it will be for the benefit of the person, inmate, or convict.

Subd. 2. **SEX OFFENDER INFORMATION PROVIDED TO SUPERVISING CORRECTIONS AGENCY.** When an offender who is required to register as a predatory offender under section 243.166 is being released from prison, the commissioner shall provide to the corrections agency that will supervise the offender, the offender's prison records relating to psychological assessments, medical and mental health issues, and treatment.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 4. Minnesota Statutes 2004, section 241.67, subdivision 3, is amended to read:

Subd. 3. **PROGRAMS FOR ADULT OFFENDERS COMMITTED TO THE COMMISSIONER.** (a) The commissioner shall provide for a range of sex offender programs, including intensive sex offender programs, within the state adult correctional facility system. Participation in any program is subject to the rules and regulations of the Department of Corrections. Nothing in this section requires the commissioner to accept or retain an offender in a program if the offender is determined by prison professionals as unamenable to programming within the prison system or if the offender refuses or fails to comply with the program's requirements. Nothing in this section creates a right of an offender to treatment.

(b) The commissioner shall develop a plan to provide for residential and outpatient sex offender programming and aftercare when required for conditional release under section 609.108 or as a condition of supervised release. The plan may include co-payments from the offender, third-party payers, local agencies, or other funding sources as they are identified.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 5. Minnesota Statutes 2004, section 241.67, subdivision 7, is amended to read:

Subd. 7. **FUNDING PRIORITY; PROGRAM EFFECTIVENESS.** (a) Unless otherwise directed by the terms of a particular appropriations provision, the commissioner shall give priority to the funding of juvenile sex offender programs over the funding of adult sex offender programs.

(b) Every county or private sex offender program ~~that seeks new or continued state funding or reimbursement~~ shall provide the commissioner with any information relating to the program's effectiveness that the commissioner considers necessary. The commissioner shall deny state funding or reimbursement to any county or private program that fails to provide this information or that appears to be an ineffective program.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 6. Minnesota Statutes 2004, 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~~ subdivision, 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 offense which would require registration under section 243.166.

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

(1) ~~provide~~ collect follow-up information on each sex offender for a period of three years following the offender's completion of or termination from treatment for the purpose of providing periodic reports to the legislature;

(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 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~~ on how best to implement the requirements of this subdivision.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 7. Minnesota Statutes 2004, section 242.195, subdivision 1, is amended to read:

Subdivision 1. **SEX OFFENDER PROGRAMS.** (a) The commissioner of corrections shall develop a plan to provide for a range of sex offender programs, including intensive sex offender programs, for juveniles within state juvenile correctional facilities and through purchase of service from county and private residential and outpatient juvenile sex offender programs. The plan may include co-payments from the offenders, third-party payers, local agencies, and other funding sources as they are identified.

(b) The commissioner shall establish and operate a residential sex offender program at one of the state juvenile correctional facilities. The program must be structured to address both the therapeutic and disciplinary needs of juvenile sex offenders. The program must afford long-term residential treatment for a range of juveniles who have committed sex offenses and have failed other treatment programs

or are not likely to benefit from an outpatient or a community-based residential treatment program.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 8. Minnesota Statutes 2004, section 243.166, is amended to read:

243.166 **REGISTRATION OF PREDATORY OFFENDERS.**

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; or

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

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

(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 pornographic work involving a minor 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 609.108, 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, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, 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 the state to reside, or to work or attend school; 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, unless the person is subject to lifetime registration, in which case the person must register for life regardless of when

~~the person was released from confinement, convicted, or adjudicated delinquent. For purposes of this paragraph:~~

~~(i) "school" includes any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education, that the person is enrolled in on a full-time or part-time basis; and~~

~~(ii) "work" includes employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.~~

~~(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, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.~~

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

~~(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;~~

~~(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and~~

~~(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.~~

Subd. 1a. **DEFINITIONS.** (a) As used in this section, unless the context clearly indicates otherwise, the following terms have the meanings given them.

(b) "Bureau" means the Bureau of Criminal Apprehension.

(c) "Dwelling" means the building where the person lives under a formal or informal agreement to do so.

(d) "Incarceration" and "confinement" do not include electronic home monitoring.

(e) "Law enforcement authority" or "authority" means, with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the county sheriff.

(f) "Motor vehicle" has the meaning given in section 169.01, subdivision 2.

(g) "Primary address" means the mailing address of the person's dwelling. If the mailing address is different from the actual location of the dwelling, primary address also includes the physical location of the dwelling described with as much specificity as possible.

(h) "School" includes any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education, that the person is enrolled in on a full-time or part-time basis.

(i) "Secondary address" means the mailing address of any place where the person regularly or occasionally stays overnight when not staying at the person's primary address. If the mailing address is different from the actual location of the place, secondary address also includes the physical location of the place described with as much specificity as possible.

(j) "Treatment facility" means a residential facility, as defined in section 244.052, subdivision 1, and residential chemical dependency treatment programs and halfway houses licensed under chapter 245A, including, but not limited to, those facilities directly or indirectly assisted by any department or agency of the United States.

(k) "Work" includes employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

Subd. 1b. **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, or aiding, abetting, or conspiracy to commit, 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);

(ii) kidnapping under section 609.25;

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; 609.3451, subdivision 3; or 609.3453; or

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

(2) the person was charged with or petitioned for a violation of, or attempt to violate, or aiding, abetting, or conspiracy to commit false imprisonment 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 pornographic work involving a minor 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;

(3) the person was sentenced as a patterned sex offender under section 609.108; or

(4) the person was convicted of or adjudicated delinquent for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, 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 this state to reside, work, or attend school, or enters this state and remains for 14 days or longer; 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, unless the person is subject to lifetime registration, in which case the person shall register for life regardless of when the person was released from confinement, convicted, or adjudicated delinquent.

(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, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.

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

(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;

(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and

(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.

Subd. 2. **NOTICE.** When a person who is required to register under subdivision ~~1~~ 1b, paragraph (a), is sentenced or becomes subject to a juvenile court disposition order, the court shall tell the person of the duty to register under this section and that, if the person fails to comply with the registration requirements, information about the offender may be made available to the public through electronic, computerized, or other accessible means. The court may not modify the person's duty to register in the pronounced sentence or disposition order. The court shall require the person to read and sign a form stating that the duty of the person to register under this section has been explained. The court shall forward the signed sex offender registration form, the complaint, and sentencing documents to the bureau ~~of Criminal Apprehension~~. If a person required to register under subdivision ~~1~~ 1b, paragraph (a), was not notified by the court of the registration requirement at the time of sentencing or disposition, the assigned corrections agent shall notify the person of the requirements of this section. When a person who is required to register under subdivision ~~1~~ 1b, paragraph (c) or (d), is released from commitment, the treatment facility shall notify the person of the

requirements of this section. The treatment facility shall also obtain the registration information required under this section and forward it to the bureau ~~of Criminal Apprehension~~.

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

(b) Except as provided in subdivision 3a, at least five days before the person starts living at a new primary address, including living in another state, the person shall give written notice of the new primary ~~living~~ address to the assigned corrections agent or to the law enforcement authority with which the person currently is registered. If the person will be living in a new state and that state has a registration requirement, the person shall also give written notice of the new address to the designated registration agency in the new state. A person required to register under this section shall also give written notice to the assigned corrections agent or to the law enforcement authority that has jurisdiction in the area of the person's ~~residence~~ primary address that the person is no longer living or staying at an address, immediately after the person is no longer living or staying at that address. The corrections agent or law enforcement authority shall, within two business days after receipt of this information, forward it to the bureau ~~of Criminal Apprehension~~. The bureau ~~of Criminal Apprehension~~ shall, if it has not already been done, notify the law enforcement authority having primary jurisdiction in the community where the person will live of the new address. If the person is leaving the state, the bureau ~~of Criminal Apprehension~~ shall notify the registration authority in the new state of the new address. ~~If the person's obligation to register arose under subdivision 1, paragraph (b),~~ The person's registration requirements under this section terminate ~~when~~ after the person begins living in the new state and the bureau has confirmed the address in the other state through the annual verification process on at least one occasion.

(c) A person required to register under subdivision ~~1~~ 1b, paragraph (b), because the person is working or attending school in Minnesota shall register with the law enforcement ~~agency~~ authority that has jurisdiction in the area where the person works or attends school. In addition to other information required by this section, the person shall provide the address of the school or of the location where the person is employed. A person ~~must~~ shall comply with this paragraph within five days of beginning employment or school. A person's obligation to register under this paragraph terminates when the person is no longer working or attending school in Minnesota.

(d) A person required to register under this section who works or attends school outside of Minnesota shall register as a predatory offender in the state where the person works or attends school. The person's corrections agent, or if the person does not have an assigned corrections agent, the law enforcement authority that has jurisdiction in the area of the person's ~~residence~~ primary address shall notify the person of this requirement.

Subd. 3a. **REGISTRATION PROCEDURE WHEN PERSON LACKS PRIMARY ADDRESS.** (a) If a person leaves a primary address and does not have a new primary address, the person shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours of the time the person no longer has a primary address.

(b) A person who lacks a primary address shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours after entering the jurisdiction. Each time a person who lacks a primary address moves to a new jurisdiction without acquiring a new primary address, the person shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours after entering the jurisdiction.

(c) Upon registering under this subdivision, the person shall provide the law enforcement authority with all of the information the individual is required to provide under subdivision 4a. However, instead of reporting the person's primary address, the person shall describe the location of where the person is staying with as much specificity as possible.

(d) Except as otherwise provided in paragraph (e), if a person continues to lack a primary address, the person shall report in person on a weekly basis to the law enforcement authority with jurisdiction in the area where the person is staying. This weekly report shall occur between the hours of 9:00 a.m. and 5:00 p.m. The person is not required to provide the registration information required under subdivision 4a each time the offender reports to an authority, but the person shall inform the authority of changes to any information provided under this subdivision or subdivision 4a and shall otherwise comply with this subdivision.

(e) If the law enforcement authority determines that it is impractical, due to the person's unique circumstances, to require a person lacking a primary address to report weekly and in person as required under paragraph (d), the authority may authorize the person to follow an alternative reporting procedure. The authority shall consult with the person's corrections agent, if the person has one, in establishing the specific criteria of this alternative procedure, subject to the following requirements:

(1) the authority shall document, in the person's registration record, the specific reasons why the weekly in-person reporting process is impractical for the person to follow;

(2) the authority shall explain how the alternative reporting procedure furthers the public safety objectives of this section;

(3) the authority shall require the person lacking a primary address to report in person at least monthly to the authority or the person's corrections agent and shall specify the location where the person shall report. If the authority determines it would be more practical and would further public safety for the person to report to another law enforcement authority with jurisdiction where the person is staying, it may, after consulting with the other law enforcement authority, include this requirement in the person's alternative reporting process;

(4) the authority shall require the person to comply with the weekly, in-person reporting process required under paragraph (d), if the person moves to a new area where this process would be practical;

(5) the authority shall require the person to report any changes to the registration information provided under subdivision 4a and to comply with the periodic registration requirements specified under paragraph (f); and

(6) the authority shall require the person to comply with the requirements of subdivision 3, paragraphs (b) and (c), if the person moves to a primary address.

(f) If a person continues to lack a primary address and continues to report to the same law enforcement authority, the person shall provide the authority with all of the information the individual is required to provide under this subdivision and subdivision 4a at least annually, unless the person is required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States. If the person is required to register under subdivision 1b, paragraph (c), the person shall provide the law enforcement authority with all of the information the individual is required to report under this subdivision and subdivision 4a at least once every three months.

(g) A law enforcement authority receiving information under this subdivision shall forward registration information and changes to that information to the bureau within two business days of receipt of the information.

(h) For purposes of this subdivision, a person who fails to report a primary address will be deemed to be a person who lacks a primary address, and the person shall comply with the requirements for a person who lacks a primary address.

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. The registration information also must include a written consent form signed by the person allowing a treatment facility or residential housing unit or shelter to release information to a law enforcement officer about the person's admission to, or residence in, a treatment facility or residential housing unit or shelter. Registration information on adults and juveniles may be maintained together notwithstanding section 260B.171, subdivision 3.

(b) For persons required to register under subdivision ~~1~~ 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States, in addition to other information required by this section, the registration provided to the corrections agent or law enforcement authority must include the person's offense history and documentation of treatment received during the person's commitment. This documentation ~~shall be~~ is limited to a statement of how far the person progressed in treatment during commitment.

(c) Within three days of receipt, the corrections agent or law enforcement authority shall forward the registration information to the bureau ~~of Criminal Apprehension~~. The bureau shall ascertain whether the person has registered with the law enforcement authority ~~where the person resides~~ in the area of the person's primary address, if any, or if the person lacks a primary address, where the person is staying, as required by subdivision 3a. If the person has not registered with the law enforcement authority, the bureau shall send one copy to that authority.

(d) The corrections agent or law enforcement authority may require that a person required to register under this section appear before the agent or authority to be photographed. The agent or authority shall forward the photograph to the bureau ~~of Criminal Apprehension~~.

The agent or authority shall require a person required to register under this section who is classified as a level III offender under section 244.052 to appear before the agent or authority at least every six months to be photographed.

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

(1) Except for persons registering under subdivision 3a, the bureau ~~of Criminal Apprehension~~ shall mail a verification form to the ~~last reported address of the~~ person's ~~residence~~ last reported primary address. This verification form ~~shall~~ must provide notice to the offender that, if the offender does not return the verification form as required, information about the offender may be made available to the public through electronic, computerized, or other accessible means. For persons who are registered under subdivision 3a, the bureau shall mail an annual verification form to the law enforcement authority where the offender most recently reported. The authority shall provide the verification form to the person at the next weekly meeting and ensure that the person completes and signs the form and returns it to the bureau.

(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's residence and the other information required under subdivision 4a.

(3) In addition to the requirements listed in this section, a person who is assigned to risk level II or III under section 244.052, and who is no longer under correctional supervision for a registration offense, or a failure to register offense, but who resides, works, or attends school in Minnesota, shall have an annual in-person contact with a law enforcement authority as provided in this section. If the person resides in Minnesota, the annual in-person contact shall be with the law enforcement authority that has jurisdiction over the person's primary address or, if the person has no address, the location where the person is staying. If the person does not reside in Minnesota but works or attends school in this state, the person shall have an annual in-person contact with the law enforcement authority or authorities with jurisdiction over the person's school or workplace. During the month of the person's birth date, the person shall report to the authority to verify the accuracy of the registration information and to be photographed. Within three days of this contact, the authority shall enter information

as required by the bureau into the predatory offender registration database and submit an updated photograph of the person to the bureau's predatory offender registration unit.

(4) 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, or if the person fails to report to the law enforcement authority during the month of the person's birth date, the person ~~shall be~~ is in violation of this section.

(5) For any person who fails to mail the completed and signed verification form to the bureau within ten days after receipt of the form and who has been determined to be a risk level III offender under section 244.052, the bureau shall immediately investigate and notify local law enforcement authorities to investigate the person's location and to ensure compliance with this section. The bureau also shall immediately give notice of the person's violation of this section to the law enforcement authority having jurisdiction over the person's last registered address or addresses.

For persons required to register under subdivision ~~1~~ 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States, the bureau shall comply with clause (1) at least four times each year. For persons who, under section 244.052, are assigned to risk level III and who are no longer under correctional supervision for a registration offense or a failure to register offense, the bureau shall comply with clause (1) at least two times each year. For all other persons required to register under this section, the bureau shall comply with clause (1) each year within 30 days of the anniversary date of the person's initial registration.

(f) When sending out a verification form, the bureau ~~of Criminal Apprehension must~~ shall determine whether the person to whom the verification form is being sent has signed a written consent form as provided for in paragraph (a). If the person has not signed such a consent form, the bureau ~~of Criminal Apprehension must~~ shall send a written consent form to the person along with the verification form. A person who receives this written consent form ~~must~~ shall sign and return it to the bureau ~~of Criminal Apprehension~~ at the same time as the verification form.

~~(g) For the purposes of this subdivision, "treatment facility" means a residential facility, as defined in section 244.052, subdivision 1, and residential chemical dependency treatment programs and halfway houses licensed under chapter 245A, including, but not limited to, those facilities directly or indirectly assisted by any department or agency of the United States.~~

Subd. 4a. **INFORMATION REQUIRED TO BE PROVIDED.** (a) ~~As used in this section:~~

~~(1) "motor vehicle" has the meaning given "vehicle" in section 169.01, subdivision 2;~~

~~(2) "primary residence" means any place where the person resides longer than 14 days or that is deemed a primary residence by a person's corrections agent, if one is assigned to the person; and~~

~~(3) "secondary residence" means any place where the person regularly stays overnight when not staying at the person's primary residence, and includes, but is not limited to:~~

~~(i) the person's parent's home if the person is a student and stays at the home at times when the person is not staying at school, including during the summer; and~~

~~(ii) the home of someone with whom the person has a minor child in common where the child's custody is shared.~~

~~(b)~~ A person required to register under this section shall provide to the corrections agent or law enforcement authority the following information:

(1) the ~~address of the~~ person's primary ~~residence~~ address;

(2) ~~the addresses of~~ all of the person's secondary ~~residences~~ addresses in Minnesota, including all addresses used for residential or recreational purposes;

(3) the addresses of all Minnesota property owned, leased, or rented by the person;

(4) the addresses of all locations where the person is employed;

(5) the addresses of all ~~residences~~ schools where the person ~~resides while attending school~~ is enrolled; and

(6) the year, model, make, license plate number, and color of all motor vehicles owned or regularly driven by the person.

~~(c)~~ (b) The person shall report to the agent or authority the information required to be provided under paragraph ~~(b)~~ (a), clauses (2) to (6), within five days of the date the clause becomes applicable. If because of a change in circumstances any information reported under paragraph ~~(b)~~ (a), clauses (1) to (6), no longer applies, the person shall immediately inform the agent or authority that the information is no longer valid. If the person leaves a primary address and does not have a new primary address, the person shall register as provided in subdivision 3a.

Subd. 4b. **HEALTH CARE FACILITY; NOTICE OF STATUS.** (a) As used in paragraphs (b) and (c), "health care facility" means a hospital or other entity licensed under sections 144.50 to 144.58, a nursing home licensed to serve adults under section 144A.02, or a group residential housing facility or an intermediate care facility for the mentally retarded licensed under chapter 245A. As used in paragraph (d), "health care facility" means a nursing home licensed to serve adults under section 144A.02, or a group residential housing facility or an intermediate care facility for the mentally retarded licensed under chapter 245A.

(b) Upon admittance to a health care facility, a person required to register under this section shall disclose to:

(1) the health care facility employee processing the admission the person's status as a registered predatory offender under this section; and

(2) the person's corrections agent, or if the person does not have an assigned corrections agent, the law enforcement authority with whom the person is currently required to register, that inpatient admission has occurred.

(c) A law enforcement authority or corrections agent who receives notice under paragraph (b) or who knows that a person required to register under this section has been admitted and is receiving health care at a health care facility shall notify the administrator of the facility.

(d) A health care facility that receives notice under this subdivision that a predatory offender has been admitted to the facility shall notify other patients at the facility of this fact. If the facility determines that notice to a patient is not appropriate given the patient's medical, emotional, or mental status, the facility shall notify the patient's next of kin or emergency contact.

Subd. 5. **CRIMINAL PENALTY.** (a) 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 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) Except as provided in paragraph (c), a person convicted of violating paragraph (a) shall be committed to the custody of the commissioner of corrections for not less than a year and a day, nor more than five years.

(c) A person convicted of violating paragraph (a), who has previously been convicted of or adjudicated delinquent for violating this section or a similar statute of another state or the United States, shall be committed to the custody of the commissioner of corrections for not less than two years, nor more than five years.

(d) Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this subdivision. The motion ~~shall~~ must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds substantial and compelling reasons to do so. Sentencing a person in the manner described in this paragraph is a departure from the Sentencing Guidelines.

(e) A person convicted and sentenced as required by this subdivision is not eligible for probation, parole, discharge, work release, conditional release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

Subd. 5a. **TEN-YEAR CONDITIONAL RELEASE FOR VIOLATIONS COMMITTED BY LEVEL III OFFENDERS.** Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court commits a person to the custody of the commissioner of corrections for violating subdivision 5 and, at the time of the violation, the person was assigned to risk level III under section 244.052, the court

shall provide that after the person has completed the sentence imposed, the commissioner shall place the person on conditional release for ten years. The terms of conditional release are governed by section 609.3455, subdivision 8.

Subd. 6. **REGISTRATION PERIOD.** (a) Notwithstanding the provisions of section 609.165, subdivision 1, and except as provided in paragraphs (b), (c), and (d), a person required to register under this section shall continue to comply with this section until ten years have elapsed since the person initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs later. For a person required to register under this section who is committed under section 253B.18 or 253B.185, the ten-year registration period does not include the period of commitment.

(b) If a person required to register under this section fails to ~~register following a change in residence~~ provide the person's primary address as required by subdivision 3, paragraph (b), fails to comply with the requirements of subdivision 3a, fails to provide information as required by subdivision 4a, or fails to return the verification form referenced in subdivision 4 within ten days, the commissioner of public safety may require the person to continue to register for an additional period of five years. This five-year period is added to the end of the offender's registration period.

(c) If a person required to register under this section is subsequently incarcerated following a conviction for a new offense or following a revocation of probation, supervised release, or conditional release for ~~that~~ any offense~~, or a conviction for any new offense~~, the person shall continue to register until ten years have elapsed since the person was last released from incarceration or until the person's probation, supervised release, or conditional release period expires, whichever occurs later.

(d) A person shall continue to comply with this section for the life of that person:

(1) if the person is convicted of or adjudicated delinquent for any offense for which registration is required under subdivision ~~1~~ 1b, or any offense from another state or any federal offense similar to the offenses described in subdivision ~~1~~ 1b, and the person has a prior conviction or adjudication for an offense for which registration was or would have been required under subdivision ~~1~~ 1b, or an offense from another state or a federal offense similar to an offense described in subdivision ~~1~~ 1b;

(2) if the person is required to register based upon a conviction or delinquency adjudication for an offense under section 609.185, clause (2), or a similar statute from another state or the United States;

(3) if the person is required to register based upon a conviction for an offense under section 609.342, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.343, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.344, subdivision 1, paragraph (a), (c), or (g); or 609.345, subdivision 1, paragraph (a), (c), or (g); or a statute from another state or the United States similar to the offenses described in this clause; or

(4) if the person is required to register under subdivision ~~1~~ 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States.

Subd. 7. **USE OF INFORMATION.** Except as otherwise provided in subdivision 7a or sections 244.052 and 299C.093, the information provided under this section is private data on individuals under section 13.02, subdivision 12. The information may be used only for law enforcement purposes.

Subd. 7a. **AVAILABILITY OF INFORMATION ON OFFENDERS WHO ARE OUT OF COMPLIANCE WITH REGISTRATION LAW.** (a) The bureau ~~of Criminal Apprehension~~ may make information available to the public about offenders who are 16 years of age or older and who are out of compliance with this section for 30 days or longer for failure to provide the ~~address of the~~ offenders' primary or secondary ~~residences~~ addresses. This information may be made available to the public through electronic, computerized, or other accessible means. The amount and type of information made available ~~shall be~~ is limited to the information necessary for the public to assist law enforcement in locating the offender.

(b) An offender who comes into compliance with this section after the bureau ~~of Criminal Apprehension~~ discloses information about the offender to the public may send a written request to the bureau requesting the bureau to treat information about the offender as private data, consistent with subdivision 7. The bureau shall review the request and promptly take reasonable action to treat the data as private, if the offender has complied with the requirement that the offender provide ~~the addresses of~~ the offender's primary and secondary ~~residences~~ addresses, or promptly notify the offender that the information will continue to be treated as public information and the reasons for the bureau's decision.

(c) If an offender believes the information made public about the offender is inaccurate or incomplete, the offender may challenge the data under section 13.04, subdivision 4.

(d) The bureau ~~of Criminal Apprehension~~ is immune from any civil or criminal liability that might otherwise arise, based on the accuracy or completeness of any information made public under this subdivision, if the bureau acts in good faith.

~~Subd. 8. LAW ENFORCEMENT AUTHORITY. For purposes of this section, a law enforcement authority means, with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the sheriff of the county.~~

Subd. 9. **OFFENDERS FROM OTHER STATES.** (a) When the state accepts an offender from another state under a reciprocal agreement under the interstate compact authorized by section 243.16, the interstate compact authorized by section 243.1605, or under any authorized interstate agreement, the acceptance is conditional on the offender agreeing to register under this section when the offender is living in Minnesota.

(b) The Bureau of Criminal Apprehension shall notify the commissioner of corrections:

(1) when the bureau receives notice from a local law enforcement authority that a person from another state who is subject to this section has registered with the

authority, unless the bureau previously received information about the offender from the commissioner of corrections;

(2) when a registration authority, corrections agent, or law enforcement agency in another state notifies the bureau that a person from another state who is subject to this section is moving to Minnesota; and

(3) when the bureau learns that a person from another state is in Minnesota and allegedly in violation of subdivision 5 for failure to register.

(c) When a local law enforcement agency notifies the bureau of an out-of-state offender's registration, the agency shall provide the bureau with information on whether the person is subject to community notification in another state and the risk level the person was assigned, if any.

(d) The bureau must forward all information it receives regarding offenders covered under this subdivision from sources other than the commissioner of corrections to the commissioner.

(e) When the bureau receives information directly from a registration authority, corrections agent, or law enforcement agency in another state that a person who may be subject to this section is moving to Minnesota, the bureau must ask whether the person entering the state is subject to community notification in another state and the risk level the person has been assigned, if any.

(f) When the bureau learns that a person subject to this section intends to move into Minnesota from another state or has moved into Minnesota from another state, the bureau shall notify the law enforcement authority with jurisdiction in the area of the person's primary address and provide all information concerning the person that is available to the bureau.

(g) The commissioner of corrections must determine the parole, supervised release, or conditional release status of persons who are referred to the commissioner under this subdivision. If the commissioner determines that a person is subject to parole, supervised release, or conditional release in another state and is not registered in Minnesota under the applicable interstate compact, the commissioner shall inform the local law enforcement agency that the person is in violation of section 243.161. If the person is not subject to supervised release, the commissioner shall notify the bureau and the local law enforcement agency of the person's status.

Subd. 10. **VENUE; AGGREGATION.** (a) A violation of this section may be prosecuted in any jurisdiction where an offense takes place. However, the prosecutorial agency in the jurisdiction where the person last registered a primary address is initially responsible to review the case for prosecution.

(b) When a person commits two or more offenses in two or more counties, the accused may be prosecuted for all of the offenses in any county in which one of the offenses was committed.

Subd. 11. **CERTIFIED COPIES AS EVIDENCE.** Certified copies of predatory offender registration records are admissible as substantive evidence when necessary to prove the commission of a violation of this section.

EFFECTIVE DATE. Except as otherwise provided, the provisions of this section are effective the day following final enactment and apply to persons subject to predatory offender registration on or after that date. Subdivision 4, paragraph (e), clause (3), is effective December 1, 2005. Subdivision 4b is effective August 1, 2005, and applies to persons subject to predatory offender registration on or after that date. Subdivision 5a is effective August 1, 2005, and applies to crimes committed on or after that date. Subdivision 6, paragraph (c), is effective August 1, 2005, and applies to any offense, revocation of probation, supervised release, or conditional release that occurs on or after that date. Subdivision 9 is effective July 1, 2005.

Sec. 9. Minnesota Statutes 2004, section 243.167, is amended to read:

243.167 **REGISTRATION UNDER THE PREDATORY OFFENDER REGISTRATION LAW FOR OTHER OFFENSES.**

Subdivision 1. **DEFINITION.** As used in this section, "crime against the person" means a violation of any of the following or a similar law of another state or of the United States: section 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.224, subdivision 2 or 4; 609.2242, subdivision 2 or 4; 609.235; 609.245, subdivision 1; 609.25; 609.255; 609.3451, subdivision 2; 609.498, subdivision 1; 609.582, subdivision 1; or 617.23, subdivision 2; or any felony-level violation of section 609.229; 609.377; 609.749; or 624.713.

Subd. 2. **WHEN REQUIRED.** (a) In addition to the requirements of section 243.166, a person also shall register under section 243.166 if:

(1) the person is convicted of a crime against the person; and

(2) the person was previously convicted of or adjudicated delinquent for an offense listed in section 243.166, ~~subdivision 1, paragraph (a),~~ but was not required to register for the offense because the registration requirements of that section did not apply to the person at the time the offense was committed or at the time the person was released from imprisonment.

(b) A person who was previously required to register ~~under section 243.166~~ in any state and who has completed the registration requirements of that ~~section~~ state shall again register under section 243.166 if the person commits a crime against the person.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2004, section 244.05, subdivision 6, is amended to read:

Subd. 6. **INTENSIVE SUPERVISED RELEASE.** The commissioner may order that an inmate be placed on intensive supervised release for all or part of the inmate's supervised release or parole term if the commissioner determines that the action will further the goals described in section 244.14, subdivision 1, clauses (2), (3), and (4). In addition, the commissioner may order that an inmate be placed on intensive

supervised release for all of the inmate's conditional or supervised release term if the inmate was convicted of a sex offense under ~~sections~~ section 609.342 ~~to~~, 609.343, 609.344, 609.345, or 609.3453 or was sentenced under the provisions of section 609.108. The commissioner shall order that all level III predatory offenders be placed on intensive supervised release for the entire supervised release, conditional release, or parole term. The commissioner may impose appropriate conditions of release on the inmate including but not limited to unannounced searches of the inmate's person, vehicle, or premises by an intensive supervision agent; compliance with court-ordered restitution, if any; random drug testing; house arrest; daily curfews; frequent face-to-face contacts with an assigned intensive supervision agent; work, education, or treatment requirements; and electronic surveillance. In addition, any sex offender placed on intensive supervised release may be ordered to participate in an appropriate sex offender program as a condition of release. If the inmate violates the conditions of the intensive supervised release, the commissioner shall impose sanctions as provided in subdivision 3 and section ~~609.108~~ 609.3455.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2004, section 244.05, subdivision 7, is amended to read:

Subd. 7. **SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.** (a) Before the commissioner releases from prison any inmate convicted under ~~sections~~ section 609.342 ~~to~~, 609.343, 609.344, 609.345, or 609.3453, or sentenced as a patterned offender under section 609.108, 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. The commissioner's opinion must be based on a recommendation of a Department of Corrections screening committee and a legal review and recommendation from independent counsel knowledgeable in the legal requirements of the civil commitment process. The commissioner may retain a retired judge or other attorney to serve as independent counsel.

(b) In making this decision, the commissioner shall have access to the following data only for the purposes of the assessment and referral decision:

(1) private medical data under section 13.384 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.

(c) 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 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~~ that 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.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 12. Minnesota Statutes 2004, 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 predatory offenders are confined. The committees shall assess on a case-by-case basis the public risk posed by predatory offenders who are about to be released from confinement.

(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) a victim's services 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 predatory 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 13.384 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 predatory offender has access to data on the offender collected and maintained by the committee, unless the data are confidential data received under this paragraph.

(d)(i) Except as otherwise provided in ~~item~~ items (ii), (iii), and (iv), at least 90 days before a predatory offender is to be released from confinement, 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. 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.

(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.

(iii) If the offender is subject to a mandatory life sentence under section 609.3455, subdivision 3 or 4, the commissioner of corrections shall convene the appropriate end-of-confinement review committee at least nine months before the offender's minimum term of imprisonment has been served. If the offender is received for confinement in a facility with less than nine months remaining before the offender's minimum term of imprisonment has been served, the committee shall conform its procedures to those outlined in item (ii) to the extent practicable.

(iv) If the offender is granted supervised release, the commissioner of corrections shall notify the appropriate end-of-confinement review committee that it needs to review the offender's previously determined risk level at its next regularly scheduled meeting. The commissioner shall make reasonable efforts to ensure that the offender's earlier risk level determination is reviewed and the risk level is confirmed or reassigned at least 60 days before the offender's release date. 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.

(e) The committee shall assign to risk level I a predatory 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 predatory offender is released from confinement, 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. Except for an offender subject to a mandatory life sentence under section 609.3455, subdivision 3 or 4, who has not been granted supervised release, 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. If the offender is subject to a mandatory life sentence and has not yet served the entire minimum term of imprisonment, the committee shall give the report to the offender and to the commissioner at least six months before the offender is first eligible for release. 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:

(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 by the law enforcement agency must occur within 30 days of receipt of the report indicating the offender's risk level assignment. The offender's corrections agent, in consultation with the chief law enforcement officer in the area where the offender resides or intends to reside, may request a review of a risk level at any time if substantial evidence exists that the offender's risk level should be reviewed by an end-of-confinement review committee. This evidence includes, but is not limited to, evidence of treatment failures or completions, evidence of exceptional crime-free community adjustment or lack of appropriate adjustment, evidence of substantial community need to know more about the offender or mitigating circumstances that would narrow the proposed scope of notification, or other practical situations articulated and based in evidence of the offender's behavior while under supervision. 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 three years have elapsed since the committee's initial risk assessment and may renew the request once every two years following subsequent denials. In a request for reassessment, the offender shall list the facts and circumstances which demonstrate that the offender no longer poses the same degree of risk to the community. In order for a request for a risk level reduction to be granted, the offender must demonstrate full compliance with supervised release conditions,

completion of required post-release treatment programming, and full compliance with all registration requirements as detailed in section 243.166. The offender must also not have been convicted of any felony, gross misdemeanor, or misdemeanor offenses subsequent to the assignment of the original risk level. The committee shall follow the process outlined in paragraphs (a) to (c) in the reassessment. An offender who is incarcerated may not request a reassessment under this paragraph.

(j) Offenders returned to prison as release violators shall not have a right to a subsequent risk reassessment by the end-of-confinement review committee unless substantial evidence indicates that the offender's risk to the public has increased.

(k) ~~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.~~

~~(l)~~ If the committee assigns a predatory offender to risk level III, the committee shall determine whether residency restrictions shall be included in the conditions of the offender's release based on the offender's pattern of offending behavior.

EFFECTIVE DATE. This section is effective July 1, 2005, and applies to persons subject to community notification on or after that date.

Sec. 13. Minnesota Statutes 2004, section 244.052, is amended by adding a subdivision to read:

Subd. 3a. **OFFENDERS FROM OTHER STATES AND OFFENDERS RELEASED FROM FEDERAL FACILITIES.** (a) Except as provided in paragraph (b), the commissioner shall establish an end-of-confinement review committee to assign a risk level:

(1) to offenders who are released from a federal correctional facility in Minnesota or a federal correctional facility in another state and who intend to reside in Minnesota;

(2) to offenders who are accepted from another state under the interstate compact authorized by section 243.16 or 243.1605 or any other authorized interstate agreement; and

(3) to offenders who are referred to the committee by local law enforcement agencies under paragraph (f).

(b) This subdivision does not require the commissioner to convene an end-of-confinement review committee for a person coming into Minnesota who is subject to probation under another state's law. The probation or court services officer and law enforcement officer shall manage such cases in accordance with section 244.10, subdivision 2a.

(c) The committee shall make reasonable efforts to conform to the same timelines applied to offenders released from a Minnesota correctional facility and shall collect all relevant information and records on offenders assessed and assigned a risk level under this subdivision. However, for offenders who were assigned the most serious risk level by another state, the committee must act promptly to collect the information required under this paragraph.

The end-of-confinement review committee must proceed in accordance with all requirements set forth in this section and follow all policies and procedures applied to offenders released from a Minnesota correctional facility in reviewing information and assessing the risk level of offenders covered by this subdivision, unless restrictions caused by the nature of federal or interstate transfers prevent such conformance. All of the provisions of this section apply to offenders who are assessed and assigned a risk level under this subdivision.

(d) If a local law enforcement agency learns or suspects that a person who is subject to this section is living in Minnesota and a risk level has not been assigned to the person under this section, the law enforcement agency shall provide this information to the Bureau of Criminal Apprehension and the commissioner of corrections within three business days.

(e) If the commissioner receives reliable information from a local law enforcement agency or the bureau that a person subject to this section is living in Minnesota and a local law enforcement agency so requests, the commissioner must determine if the person was assigned a risk level under a law comparable to this section. If the commissioner determines that the law is comparable and public safety warrants, the commissioner, within three business days of receiving a request, shall notify the local law enforcement agency that it may, in consultation with the department, proceed with notification under subdivision 4 based on the person's out-of-state risk level. However, if the commissioner concludes that the offender is from a state with a risk level assessment law that is not comparable to this section, the extent of the notification may not exceed that of a risk level II offender under subdivision 4, paragraph (b), unless the requirements of paragraph (f) have been met. If an assessment is requested from the end-of-confinement review committee under paragraph (f), the local law enforcement agency may continue to disclose information under subdivision 4 until the committee assigns the person a risk level. After the committee assigns a risk level to an offender pursuant to a request made under paragraph (f), the information disclosed by law enforcement shall be consistent with the risk level assigned by the end-of-confinement review committee. The commissioner of corrections, in consultation with legal advisers, shall determine whether the law of another state is comparable to this section.

(f) If the local law enforcement agency wants to make a broader disclosure than is authorized under paragraph (e), the law enforcement agency may request that an

end-of-confinement review committee assign a risk level to the offender. The local law enforcement agency shall provide to the committee all information concerning the offender's criminal history, the risk the offender poses to the community, and other relevant information. The department shall attempt to obtain other information relevant to determining which risk level to assign the offender. The committee shall promptly assign a risk level to an offender referred to the committee under this paragraph.

EFFECTIVE DATE. This section is effective July 1, 2005, and applies to persons subject to community notification on or after that date.

Sec. 14. Minnesota Statutes 2004, 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 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. This requirement on a law enforcement agency to continue to disclose information also applies to an offender who lacks a primary

address and is registering under section 243.166, subdivision 3a.

(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 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.

(i) An offender who is the subject of a community notification meeting held pursuant to this section may not attend the meeting.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to persons subject to community notification on or after that date.

Sec. 15. Minnesota Statutes 2004, section 244.052, is amended by adding a subdivision to read:

Subd. 4c. **LAW ENFORCEMENT AGENCY; DISCLOSURE OF INFORMATION TO A HEALTH CARE FACILITY.** (a) The law enforcement agency in the area where a health care facility is located shall disclose the registrant status of any predatory offender registered under section 243.166 to the health care facility if the registered offender is receiving inpatient care in that facility.

(b) As used in this section, "health care facility" means a hospital or other entity licensed under sections 144.50 to 144.58, a nursing home licensed to serve adults under section 144A.02, or a group residential housing facility or an intermediate care facility for the mentally retarded licensed under chapter 245A.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 16. **[244.056] PREDATORY OFFENDER SEEKING HOUSING IN JURISDICTION OF DIFFERENT CORRECTIONS AGENCY.**

If a corrections agency supervising an offender who is required to register as a predatory offender under section 243.166 and who is classified by the department as a public risk monitoring case has knowledge that the offender is seeking housing arrangements in a location under the jurisdiction of another corrections agency, the agency shall notify the other agency of this and initiate a supervision transfer request.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 17. **[244.057] PLACEMENT OF PREDATORY OFFENDER IN HOUSEHOLD WITH CHILDREN.**

A corrections agency supervising an offender required to register as a predatory offender under section 243.166 shall notify the appropriate child protection agency before authorizing the offender to live in a household where children are residing.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 18. Minnesota Statutes 2004, section 244.10, subdivision 2a, is amended to read:

Subd. 2a. **NOTICE OF INFORMATION REGARDING PREDATORY OFFENDERS.** (a) Subject to paragraph (b), in any case in which a person is convicted of an offense and the presumptive sentence under the Sentencing Guidelines is commitment to the custody of the commissioner of corrections, if the court grants a dispositional departure and stays imposition or execution of sentence, the probation or court services officer who is assigned to supervise the offender shall provide in writing to the following the fact that the offender is on probation and the terms and conditions of probation:

(1) a victim of and any witnesses to the offense committed by the offender, if the victim or the witness has requested notice; and

(2) the chief law enforcement officer in the area where the offender resides or intends to reside.

The law enforcement officer, in consultation with the offender's probation officer, may provide all or part of this information to any of the following agencies or groups the offender is likely to encounter: public and private educational institutions, day care establishments, and establishments or organizations that primarily serve individuals likely to be victimized by the offender. The law enforcement officer, in consultation with the offender's probation officer, also may disclose the information to individuals the officer believes are likely to be victimized by the offender. The officer'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 Department of Human Services.

The probation officer is not required under this subdivision to provide any notice while the offender is placed or resides in a residential facility that is licensed under section 245A.02, subdivision 14, or 241.021, if the facility staff is trained in the supervision of sex offenders.

(b) Paragraph (a) applies only to offenders required to register under section 243.166, as a result of the conviction.

(c) The notice authorized by paragraph (a) shall be limited to data classified as public under section 13.84, subdivision 6, unless the offender provides informed consent to authorize the release of nonpublic data or unless a court order authorizes the release of nonpublic data.

(d) Nothing in this subdivision shall be interpreted to impose a duty on any person to use any information regarding an offender about whom notification is made under this subdivision.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to offenders entering the state, released from confinement, subject to community notification, or sentenced on or after that date.

Sec. 19. Minnesota Statutes 2004, section 253B.18, subdivision 5, is amended to read:

Subd. 5. **PETITION; NOTICE OF HEARING; ATTENDANCE; ORDER.** (a) A petition for an order of transfer, discharge, provisional discharge, or revocation of provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the treatment facility. A patient may not petition the special review board for six months following commitment under subdivision 3 or following the final disposition of any previous petition and subsequent appeal by the patient. The medical director may petition at any time.

(b) Fourteen days prior to the hearing, the committing court, the county attorney of the county of commitment, the designated agency, interested person, the petitioner, and the petitioner's counsel shall be given written notice by the commissioner of the time and place of the hearing before the special review board. Only those entitled to statutory notice of the hearing or those administratively required to attend may be present at the hearing. The patient may designate interested persons to receive notice by providing the names and addresses to the commissioner at least 21 days before the hearing. The board shall provide the commissioner with written findings of fact and recommendations within 21 days of the hearing. The commissioner shall issue an order no later than 14 days after receiving the recommendation of the special review board. A copy of the order shall be sent by certified mail to every person entitled to statutory notice of the hearing within five days after it is signed. No order by the commissioner shall be effective sooner than 30 days after the order is signed, unless the county attorney, the patient, and the commissioner agree that it may become effective sooner.

(c) The special review board shall hold a hearing on each petition prior to making its recommendation to the commissioner. The special review board proceedings are not contested cases as defined in chapter 14. Any person or agency receiving notice that submits documentary evidence to the special review board prior to the hearing shall also provide copies to the patient, the patient's counsel, the county attorney of the county of commitment, the case manager, and the commissioner.

(d) Prior to the final decision by the commissioner, the special review board may be reconvened to consider events or circumstances that occurred subsequent to the hearing.

(e) In making their recommendations and order, the special review board and commissioner must consider any statements received from victims under subdivision 5a.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 20. Minnesota Statutes 2004, section 253B.18, is amended by adding a subdivision to read:

Subd. 5a. **VICTIM NOTIFICATION OF PETITION AND RELEASE; RIGHT TO SUBMIT STATEMENT.** (a) As used in this subdivision:

(1) "crime" has the meaning given to "violent crime" in section 609.1095, and includes criminal sexual conduct in the fifth degree and offenses within the definition of "crime against the person" in section 253B.02, subdivision 4a, and also includes offenses listed in section 253B.02, subdivision 7a, paragraph (b), regardless of whether they are sexually motivated;

(2) "victim" means a person who has incurred loss or harm as a result of a crime the behavior for which forms the basis for a commitment under this section or section 253B.185; and

(3) "convicted" and "conviction" have the meanings given in section 609.02, subdivision 5, and also include juvenile court adjudications, findings under Minnesota Rules of Criminal Procedure, Rule 20.02, that the elements of a crime have been proved, and findings in commitment cases under this section or section 253B.185 that an act or acts constituting a crime occurred.

(b) A county attorney who files a petition to commit a person under this section or section 253B.185 shall make a reasonable effort to provide prompt notice of filing the petition to any victim of a crime for which the person was convicted. In addition, the county attorney shall make a reasonable effort to promptly notify the victim of the resolution of the petition.

(c) Before provisionally discharging, discharging, granting pass-eligible status, approving a pass plan, or otherwise permanently or temporarily releasing a person committed under this section or section 253B.185 from a treatment facility, the head of the treatment facility shall make a reasonable effort to notify any victim of a crime for which the person was convicted that the person may be discharged or released and that the victim has a right to submit a written statement regarding decisions of the medical director, special review board, or commissioner with respect to the person. To the extent possible, the notice must be provided at least 14 days before any special review board hearing or before a determination on a pass plan.

(d) This subdivision applies only to victims who have requested notification by contacting, in writing, the county attorney in the county where the conviction for the crime occurred. A county attorney who receives a request for notification under this paragraph shall promptly forward the request to the commissioner of human services.

(e) The rights under this subdivision are in addition to rights available to a victim under chapter 611A. This provision does not give a victim all the rights of a "notified person" or a person "entitled to statutory notice" under subdivision 4a, 4b, or 5.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 21. Minnesota Statutes 2004, section 609.108, subdivision 7, is amended to read:

Subd. 7. **COMMISSIONER OF CORRECTIONS.** The commissioner shall develop a plan to pay the cost of treatment of a person released under subdivision 6. The plan may include co-payments from offenders, third-party payers, local agencies, or other funding sources as they are identified. This section does not require the commissioner to accept or retain an offender in a treatment program.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 22. Minnesota Statutes 2004, 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 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.

(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 develop a plan to pay the cost of treatment of a person released under this subdivision. The plan may include co-payments from offenders, third-party payers, local agencies, and other funding sources as they are identified. This section does not require the commissioner to accept or retain an offender in a treatment program.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 23. Minnesota Statutes 2004, section 609.3452, subdivision 1, is amended to read:

Subdivision 1. **ASSESSMENT REQUIRED.** When a person is convicted of a sex offense, the court shall order an independent professional assessment of the offender's need for sex offender treatment to be completed before sentencing. The court may waive the assessment if: (1) the Sentencing Guidelines provide a presumptive prison sentence for the offender, or (2) an adequate assessment was conducted prior to the conviction. An assessor providing an assessment for the court must be experienced in the evaluation and treatment of sex offenders.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 24. **[609.3456] USE OF POLYGRAPHS FOR SEX OFFENDERS ON PROBATION OR CONDITIONAL RELEASE.**

(a) A court may order as an intermediate sanction under section 609.135 and the commissioner of corrections may order as a condition of release under section 244.05 or 609.3455 that an offender under supervision for a sex offense submit to polygraphic examinations to ensure compliance with the terms of probation or conditions of release.

(b) The court or commissioner may order the offender to pay all or a portion of the costs of the examinations. The fee may be waived if the offender is indigent or if payment would result in an economic hardship to the offender's immediate family.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 25. Minnesota Statutes 2004, section 626.556, subdivision 3, is amended to read:

Subd. 3. **PERSONS MANDATED TO REPORT.** (a) A person who knows or has reason to believe a child is being 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, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person is:

(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, correctional supervision, or law enforcement; or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).

The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency, or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of every local welfare agency, agency responsible for assessing or investigating reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school, or agency.

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county

sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner of education. Section 13.03, subdivision 4, applies to data received by the commissioner of education from a licensing entity.

(d) Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) For purposes of this subdivision, "immediately" means as soon as possible but in no event longer than 24 hours.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 26. **PROTOCOL ON USE OF POLYGRAPHS.**

By September 1, 2005, the state court administrator, in consultation with the Conference of Chief Judges, is requested to develop a protocol for the use of polygraphic examinations for sex offenders placed on probation under Minnesota Statutes, section 609.3456. This protocol shall be distributed to judges across the state.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 27. **SUPREME COURT STUDY ON SEXUALLY DANGEROUS PERSON AND SEXUAL PSYCHOPATHIC PERSONALITY CIVIL COMMITMENTS.**

Subdivision 1. **ESTABLISHMENT.** The Supreme Court is requested to study the following related to the civil commitment of sexually dangerous persons and sexual psychopathic personalities under Minnesota Statutes, section 253B.185:

(1) the development and use of a statewide panel of defense attorneys to represent those persons after a commitment petition is filed; and

(2) the development and use of a statewide panel of judges to hear these petitions.

Subd. 2. **REPORT.** The Supreme Court shall report its findings and recommendations to the chairs and ranking minority members of the house of representatives and senate committees and divisions having jurisdiction over criminal justice and civil law policy and funding by February 1, 2006.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 28. **WORKING GROUP ON SEX OFFENDER MANAGEMENT.**

Subdivision 1. **WORKING GROUP ESTABLISHED.** The commissioner of corrections shall convene a working group of individuals knowledgeable in the supervision and treatment of sex offenders. The group must include individuals from both inside and outside of the Department of Corrections. The commissioner shall ensure broad representation in the group, including representatives from all three probation systems and from diverse parts of the state. The working group shall study and make recommendations on the issues listed in this section. To the degree feasible, the group shall consider how these issues are addressed in other states.

Subd. 2. **ISSUES TO BE STUDIED.** The working group shall review and make recommendations on:

(1) statewide standards regarding the minimum frequency of in-person contacts between sex offenders and their correctional agents, including, but not limited to, home visits;

(2) a model set of special conditions of sex offender supervision that can be used by courts and corrections agencies throughout Minnesota;

(3) statewide standards regarding the documentation by correctional agents of their supervision activities;

(4) standards to provide corrections agencies with guidance regarding sex offender assessment practices;

(5) policies that encourage sentencing conditions and prison release plans to clearly distinguish between sex offender treatment programs and other types of programs and services and to clearly specify which type of program the offender is required to complete;

(6) ways to improve the Department of Corrections' prison release planning practices for sex offenders, including sex offenders with chemical dependency needs or mental health needs;

(7) methods and timetables for periodic external reviews of sex offender supervision practices;

(8) statewide standards for the use of polygraphs by corrections agencies and sex offender treatment programs;

(9) statewide standards specifying basic program elements for community-based sex offender treatment programs, including, but not limited to, staff qualifications, case planning, use of polygraphs, and progress reports prepared for supervising agencies;

(10) a statewide protocol on the sharing of sex offender information between corrections agencies and child protection agencies in situations where offenders are placed in households where children reside;

(11) best practices for supervising sex offenders such as intensive supervised release, specialized caseloads, and other innovative methods, ideal caseload sizes for supervising agents, and methods to implement this in a manner that does not negatively impact the supervision of other types of offenders; and

(12) any other issues related to sex offender treatment and management that the working group deems appropriate.

Subd. 3. **REVIEW OF NEW LAWS.** The working group shall also review the provisions of any laws enacted in 2005 relating to sex offender supervision and treatment. The group shall make recommendations on whether any changes to these provisions should be considered by the legislature.

Subd. 4. **REPORTS.** By February 15, 2006, the working group shall submit a progress report and by February 15, 2007, the working group shall submit its recommendations to the chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice policy.

Subd. 5. **POLICIES REQUIRED.** After considering the recommendations of the working group, the commissioner of corrections may implement policies and standards relating to the issues described in subdivision 2 over which the commissioner has jurisdiction.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 29. **PRISON-BASED SEX OFFENDER TREATMENT PROGRAMS; REPORT.**

By February 15, 2006, the commissioner of corrections shall report to the chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice policy on prison-based sex offender treatment programs. The report must:

(1) examine options for increasing the number of inmates participating in these programs;

(2) examine funding for these programs;

(3) examine options for treating inmates who have limited periods of time remaining in their terms of imprisonment;

(4) examine the merits and limitations of extending an inmate's term of imprisonment for refusing to participate in treatment; and

(5) examine any other related issues deemed relevant by the commissioner.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 30. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall change all references to Minnesota Statutes, section 243.166, subdivision 1, in Minnesota Statutes to section 243.166. In addition, the revisor shall make other technical changes necessitated by this article.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 31. **REPEALER.**

Minnesota Statutes 2004, section 243.166, subdivisions 1 and 8, are repealed.

EFFECTIVE DATE. This section is effective the day following final enactment.

ARTICLE 4

SEX OFFENDERS:

TECHNICAL AND CONFORMING CHANGES

Section 1. Minnesota Statutes 2004, section 13.871, subdivision 5, is amended to read:

Subd. 5. **CRIME VICTIMS.** (a) **CRIME VICTIM NOTICE OF RELEASE.** Data on crime victims who request notice of an offender's release are classified under section 611A.06.

(b) **SEX OFFENDER HIV TESTS.** Results of HIV tests of sex offenders under section 611A.19, subdivision 2, are classified under that section.

(c) **BATTERED WOMEN.** Data on battered women maintained by grantees for emergency shelter and support services for battered women are governed by section 611A.32, subdivision 5.

(d) **VICTIMS OF DOMESTIC ABUSE.** Data on battered women and victims of domestic abuse maintained by grantees and recipients of per diem payments for emergency shelter for battered women and support services for battered women and victims of domestic abuse are governed by sections 611A.32, subdivision 5, and 611A.371, subdivision 3.

(e) **PERSONAL HISTORY; INTERNAL AUDITING.** Certain personal history and internal auditing data is classified by section 611A.46.

(f) **CRIME VICTIM CLAIMS FOR REPARATIONS.** Claims and supporting documents filed by crime victims seeking reparations are classified under section 611A.57, subdivision 6.

(g) **CRIME VICTIM OVERSIGHT ACT.** Data maintained by the commissioner of public safety under the Crime Victim Oversight Act are classified under section 611A.74, subdivision 2.

(h) **VICTIM IDENTITY DATA.** Data relating to the identity of the victims of certain criminal sexual conduct is governed by section 609.3471.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 2. Minnesota Statutes 2004, section 14.03, subdivision 3, is amended to read:

Subd. 3. **RULEMAKING PROCEDURES.** (a) The definition of a rule in section 14.02, subdivision 4, does not include:

(1) rules concerning only the internal management of the agency or other agencies that do not directly affect the rights of or procedures available to the public;

(2) an application deadline on a form; and the remainder of a form and instructions for use of the form to the extent that they do not impose substantive requirements other than requirements contained in statute or rule;

(3) the curriculum adopted by an agency to implement a statute or rule permitting or mandating minimum educational requirements for persons regulated by an agency, provided the topic areas to be covered by the minimum educational requirements are specified in statute or rule;

(4) procedures for sharing data among government agencies, provided these procedures are consistent with chapter 13 and other law governing data practices.

(b) The definition of a rule in section 14.02, subdivision 4, does not include:

(1) rules of the commissioner of corrections relating to the release, placement, term, and supervision of inmates serving a supervised release or conditional release term, the internal management of institutions under the commissioner's control, and rules adopted under section 609.105 governing the inmates of those institutions;

(2) rules relating to weight limitations on the use of highways when the substance of the rules is indicated to the public by means of signs;

(3) opinions of the attorney general;

(4) the data element dictionary and the annual data acquisition calendar of the Department of Education to the extent provided by section 125B.07;

(5) the occupational safety and health standards provided in section 182.655;

(6) revenue notices and tax information bulletins of the commissioner of revenue;

(7) uniform conveyancing forms adopted by the commissioner of commerce under section 507.09; or

(8) the interpretive guidelines developed by the commissioner of human services to the extent provided in chapter 245A.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 3. Minnesota Statutes 2004, section 609.109, subdivision 2, is amended to read:

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~~ 609.3453, 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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2004, section 609.109, subdivision 5, is amended to read:

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~~ 609.3453 or any similar statute of the United States, this state, or any other state.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2004, section 609.1351, is amended to read:

609.1351 **PETITION FOR CIVIL COMMITMENT.**

When a court sentences a person under section 609.108, 609.342, 609.343, 609.344, ~~or~~ 609.345, or 609.3453, the court shall make a preliminary determination whether in the court's opinion a petition under section 253B.185 may be appropriate and include the determination as part of the sentencing order. If the court determines that a petition may be appropriate, the court shall forward its preliminary determination along with supporting documentation to the county attorney.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2004, section 609.347, is amended to read:

609.347 **EVIDENCE IN CRIMINAL SEXUAL CONDUCT CASES.**

Subdivision 1. In a prosecution under sections 609.109 ~~or~~, 609.342 to 609.3451, or 609.3453, the testimony of a victim need not be corroborated.

Subd. 2. In a prosecution under sections 609.109 ~~or~~, 609.342 to 609.3451, or 609.3453, there is no need to show that the victim resisted the accused.

Subd. 3. In a prosecution under sections 609.109, 609.342 to 609.3451, 609.3453, 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.

Subd. 4. The accused may not offer evidence described in subdivision 3 except pursuant to the following procedure:

(a) A motion shall be made by the accused at least three business days prior to trial, unless later for good cause shown, setting out with particularity the offer of proof of the evidence that the accused intends to offer, relative to the previous sexual conduct of the victim;

(b) If the court deems the offer of proof sufficient, the court shall order a hearing out of the presence of the jury, if any, and in such hearing shall allow the accused to make a full presentation of the offer of proof;

(c) At the conclusion of the hearing, if the court finds that the evidence proposed to be offered by the accused regarding the previous sexual conduct of the victim is admissible under subdivision 3 and that its probative value is not substantially outweighed by its inflammatory or prejudicial nature, the court shall make an order stating the extent to which evidence is admissible. The accused may then offer evidence pursuant to the order of the court;

(d) If new information is discovered after the date of the hearing or during the course of trial, which may make evidence described in subdivision 3 admissible, the accused may make an offer of proof pursuant to clause (a) and the court shall order an in camera hearing to determine whether the proposed evidence is admissible by the standards herein.

Subd. 5. In a prosecution under sections 609.109 ~~or~~, 609.342 to 609.3451, or 609.3453, 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

(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.

Subd. 6. (a) In a prosecution under sections 609.109 ~~or~~, 609.342 to 609.3451, or 609.3453, 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.

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

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2004, section 609.3471, is amended to read:

609.3471 **RECORDS PERTAINING TO VICTIM IDENTITY CONFIDENTIAL.**

Notwithstanding any provision of law to the contrary, no data contained in records or reports relating to petitions, complaints, or indictments issued pursuant to section 609.342~~,~~, 609.343~~,~~, 609.344~~;~~ ~~or~~, 609.345, or 609.3453, which specifically identifies a victim who is a minor shall be accessible to the public, except by order of the court. Nothing in this section authorizes denial of access to any other data contained in the records or reports, including the identity of the defendant.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2004, section 609.348, is amended to read:

609.348 **MEDICAL PURPOSES; EXCLUSION.**

Sections 609.109 ~~and~~, 609.342 to 609.3451, and 609.3453 do not apply to sexual penetration or sexual contact when done for a bona fide medical purpose.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2004, section 609.353, is amended to read:

609.353 **JURISDICTION.**

A violation or attempted violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 609.352 may be prosecuted in any jurisdiction in which the violation originates or terminates.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2004, 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 609.3451, 609.3453, 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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 11. **REVISOR INSTRUCTION.**

(a) The revisor of statutes shall renumber Minnesota Statutes, section 609.3452, as Minnesota Statutes, section 609.3457, and correct cross-references. In addition, the revisor shall delete the reference in Minnesota Statutes, section 13.871, subdivision 3, paragraph (d), to Minnesota Statutes, section 609.3452, and insert a reference to Minnesota Statutes, section 609.3457. The revisor shall include a notation in Minnesota Statutes to inform readers of the statutes of the renumbering of Minnesota Statutes, section 609.3457.

(b) In addition to the specific changes described in paragraph (a), the revisor of statutes shall make other technical changes necessitated by this act.

EFFECTIVE DATE. This section is effective August 1, 2005.

ARTICLE 5

HUMAN SERVICES ACCESS TO PREDATORY OFFENDER REGISTRY

Section 1. Minnesota Statutes 2004, section 243.166, subdivision 7, is amended to read:

Subd. 7. **USE OF ~~INFORMATION~~ DATA.** Except as otherwise provided in subdivision 7a or sections 244.052 and 299C.093, the ~~information~~ data provided under this section is private data on individuals under section 13.02, subdivision 12. The ~~information~~ data may be used only for law enforcement and corrections purposes. State-operated services, as defined in section 246.014, are also authorized to have access to the data for the purposes described in section 246.13, subdivision 2, paragraph (c).

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 2. Minnesota Statutes 2004, section 246.13, is amended to read:

246.13 **~~RECORD~~ RECORDS OF PATIENTS AND RESIDENTS ~~IN~~ RECEIVING STATE-OPERATED SERVICES.**

Subdivision 1. **POWERS, DUTIES, AND AUTHORITY OF COMMISSIONER.** (a) The commissioner of human services' office shall have, accessible only by consent of the commissioner or on the order of a judge or court of record, a record showing the residence, sex, age, nativity, occupation, civil condition, and date of entrance or commitment of every person, in the state-operated services facilities as defined under section 246.014 under exclusive control of the commissioner; the date of discharge and whether such discharge was final; the condition of the person when the person left the state-operated services facility; the vulnerable adult abuse prevention associated with the person; and the date and cause of all deaths. The record shall state every transfer from one state-operated services facility to another, naming

each state-operated services facility. This information shall be furnished to the commissioner of human services by each public agency, along with other obtainable facts as the commissioner may require. When a patient or resident in a state-operated services facility is discharged, transferred, or dies, the head of the state-operated services facility or designee shall inform the commissioner of human services of these events within ten days on forms furnished by the commissioner.

(b) The commissioner of human services shall cause to be devised, installed, and operated an adequate system of records and statistics which shall consist of all basic record forms, including patient personal records and medical record forms, and the manner of their use shall be precisely uniform throughout all state-operated services facilities.

Subd. 2. **DEFINITIONS; RISK ASSESSMENT AND MANAGEMENT.** (a) As used in this section:

(1) "appropriate and necessary medical and other records" includes patient medical records and other protected health information as defined by Code of Federal Regulations, title 45, section 164.501, relating to a patient in a state-operated services facility including, but not limited to, the patient's treatment plan and abuse prevention plan that is pertinent to the patient's ongoing care, treatment, or placement in a community-based treatment facility or a health care facility that is not operated by state-operated services, and includes information describing the level of risk posed by a patient when the patient enters such a facility;

(2) "community-based treatment" means the community support services listed in section 253B.02, subdivision 4b;

(3) "criminal history data" means those data maintained by the Departments of Corrections and Public Safety and by the supervisory authorities listed in section 13.84, subdivision 1, that relate to an individual's criminal history or propensity for violence; including data in the Corrections Offender Management System (COMS) and Statewide Supervision System (S3) maintained by the Department of Corrections; the Criminal Justice Information System (CJIS) and the Predatory Offender Registration (POR) system maintained by the Department of Public Safety; and the CriMNet system;

(4) "designated agency" means the agency defined in section 253B.02, subdivision 5;

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

(6) "predatory offender" and "offender" mean a person who is required to register as a predatory offender under section 243.166; and

(7) "treatment facility" means a facility as defined in section 253B.02, subdivision 19.

(b) To promote public safety and for the purposes and subject to the requirements of paragraph (c), the commissioner or the commissioner's designee shall have access

to, and may review and disclose, medical and criminal history data as provided by this section.

(c) The commissioner or the commissioner's designee shall disseminate data to designated treatment facility staff, special review board members, and end-of-confinement review committee members in accordance with Minnesota Rules, part 1205.0400, to:

(1) determine whether a patient is required under state law to register as a predatory offender according to section 243.166;

(2) facilitate and expedite the responsibilities of the special review board and end-of-confinement review committees by corrections institutions and state treatment facilities;

(3) prepare, amend, or revise the abuse prevention plans required under section 626.557, subdivision 14, and individual patient treatment plans required under section 253B.03, subdivision 7;

(4) facilitate changes of custody and transfers of individuals between the Department of Corrections and the Department of Human Services; and

(5) facilitate the exchange of data between the Department of Corrections, the Department of Human Services, and any of the supervisory authorities listed in section 13.84, regarding an individual under the authority of one or more of these entities.

(d) If approved by the United States Department of Justice, the commissioner may have access to national criminal history information, through the Department of Public Safety, in support of the law enforcement function described in paragraph (c). If approval of the United States Department of Justice is not obtained by the commissioner before July 1, 2007, the authorization in this paragraph sunsets on that date.

Subd. 3. **COMMUNITY-BASED TREATMENT AND MEDICAL TREATMENT.** (a) When a patient under the care and supervision of state-operated services is released to a community-based treatment facility or facility that provides health care services, state-operated services may disclose all appropriate and necessary health and other information relating to the patient.

(b) The information that must be provided to the designated agency, community-based treatment facility, or facility that provides health care services includes, but is not limited to, the patient's abuse prevention plan required under section 626.557, subdivision 14, paragraph (b).

Subd. 4. **PREDATORY OFFENDER REGISTRATION NOTIFICATION.** (a) When a state-operated facility determines that a patient is required under section 243.166, subdivision 1, to register as a predatory offender or, under section 243.166, subdivision 4a, to provide notice of a change in status, the facility shall provide written notice to the patient of the requirement.

(b) If the patient refuses, is unable, or lacks capacity to comply with the requirement described in paragraph (a) within five days after receiving the notification

of the duty to comply, state-operated services staff shall obtain and disclose the necessary data to complete the registration form or change of status notification for the patient. The treatment facility shall also forward the registration or change of status data that it completes to the Bureau of Criminal Apprehension and, as applicable, the patient's corrections agent and the law enforcement agency in the community in which the patient currently resides. If, after providing notification, the patient refuses to comply with the requirements described in paragraph (a), the treatment facility shall also notify the county attorney in the county in which the patient is currently residing of the refusal.

(c) The duties of state-operated services described in this subdivision do not relieve the patient of the ongoing individual duty to comply with the requirements of section 243.166.

Subd. 5. **LIMITATIONS ON USE OF BLOODBORNE PATHOGEN TEST RESULTS.** Sections 246.71, 246.711, 246.712, 246.713, 246.714, 246.715, 246.716, 246.717, 246.718, 246.719, 246.72, 246.721, and 246.722 apply to state-operated services facilities.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 3. Minnesota Statutes 2004, section 253B.18, subdivision 4a, is amended to read:

Subd. 4a. **RELEASE ON PASS; NOTIFICATION.** A patient who has been committed as a person who is mentally ill and dangerous and who is confined at a secure treatment facility or has been transferred out of a state-operated services facility according to section 253B.18, subdivision 6, shall not be released on a pass unless the pass is part of a pass plan that has been approved by the medical director of the secure treatment facility. The pass plan must have a specific therapeutic purpose consistent with the treatment plan, must be established for a specific period of time, and must have specific levels of liberty delineated. The county case manager must be invited to participate in the development of the pass plan. At least ten days prior to a determination on the plan, the medical director shall notify the designated agency, the committing court, the county attorney of the county of commitment, an interested person, the local law enforcement agency where the facility is located, the local law enforcement agency in the location where the pass is to occur, the petitioner, and the petitioner's counsel of the plan, the nature of the passes proposed, and their right to object to the plan. If any notified person objects prior to the proposed date of implementation, the person shall have an opportunity to appear, personally or in writing, before the medical director, within ten days of the objection, to present grounds for opposing the plan. The pass plan shall not be implemented until the objecting person has been furnished that opportunity. Nothing in this subdivision shall be construed to give a patient an affirmative right to a pass plan.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 4. Minnesota Statutes 2004, section 299C.093, is amended to read:

299C.093 **DATABASE OF REGISTERED PREDATORY OFFENDERS.**

The superintendent of the Bureau of Criminal Apprehension shall maintain a computerized data system relating to individuals required to register as predatory offenders under section 243.166. To the degree feasible, the system must include the ~~information~~ data required to be provided under section 243.166, subdivisions 4 and 4a, and indicate the time period that the person is required to register. The superintendent shall maintain this ~~information~~ data in a manner that ensures that it is readily available to law enforcement agencies. This ~~information~~ data is private data on individuals under section 13.02, subdivision 12, but may be used for law enforcement and corrections purposes. State-operated services, as defined in section 246.014, are also authorized to have access to the data for the purposes described in section 246.13, subdivision 2, paragraph (c).

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 5. Minnesota Statutes 2004, section 626.557, subdivision 14, is amended to read:

Subd. 14. **ABUSE PREVENTION PLANS.** (a) Each facility, except home health agencies and personal care attendant services providers, shall establish and enforce an ongoing written abuse prevention plan. The plan shall contain an assessment of the physical plant, its environment, and its population identifying factors which may encourage or permit abuse, and a statement of specific measures to be taken to minimize the risk of abuse. The plan shall comply with any rules governing the plan promulgated by the licensing agency.

(b) Each facility, including a home health care agency and personal care attendant services providers, shall develop an individual abuse prevention plan for each vulnerable adult residing there or receiving services from them. The plan shall contain an individualized assessment of: (1) the person's susceptibility to abuse by other individuals, including other vulnerable adults~~,~~; (2) the person's risk of abusing other vulnerable adults; and ~~a statement~~ (3) statements of the specific measures to be taken to minimize the risk of abuse to that person and other vulnerable adults. For the purposes of this ~~clause~~ paragraph, the term "abuse" includes self-abuse.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 6. **REPEALER.**

Minnesota Statutes 2004, section 246.017, subdivision 1, is repealed.

EFFECTIVE DATE. This section is effective July 1, 2005.

ARTICLE 6

HUMAN SERVICES BACKGROUND STUDIES

Section 1. Minnesota Statutes 2004, section 245C.13, subdivision 2, is amended to read:

Subd. 2. **DIRECT CONTACT PENDING COMPLETION OF BACKGROUND STUDY.** ~~Unless otherwise specified, the subject of a background study may have direct contact with persons served by a program after the background study form is mailed or submitted to the commissioner pending notification of the study results under section 245C.17.~~ The subject of a background study may not perform any activity requiring a background study under paragraph (b) until the commissioner has issued one of the notices under paragraph (a).

(a) Notices from the commissioner required prior to activity under paragraph (b) include:

(1) a notice of the study results under section 245C.17 stating that:

(i) the individual is not disqualified; or

(ii) more time is needed to complete the study but the individual is not required to be removed from direct contact or access to people receiving services prior to completion of the study as provided under section 245A.17, paragraph (c);

(2) a notice that a disqualification has been set aside under section 245C.23; or

(3) a notice that a variance has been granted related to the individual under section 245C.30.

(b) Activities prohibited prior to receipt of notice under paragraph (a) include:

(1) being issued a license;

(2) living in the household where the licensed program will be provided;

(3) providing direct contact services to persons served by a program unless the subject is under continuous direct supervision; or

(4) having access to persons receiving services if the background study was completed under section 144.057, subdivision 1, or 245C.03, subdivision 1, paragraph (a), clause (2), (5), or (6), unless the subject is under continuous direct supervision.

Sec. 2. Minnesota Statutes 2004, section 245C.15, subdivision 1, is amended to read:

Subdivision 1. **PERMANENT DISQUALIFICATION.** (a) An individual is disqualified under section 245C.14 if: (1) regardless of how much time has passed since the discharge of the sentence imposed for the offense; and (2) unless otherwise specified, regardless of the level of the conviction, the individual is convicted of any of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.221 or 609.222 (assault in the first or second degree); a felony offense under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child abuse or neglect, or a crime against children; 609.228 (great bodily harm caused by distribution of drugs); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second

degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); a felony offense under 609.324, subdivision 1 (other prohibited acts); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); a felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); 609.561 (arson in the first degree); 609.66, subdivision 1e (drive-by shooting); 609.749, subdivision 3, 4, or 5 (felony-level harassment; stalking); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); 617.246 (use of minors in sexual performance prohibited); or 617.247 (possession of pictorial representations of minors). An individual also is disqualified under section 245C.14 regardless of how much time has passed since the involuntary termination of the individual's parental rights under section 260C.301.

(b) An individual's attempt or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes, permanently disqualifies the individual under section 245C.14.

(c) An individual's offense in any other state or country, where the elements of the offense are substantially similar to any of the offenses listed in paragraph (a), permanently disqualifies the individual under section 245C.14.

Sec. 3. Minnesota Statutes 2004, section 245C.17, subdivision 1, is amended to read:

Subdivision 1. **TIME FRAME FOR NOTICE OF STUDY RESULTS.** (a) Within 15 working days after the commissioner's receipt of the background study form, the commissioner shall notify the individual who is the subject of the study in writing or by electronic transmission of the results of the study or that more time is needed to complete the study.

(b) Within 15 working days after the commissioner's receipt of the background study form submitted on paper, the commissioner shall notify the applicant, license holder, or other entity as provided in this chapter in writing or by electronic transmission of the results of the study or that more time is needed to complete the study.

(c) Within three days after the commissioner's receipt of a request for a background study submitted through the commissioner's online system, the commissioner shall provide an electronic notification to the applicant, license holder, or other entity as provided in this chapter. The electronic notification shall disclose the results of the study or that more time is needed to complete the study.

(d) When the commissioner has completed a prior background study on an individual that resulted in an order for immediate removal and more time is necessary to complete a subsequent study, the notice that more time is needed that is issued under

paragraphs (a), (b), and (c) shall include an order for immediate removal of the individual from any position allowing direct contact with or access to people receiving services pending completion of the background study.

Sec. 4. Minnesota Statutes 2004, section 245C.17, subdivision 2, is amended to read:

Subd. 2. **DISQUALIFICATION NOTICE SENT TO SUBJECT.** (a) If the information in the study indicates the individual is disqualified from direct contact with, or from access to, persons served by the program, the commissioner shall disclose to the individual studied:

(1) the information causing disqualification;

(2) instructions on how to request a reconsideration of the disqualification; ~~and~~

(3) an explanation of any restrictions on the commissioner's discretion to set aside the disqualification under section 245C.24, when applicable to the individual;

(4) a statement indicating that if the individual's disqualification is set aside or the facility is granted a variance under section 245C.30, the individual's identity and the reason for the individual's disqualification will become public data under section 245C.22, subdivision 7, when applicable to the individual; and

(5) the commissioner's determination of the individual's immediate risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual poses an imminent risk of harm to persons served by the program where the individual will have direct contact, the commissioner's notice must include an explanation of the basis of this determination.

(c) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires ~~continuous, direct supervision, the commissioner shall only notify the individual of the disqualification~~ immediate removal, the individual shall be informed of the conditions under which the agency that initiated the background study may allow the individual to provide direct contact services as provided under subdivision 3.

Sec. 5. Minnesota Statutes 2004, section 245C.17, subdivision 3, is amended to read:

Subd. 3. **DISQUALIFICATION NOTICE SENT TO APPLICANT, LICENSE HOLDER, OR OTHER ENTITY.** (a) The commissioner shall notify an applicant, license holder, or other entity as provided in this chapter who is not the subject of the study:

(1) that the commissioner has found information that disqualifies the individual studied from direct contact with, or from access to, persons served by the program; and

(2) the commissioner's determination of the individual's risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact, the commissioner shall order the license holder to immediately remove the individual studied from direct contact.

(c) If the commissioner determines under section 245C.16 that an individual studied poses a risk of harm that requires continuous, direct supervision, the commissioner shall order the applicant, license holder, or other entities as provided in this chapter to:

(1) immediately remove the individual studied from direct contact services; or

(2) before allowing the disqualified individual to provide direct contact services, the applicant, license holder, or other entity, as provided in this chapter, must:

(i) obtain from the disqualified individual a copy of the individual's notice of disqualification from the commissioner that explains the reason for disqualification;

(ii) ~~assure~~ ensure that the individual studied is under continuous, direct supervision when providing direct contact services during the period in which the individual may request a reconsideration of the disqualification under section 245C.21; and

(iii) ensure that the disqualified individual requests reconsideration within 30 days of receipt of the notice of disqualification.

(d) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires continuous, direct supervision, the commissioner shall ~~send the license holder a notice that more time is needed to complete the individual's background study~~ order the applicant, license holder, or other entities as provided in this chapter to:

(1) immediately remove the individual studied from direct contact services; or

(2) before allowing the disqualified individual to provide direct contact services, the applicant, license holder, or other entity as provided in this chapter must:

(i) obtain from the disqualified individual a copy of the individual's notice of disqualification from the commissioner that explains the reason for disqualification; and

(ii) ensure that the disqualified individual requests reconsideration within 15 days of receipt of the notice of disqualification.

(e) The commissioner shall not notify the applicant, license holder, or other entity as provided in this chapter of the information contained in the subject's background study unless:

(1) the basis for the disqualification is failure to cooperate with the background study or substantiated maltreatment under section 626.556 or 626.557;

(2) the Data Practices Act under chapter 13 provides for release of the information; or

(3) the individual studied authorizes the release of the information.

Sec. 6. Minnesota Statutes 2004, section 245C.22, is amended by adding a subdivision to read:

Subd. 7. **CLASSIFICATION OF CERTAIN DATA AS PUBLIC OR PRIVATE.** (a) Notwithstanding section 13.46, upon setting aside a disqualification under this section, the identity of the disqualified individual who received the set aside and the individual's disqualifying characteristics are public data if the set aside was:

(1) for any disqualifying characteristic under section 245C.15, when the set aside relates to a child care center or a family child care provider licensed under chapter 245A; or

(2) for a disqualifying characteristic under section 245C.15, subdivision 2.

(b) Notwithstanding section 13.46, upon granting a variance to a license holder under section 245C.30, the identity of the disqualified individual who is the subject of the variance, the individual's disqualifying characteristics under section 245C.15, and the terms of the variance are public data, when the variance:

(1) is issued to a child care center or a family child care provider licensed under chapter 245A; or

(2) relates to an individual with a disqualifying characteristic under section 245C.15, subdivision 2.

(c) The identity of a disqualified individual and the reason for disqualification remain private data when:

(1) a disqualification is not set aside and no variance is granted;

(2) the data are not public under paragraph (a) or (b); or

(3) the disqualification is rescinded because the information relied upon to disqualify the individual is incorrect.

(d) Licensed family day care providers and child care centers must notify parents considering enrollment of a child or parents of a child attending the family day care or child care center if the program employs or has living in the home any individual who is the subject of either a set aside or variance.

Sec. 7. Minnesota Statutes 2004, section 245C.24, subdivision 2, is amended to read:

Subd. 2. **PERMANENT BAR TO SET ASIDE ~~OF~~ A DISQUALIFICATION.** The commissioner may not set aside the disqualification of an individual in connection with a license ~~to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home,~~ issued or in application status under chapter 245A, regardless of how much time has passed, if the provider was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

ARTICLE 7

METHAMPHETAMINE PROVISIONS

Section 1. **[35.051] EPHEDRINE AND PSEUDOEPHEDRINE PRODUCTS.**

Subdivision 1. **PRESCRIPTION REQUIRED.** Drugs and products for any species of animal that contain ephedrine or pseudoephedrine require a written prescription from a veterinarian to be sold or distributed for lay use.

Subd. 2. **SALE AND PURCHASE RESTRICTIONS.** A drug or product for any species of animal containing ephedrine or pseudoephedrine may only be dispensed, sold, or distributed by a veterinarian or a veterinary assistant under the supervision or direction of a veterinarian. A person who is not a veterinarian may not purchase a drug or product for animal consumption containing ephedrine or pseudoephedrine without a prescription.

EFFECTIVE DATE. This section is effective on the 30th day following final enactment, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2004, section 152.01, subdivision 10, is amended to read:

Subd. 10. **NARCOTIC DRUG.** "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) opium, coca leaves, ~~and~~ opiates, and methamphetamine;

(2) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, ~~or~~ opiates, or methamphetamine;

(3) a substance, and any compound, manufacture, salt, derivative, or preparation thereof, which is chemically identical with any of the substances referred to in clauses (1) and (2), except that the words "narcotic drug" as used in this chapter shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2004, section 152.02, subdivision 6, is amended to read:

Subd. 6. **SCHEDULE V; RESTRICTIONS ON METHAMPHETAMINE PRECURSOR DRUGS.** (a) As used in this subdivision, the following terms have the meanings given:

(1) "methamphetamine precursor drug" means any compound, mixture, or preparation intended for human consumption containing ephedrine or pseudoephedrine

as its sole active ingredient or as one of its active ingredients; and

(2) "over-the-counter sale" means a retail sale of a drug or product but does not include the sale of a drug or product pursuant to the terms of a valid prescription.

(b) The following items are listed in Schedule V:

(1) any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone~~:~~:

~~(1)~~ (i) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams~~.~~;

~~(2)~~ (ii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams~~.~~;

~~(3)~~ (iii) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit~~.~~; or

~~(4)~~ (iv) not more than 15 milligrams of anhydrous morphine per 100 milliliters or per 100 grams; and

(2) any compound, mixture, or preparation containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients.

(c) No person may sell in a single over-the-counter sale more than two packages of a methamphetamine precursor drug or a combination of methamphetamine precursor drugs or any combination of packages exceeding a total weight of six grams.

(d) Over-the-counter sales of methamphetamine precursor drugs are limited to:

(1) packages containing not more than a total of three grams of one or more methamphetamine precursor drugs, calculated in terms of ephedrine base or pseudoephedrine base; or

(2) for nonliquid products, sales in blister packs, where each blister contains not more than two dosage units, or, if the use of blister packs is not technically feasible, sales in unit dose packets or pouches.

(e) A business establishment that offers for sale methamphetamine precursor drugs in an over-the-counter sale shall ensure that all packages of the drugs are displayed behind a checkout counter where the public is not permitted and are offered for sale only by a licensed pharmacist, a registered pharmacy technician, or a pharmacy clerk. The establishment shall ensure that the person making the sale requires the buyer:

(1) to provide photographic identification showing the buyer's date of birth; and

(2) to sign a written or electronic document detailing the date of the sale, the name of the buyer, and the amount of the drug sold. Nothing in this paragraph requires the

buyer to obtain a prescription for the drug's purchase.

(f) No person may acquire through over-the-counter sales more than six grams of methamphetamine precursor drugs within a 30-day period.

(g) No person may sell in an over-the-counter sale a methamphetamine precursor drug to a person under the age of 18 years. It is an affirmative defense to a charge under this paragraph if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

(h) A person who knowingly violates paragraph (c), (d), (e), (f), or (g) 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 $1,000, or both.

(i) An owner, operator, supervisor, or manager of a business establishment that offers for sale methamphetamine precursor drugs whose employee or agent is convicted of or charged with violating paragraph (c), (d), (e), (f), or (g) is not subject to the criminal penalties for violating any of those paragraphs if the person:

(1) did not have prior knowledge of, participate in, or direct the employee or agent to commit the violation; and

(2) documents that an employee training program was in place to provide the employee or agent with information on the state and federal laws and regulations regarding methamphetamine precursor drugs.

(j) Any person employed by a business establishment that offers for sale methamphetamine precursor drugs who sells such a drug to any person in a suspicious transaction shall report the transaction to the owner, supervisor, or manager of the establishment. The owner, supervisor, or manager may report the transaction to local law enforcement. A person who reports information under this subdivision in good faith is immune from civil liability relating to the report.

(k) Paragraphs (c) to (j) do not apply to:

(1) pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instructions;

(2) methamphetamine precursor drugs that are certified by the Board of Pharmacy as being manufactured in a manner that prevents the drug from being used to manufacture methamphetamine;

(3) methamphetamine precursor drugs in gel capsule or liquid form; or

(4) compounds, mixtures, or preparations in powder form where pseudoephedrine constitutes less than one percent of its total weight and is not its sole active ingredient.

(l) The Board of Pharmacy, in consultation with the Department of Public Safety, shall certify methamphetamine precursor drugs that meet the requirements of paragraph (k), clause (2), and publish an annual listing of these drugs.

(m) Wholesale drug distributors licensed and regulated by the Board of Pharmacy pursuant to sections 151.42 to 151.51 and registered with and regulated by the United States Drug Enforcement Administration are exempt from the methamphetamine precursor drug storage requirements of this section.

(n) This section preempts all local ordinances or regulations governing the sale by a business establishment of over-the-counter products containing ephedrine or pseudoephedrine. All ordinances enacted prior to the effective date of this act are void.

EFFECTIVE DATE. This section is effective July 1, 2005, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2004, section 152.02, is amended by adding a subdivision to read:

Subd. 8a. **METHAMPHETAMINE PRECURSORS.** The State Board of Pharmacy may, by order, require that non-prescription ephedrine or pseudophedrine products sold in gel capsule or liquid form be subject to the sale restrictions established in subdivision 6 for methamphetamine precursor drugs, if the board concludes that ephedrine or pseudophedrine products in gel capsule or liquid form can be used to manufacture methamphetamine. In assessing the need for an order under this subdivision, the board shall consult at least annually with the advisory council on controlled substances, the commissioner of public safety, and the commissioner of health.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 5. Minnesota Statutes 2004, section 152.021, subdivision 2a, is amended to read:

Subd. 2a. **METHAMPHETAMINE MANUFACTURE ~~CRIMES~~ CRIME; POSSESSION OF SUBSTANCES WITH INTENT TO MANUFACTURE METHAMPHETAMINE CRIME.** (a) 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.

(b) ~~Notwithstanding paragraph (a) and section 609.17,~~ A person is guilty of ~~attempted manufacture of methamphetamine~~ a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine. As used in this section, "chemical reagents or precursors" ~~refers to one or more~~ includes any of the following substances, or any similar substances that can be used to manufacture methamphetamine, or ~~their~~ the salts, isomers, and salts of isomers of a listed or similar substance:

(1) ephedrine;

(2) pseudoephedrine;

(3) phenyl-2-propanone;

(4) phenylacetone;

(5) anhydrous ammonia~~, as defined in section 18C.005, subdivision 1a~~;

(6) organic solvents;

(7) hydrochloric acid;

(8) lithium metal;

(9) sodium metal;

(10) ether;

(11) sulfuric acid;

(12) red phosphorus;

(13) iodine;

(14) sodium hydroxide;

(15) benzaldehyde;

(16) benzyl methyl ketone;

(17) benzyl cyanide;

(18) nitroethane;

(19) methylamine;

(20) phenylacetic acid;

(21) hydriodic acid; or

(22) hydriotic acid.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2004, section 152.021, subdivision 3, is amended to read:

Subd. 3. **PENALTY.** (a) A person convicted under subdivisions 1 to 2a, paragraph (a), 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; a person convicted under subdivision 2a, paragraph (b), may be sentenced to imprisonment for not more than ~~three~~ ten years or to payment of a fine of not more than ~~$5,000~~ $20,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivisions 1 to 2a, paragraph (a), 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; a person convicted under subdivision 2a, paragraph (b), may be sentenced to imprisonment for not more than ~~four~~ 15 years or to payment of a fine of not more than ~~$5,000~~ $30,000, or both.

(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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2004, section 152.027, subdivision 1, is amended to read:

Subdivision 1. **SALE OF SCHEDULE V CONTROLLED SUBSTANCE.** Except as provided in section 152.02, subdivision 6, a person who unlawfully sells one or more mixtures containing a controlled substance classified in schedule V 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.

EFFECTIVE DATE. This section is effective July 1, 2005, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2004, section 152.027, subdivision 2, is amended to read:

Subd. 2. **POSSESSION OF SCHEDULE V CONTROLLED SUBSTANCE.** Except as provided in section 152.02, subdivision 6, a person who unlawfully possesses one or more mixtures containing a controlled substance classified in schedule V 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. The court may order that a person who is convicted under this subdivision and placed on probation be required to take part in a drug education program as specified by the court.

EFFECTIVE DATE. This section is effective July 1, 2005, and applies to crimes committed on or after that date.

Sec. 9. **[152.0275] CERTAIN CONTROLLED SUBSTANCE OFFENSES; RESTITUTION; PROHIBITIONS ON PROPERTY USE; NOTICE PROVISIONS.**

Subdivision 1. **RESTITUTION.** (a) As used in this subdivision:

(1) "clandestine lab site" means any structure or conveyance or outdoor location occupied or affected by conditions or chemicals typically associated with the manufacturing of methamphetamine;

(2) "emergency response" includes, but is not limited to, removing and collecting evidence, securing the site, removal, remediation, and hazardous chemical assessment or inspection of the site where the relevant offense or offenses took place, regardless of whether these actions are performed by the public entities themselves or by private contractors paid by the public entities, or the property owner;

(3) "remediation" means proper cleanup, treatment, or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include

demolition or disposal of structures or other property when an assessment so indicates; and

(4) "removal" means the removal from the clandestine lab site of precursor or waste chemicals, chemical containers, or equipment associated with the manufacture, packaging, or storage of illegal drugs.

(b) A court may require a person convicted of manufacturing or attempting to manufacture a controlled substance or of an illegal activity involving a precursor substance, where the response to the crime involved an emergency response, to pay restitution to all public entities that participated in the response. The restitution ordered may cover the reasonable costs of their participation in the response.

(c) In addition to the restitution authorized in paragraph (b), a court may require a person convicted of manufacturing or attempting to manufacture a controlled substance or of illegal activity involving a precursor substance to pay restitution to a property owner who incurred removal or remediation costs because of the crime.

Subd. 2. **PROPERTY-RELATED PROHIBITIONS; NOTICE; WEB SITE.** (a) As used in this subdivision:

(1) "clandestine lab site" has the meaning given in subdivision 1, paragraph (a);

(2) "property" means publicly or privately owned real property including buildings and other structures, motor vehicles as defined in section 609.487, subdivision 2a, public waters, and public rights-of-way;

(3) "remediation" has the meaning given in subdivision 1, paragraph (a); and

(4) "removal" has the meaning given in subdivision 1, paragraph (a).

(b) A peace officer who arrests a person at a clandestine lab site shall notify the appropriate county or local health department, state duty officer, and child protection services of the arrest and the location of the site.

(c) A county or local health department or sheriff shall order that any property or portion of a property that has been found to be a clandestine lab site and contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine be prohibited from being occupied or used until it has been assessed and remediated as provided in the Department of Health's clandestine drug labs general cleanup guidelines. The remediation shall be accomplished by a contractor who will make the verification required under paragraph (e).

(d) Unless clearly inapplicable, the procedures specified in chapter 145A and any related rules adopted under that chapter addressing the enforcement of public health laws, the removal and abatement of public health nuisances, and the remedies available to property owners or occupants apply to this subdivision.

(e) Upon the proper removal and remediation of any property used as a clandestine lab site, the contractor shall verify to the property owner and the applicable authority that issued the order under paragraph (c) that the work was completed

according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices. The contractor shall provide the verification to the property owner and the applicable authority within five days from the completion of the remediation. Following this, the applicable authority shall vacate its order.

(f) If a contractor issues a verification and the property was not remediated according to the Department of Health's clandestine drug labs general cleanup guidelines, the contractor is liable to the property owner for the additional costs relating to the proper remediation of the property according to the guidelines and for reasonable attorney fees for collection of costs by the property owner. An action under this paragraph must be commenced within six years from the date on which the verification was issued by the contractor.

(g) If the applicable authority determines under paragraph (c) that a motor vehicle has been contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine and if the authority is able to obtain the certificate of title for the motor vehicle, the authority shall notify the registrar of motor vehicles of this fact and in addition, forward the certificate of title to the registrar. The authority shall also notify the registrar when it vacates its order under paragraph (e).

(h) The applicable authority issuing an order under paragraph (c) shall record with the county recorder or registrar of titles of the county where the clandestine lab is located an affidavit containing the name of the owner, a legal description of the property where the clandestine lab was located, and a map drawn from available information showing the boundary of the property and the location of the contaminated area on the property that is prohibited from being occupied or used that discloses to any potential transferee:

(1) that the property, or portion of the property, was the site of a clandestine lab;

(2) the location, condition, and circumstances of the clandestine lab, to the full extent known or reasonably ascertainable; and

(3) that the use of the property or some portion of it may be restricted as provided by paragraph (c).

If an inaccurate drawing or description is filed, the authority, on request of the owner or another interested person, shall file a supplemental affidavit with a corrected drawing or description.

If the authority vacates its order under paragraph (e), the authority shall record an affidavit that contains the recording information of the above affidavit and states that the order is vacated. Upon filing the affidavit vacating the order, the affidavit and the affidavit filed under this paragraph, together with the information set forth in the affidavits, cease to constitute either actual or constructive notice.

(i) If proper removal and remediation has occurred on the property, an interested party may record an affidavit indicating that this has occurred. Upon filing the affidavit

described in this paragraph, the affidavit and the affidavit filed under paragraph (g), together with the information set forth in the affidavits, cease to constitute either actual or constructive notice. Failure to record an affidavit under this section does not affect or prevent any transfer of ownership of the property.

(j) The county recorder or registrar of titles must record all affidavits presented under paragraph (g) or (h) in a manner that assures their disclosure in the ordinary course of a title search of the subject property.

(k) The commissioner of health shall post on the Internet contact information for each local community health services administrator.

(l) Each local community health services administrator shall maintain information related to property within the administrator's jurisdiction that is currently or was previously subject to an order issued under paragraph (c). The information maintained must include the name of the owner, the location of the property, the extent of the contamination, the status of the removal and remediation work on the property, and whether the order has been vacated. The administrator shall make this information available to the public either upon request or by other means.

(m) Before signing an agreement to sell or transfer real property, the seller or transferor must disclose in writing to the buyer or transferee if, to the seller's or transferor's knowledge, methamphetamine production has occurred on the property. If methamphetamine production has occurred on the property, the disclosure shall include a statement to the buyer or transferee informing the buyer or transferee:

(1) whether an order has been issued on the property as described in paragraph (c);

(2) whether any orders issued against the property under paragraph (c) have been vacated under paragraph (i); or

(3) if there was no order issued against the property and the seller or transferor is aware that methamphetamine production has occurred on the property, the status of removal and remediation on the property.

(n) Unless the buyer or transferee and seller or transferor agree to the contrary in writing before the closing of the sale, a seller or transferor who fails to disclose, to the best of their knowledge, at the time of sale any of the facts required, and who knew or had reason to know of methamphetamine production on the property, is liable to the buyer or transferee for:

(1) costs relating to remediation of the property according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices; and

(2) reasonable attorney fees for collection of costs from the seller or transferor.

An action under this paragraph must be commenced within six years after the date on which the buyer or transferee closed the purchase or transfer of the real property where the methamphetamine production occurred.

(o) This section preempts all local ordinances relating to the sale or transfer of real property designated as a clandestine lab site.

EFFECTIVE DATE. This section is effective January 1, 2006, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2004, section 152.135, subdivision 2, is amended to read:

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; and

(6) is sold in a manner that does not conflict with section 152.02, subdivision 6.

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

EFFECTIVE DATE. This section is effective on the 30th day following final enactment, and applies to crimes committed on or after that date.

Sec. 11. **[152.136] ANHYDROUS AMMONIA; PROHIBITED CONDUCT; CRIMINAL PENALTIES; CIVIL LIABILITY.**

Subdivision 1. **DEFINITIONS.** As used in this section, "tamper" means action taken by a person not authorized to take that action by law or by the owner or authorized custodian of an anhydrous ammonia container or of equipment where anhydrous ammonia is used, stored, distributed, or transported.

Subd. 2. **PROHIBITED CONDUCT.** (a) A person may not:

(1) steal or unlawfully take or carry away any amount of anhydrous ammonia;

(2) purchase, possess, transfer, or distribute any amount of anhydrous ammonia, knowing, or having reason to know, that it will be used to unlawfully manufacture a controlled substance;

(3) place, have placed, or possess anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia;

(4) transport anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to transport anhydrous ammonia;

(5) use, deliver, receive, sell, or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container; or

(6) tamper with any equipment or facility used to contain, store, or transport anhydrous ammonia.

(b) For the purposes of this subdivision, containers designed and constructed for the storage and transport of anhydrous ammonia are described in rules adopted under section 18C.121, subdivision 1, or in Code of Federal Regulations, title 49.

Subd. 3. **NO CAUSE OF ACTION.** (a) Except as provided in paragraph (b), a person tampering with anhydrous ammonia containers or equipment under subdivision 2 shall have no cause of action for damages arising out of the tampering against:

(1) the owner or lawful custodian of the container or equipment;

(2) a person responsible for the installation or maintenance of the container or equipment; or

(3) a person lawfully selling or offering for sale the anhydrous ammonia.

(b) Paragraph (a) does not apply to a cause of action against a person who unlawfully obtained the anhydrous ammonia or anhydrous ammonia container or who possesses the anhydrous ammonia or anhydrous ammonia container for any unlawful purpose.

Subd. 4. **CRIMINAL PENALTY.** A person who knowingly violates subdivision 2 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 $50,000, or both.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 12. **[152.137] METHAMPHETAMINE-RELATED CRIMES INVOLVING CHILDREN AND VULNERABLE ADULTS.**

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

(b) "Chemical substance" means a substance intended to be used as a precursor in the manufacture of methamphetamine or any other chemical intended to be used in the manufacture of methamphetamine.

(c) "Child" means any person under the age of 18 years.

(d) "Methamphetamine paraphernalia" means all equipment, products, and materials of any kind that are used, intended for use, or designed for use in manufacturing, injecting, ingesting, inhaling, or otherwise introducing methamphetamine into the human body.

(e) "Methamphetamine waste products" means substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine.

(f) "Vulnerable adult" has the meaning given in section 609.232, subdivision 11.

Subd. 2. **PROHIBITED CONDUCT.** (a) No person may knowingly engage in any of the following activities in the presence of a child or vulnerable adult; in the residence of a child or a vulnerable adult; in a building, structure, conveyance, or outdoor location where a child or vulnerable adult might reasonably be expected to be present; in a room offered to the public for overnight accommodation; or in any multiple unit residential building:

(1) manufacturing or attempting to manufacture methamphetamine;

(2) storing any chemical substance;

(3) storing any methamphetamine waste products; or

(4) storing any methamphetamine paraphernalia.

(b) No person may knowingly cause or permit a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest methamphetamine, a chemical substance, or methamphetamine paraphernalia.

Subd. 3. **CRIMINAL PENALTY.** A person who violates subdivision 2 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.

Subd. 4. **MULTIPLE SENTENCES.** Notwithstanding sections 609.035 and 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 5. **PROTECTIVE CUSTODY.** A peace officer may take any child present in an area where any of the activities described in subdivision 2, paragraph (a), clauses (1) to (4), are taking place into protective custody in accordance with section 260C.175, subdivision 1, paragraph (b), clause (2). A child taken into protective custody under this subdivision shall be provided health screening to assess potential health concerns related to methamphetamine as provided in section 260C.188. A child not taken into protective custody under this subdivision but who is known to have been exposed to methamphetamine shall be offered health screening for potential health concerns related to methamphetamine as provided in section 260C.188.

Subd. 6. **REPORTING MALTREATMENT OF VULNERABLE ADULT.** (a) A peace officer shall make a report of suspected maltreatment of a vulnerable adult if the vulnerable adult is present in an area where any of the activities described in subdivision 2, paragraph (a), clauses (1) to (4), are taking place, and the peace officer has reason to believe the vulnerable adult inhaled, was exposed to, had contact with, or ingested methamphetamine, a chemical substance, or methamphetamine paraphernalia. The peace officer shall immediately report to the county common entry point as

described in section 626.557, subdivision 9b.

(b) As required in section 626.557, subdivision 9b, law enforcement is the primary agency to conduct investigations of any incident when there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in section 626.557, subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately.

(c) The county social services agency shall immediately respond as required in section 626.557, subdivision 10, upon receipt of a report from the common entry point staff.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2004, section 168A.05, subdivision 3, is amended to read:

Subd. 3. **CONTENT OF CERTIFICATE.** Each certificate of title issued by the department shall contain:

(1) the date issued;

(2) the first, middle, and last names, the dates of birth, and addresses of all owners who are natural persons, the full names and addresses of all other owners;

(3) the names and addresses of any secured parties in the order of priority as shown on the application, or if the application is based on a certificate of title, as shown on the certificate, or as otherwise determined by the department;

(4) any liens filed pursuant to a court order or by a public agency responsible for child support enforcement against the owner;

(5) the title number assigned to the vehicle;

(6) a description of the vehicle including, so far as the following data exists, its make, model, year, identifying number, type of body, whether new or used, and if a new vehicle, the date of the first sale of the vehicle for use;

(7) with respect to motor vehicles subject to the provisions of section 325E.15, the true cumulative mileage registered on the odometer or that the actual mileage is unknown if the odometer reading is known by the owner to be different from the true mileage;

(8) with respect to vehicles subject to sections 325F.6641 and 325F.6642, the appropriate term "flood damaged," "rebuilt," "prior salvage," or "reconstructed"; ~~and~~

(9) with respect to a vehicle contaminated by methamphetamine production, if the registrar has received the certificate of title and notice described in section 152.0275, subdivision 2, paragraph (g), the term "hazardous waste contaminated vehicle"; and

(10) any other data the department prescribes.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 14. Minnesota Statutes 2004, section 260C.171, is amended by adding a subdivision to read:

Subd. 6. **NOTICE TO SCHOOL.** (a) As used in this subdivision, the following terms have the meanings given. "Chemical substance," "methamphetamine paraphernalia," and "methamphetamine waste products" have the meanings given in section 152.137, subdivision 1. "School" means a charter school or a school as defined in section 120A.22, subdivision 4, except a home school.

(b) If a child has been taken into protective custody after being found in an area where methamphetamine was being manufactured or attempted to be manufactured or where any chemical substances, methamphetamine paraphernalia, or methamphetamine waste products were stored, and the child is enrolled in school, the officer who took the child into custody shall notify the chief administrative officer of the child's school of this fact.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to acts occurring on or after that date.

Sec. 15. **[446A.083] METHAMPHETAMINE LABORATORY CLEANUP REVOLVING ACCOUNT.**

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

(1) "clandestine lab site" has the meaning given in section 152.0275, subdivision 1, paragraph (a);

(2) "property" has the meaning given in section 152.0275, subdivision 2, paragraph (a), but does not include motor vehicles; and

(3) "remediate" has the meaning given to remediation in section 152.0275, subdivision 1, paragraph (a).

Subd. 2. **ACCOUNT ESTABLISHED.** The authority shall establish a methamphetamine laboratory cleanup revolving account in the public facility authority fund to provide loans to counties and cities to remediate clandestine lab sites. The account must be credited with repayments.

Subd. 3. **APPLICATIONS.** Applications by a county or city for a loan from the account must be made to the authority on the forms prescribed by the authority. The application must include, but is not limited to:

(1) the amount of the loan requested and the proposed use of the loan proceeds;

(2) the source of revenues to repay the loan; and

(3) certification by the county or city that it meets the loan eligibility requirements of subdivision 4.

Subd. 4. **LOAN ELIGIBILITY.** A county or city is eligible for a loan under this section if the county or city:

(1) identifies a site or sites designated by a local public health department or law enforcement as a clandestine lab site;

(2) has required the site's property owner to remediate the site at cost, under a local public health nuisance ordinance that addresses clandestine lab remediation;

(3) certifies that the property owner cannot pay for the remediation immediately;

(4) certifies that the property owner has not properly remediated the site; and

(5) issues a revenue bond, secured as provided in subdivision 8, payable to the authority to secure the loan.

Subd. 5. **USE OF LOAN PROCEEDS; REIMBURSEMENT BY PROPERTY OWNER.** (a) A loan recipient shall use the loan to remediate the clandestine lab site or if this has already been done to reimburse the applicable county or city fund for costs paid by the recipient to remediate the clandestine lab site.

(b) A loan recipient shall seek reimbursement from the owner of the property containing the clandestine lab site for the costs of the remediation. In addition to other lawful means of seeking reimbursement, the loan recipient may recover its costs through a property tax assessment by following the procedures specified in section 145A.08, subdivision 2, paragraph (c).

(c) A mortgagee is not responsible for cleanup costs under this section solely because the mortgagee becomes an owner of real property through foreclosure of the mortgage or by receipt of the deed to the mortgaged property in lieu of foreclosure.

Subd. 6. **AWARD AND DISBURSEMENT OF FUNDS.** The authority shall award loans to recipients on a first-come, first-served basis, provided that the recipient is able to comply with the terms and conditions of the authority loan, which must be in conformance with this section. The authority shall make a single disbursement of the loan upon receipt of a payment request that includes a list of remediation expenses and evidence that a second-party sampling was undertaken to ensure that the remediation work was successful or a guarantee that such a sampling will be undertaken.

Subd. 7. **LOAN CONDITIONS AND TERMS.** (a) When making loans from the revolving account, the authority shall comply with the criteria in paragraphs (b) to (e).

(b) Loans must be made at a two percent per annum interest rate for terms not to exceed ten years unless the recipient requests a 20-year term due to financial hardship.

(c) The annual principal and interest payments must begin no later than one year after completion of the clean up. Loans must be amortized no later than 20 years after completion of the clean up.

(d) A loan recipient must identify and establish a source of revenue for repayment of the loan and must undertake whatever steps are necessary to collect payments within one year of receipt of funds from the authority.

(e) The account must be credited with all payments of principal and interest on all loans, except the costs as permitted under section 446A.04, subdivision 5, paragraph (a).

(f) Loans must be made only to recipients with clandestine lab ordinances that address remediation.

Subd. 8. **AUTHORITY TO INCUR DEBT.** Counties and cities may incur debt under this section by resolution of the board or council authorizing issuance of a revenue bond to the authority. The county or city may secure and pay the revenue bond only with proceeds derived from the property containing the clandestine lab site, including assessments and charges under section 145A.08, subdivision 2, paragraph (c), payments by the property owner, or similar revenues.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 16. Minnesota Statutes 2004, section 609.1095, subdivision 1, is amended to read:

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.

(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~~ sections 152.137; 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; and 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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2004, section 617.81, subdivision 4, is amended to read:

Subd. 4. **NOTICE.** (a) If a prosecuting attorney has reason to believe that a nuisance is maintained or permitted in the jurisdiction the prosecuting attorney serves, and intends to seek abatement of the nuisance, the prosecuting attorney shall provide the written notice described in paragraph (b), by personal service or certified mail,

return receipt requested, to the owner and all interested parties known to the prosecuting attorney.

(b) The written notice must:

(1) state that a nuisance as defined in subdivision 2 is maintained or permitted in the building and must specify the kind or kinds of nuisance being maintained or permitted;

(2) summarize the evidence that a nuisance is maintained or permitted in the building, including the date or dates on which nuisance-related activity or activities are alleged to have occurred;

(3) inform the recipient that failure to abate the conduct constituting the nuisance or to otherwise resolve the matter with the prosecuting attorney within 30 days of service of the notice may result in the filing of a complaint for relief in district court that could, among other remedies, result in enjoining the use of the building for any purpose for one year or, in the case of a tenant, could result in cancellation of the lease; and

(4) inform the owner of the options available under section 617.85.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to acts committed on or after that date.

Sec. 18. Minnesota Statutes 2004, section 617.85, is amended to read:

617.85 **NUISANCE; MOTION TO CANCEL LEASE.**

Where notice is provided under section 617.81, subdivision 4, that an abatement of a nuisance is sought and the circumstances that are the basis for the requested abatement involved the acts of a commercial or residential tenant or lessee of part or all of a building, the owner of the building that is subject to the abatement proceeding may file before the court that has jurisdiction over the abatement proceeding a motion to cancel the lease or otherwise secure restitution of the premises from the tenant or lessee who has maintained or conducted the nuisance. The owner may assign to the prosecuting attorney the right to file this motion. In addition to the grounds provided in chapter 566, the maintaining or conducting of a nuisance as defined in section 617.81, subdivision 2, by a tenant or lessee, is an additional ground authorized by law for seeking the cancellation of a lease or the restitution of the premises. Service of motion brought under this section must be served in a manner that is sufficient under the Rules of Civil Procedure and chapter 566.

It is no defense to a motion under this section by the owner or the prosecuting attorney that the lease or other agreement controlling the tenancy or leasehold does not provide for eviction or cancellation of the lease upon the ground provided in this section.

Upon a finding by the court that the tenant or lessee has maintained or conducted a nuisance in any portion of the building, the court shall order cancellation of the lease

or tenancy and grant restitution of the premises to the owner. The court must not order abatement of the premises if the court:

(a) cancels a lease or tenancy and grants restitution of that portion of the premises to the owner; and

(b) further finds that the act or acts constituting the nuisance as defined in section 617.81, subdivision 2, were committed by the tenant or lessee whose lease or tenancy has been canceled pursuant to this section and the tenant or lessee was not committing the act or acts in conjunction with or under the control of the owner.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to acts committed on or after that date.

Sec. 19. **DEVELOPMENT OF COMPUTER SYSTEM; REPORT.**

The commissioner of public safety shall study the feasability of a centralized computer or electronic system to enable pharmacies to carry out their duties under Minnesota Statutes, section 152.02, subdivision 6, paragraph (e), clause (2), electronically or by the Internet. By February 1, 2006, the commissioner shall report its findings to the legislature. The report may include a proposal to enable pharmacies to switch from written logs to electronic logs that are compatible with the proposed system, and suggested statutory changes and a cost estimate to accomplish this.

Sec. 20. **BOARD OF VETERINARY MEDICINE REPORT, PRECURSOR ANIMAL PRODUCTS.**

The Board of Veterinary Medicine shall study and issue a report on animal products that may be used in the manufacture of methamphetamine. The report must include proposals for restricting access to such products only to legitimate users, specifically addressing the manufacturing, wholesaling, distributing, and retailing of precursor veterinary products. The board shall report its findings to the chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice and veterinary policy by February 1, 2006.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 21. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall recodify the provisions of Minnesota Statutes, section 152.021, subdivision 2a, paragraph (b), and subdivision 3, as amended by this article, that relate to the possession of chemical reagents or precursors with the intent to manufacture methamphetamine and the penalties for doing this into a new section of law codified as Minnesota Statutes, section 152.0262. The revisor shall make any necessary technical changes, including, but not limited to, changes to statutory cross-references, to Minnesota Statutes, section 152.021, and any other statutory sections to accomplish this.

Sec. 22. **REPEALER.**

Minnesota Statutes 2004, sections 18C.005, subdivisions 1a and 35a; 18C.201, subdivisions 6 and 7; and 18D.331, subdivision 5, are repealed.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

ARTICLE 8

PUBLIC SAFETY POLICY

Section 1. Minnesota Statutes 2004, section 116L.30, is amended to read:

116L.30 GRANTS-IN-AID TO YOUTH INTERVENTION PROGRAMS.

Subdivision 1. **GRANTS.** The commissioner may make grants to nonprofit agencies administering youth intervention programs in communities where the programs are or may be established.

"Youth intervention program" means a nonresidential community-based program providing advocacy, education, counseling, mentoring, and referral services to youth and their families experiencing personal, familial, school, legal, or chemical problems with the goal of resolving the present problems and preventing the occurrence of the problems in the future. The intent of the youth intervention program is to provide an ongoing stable funding source to community-based early intervention programs for youth. Program design may be different for the grantees depending on youth service needs of the communities being served.

Subd. 2. **APPLICATIONS.** Applications for a grant-in-aid shall be made by the administering agency to the commissioner.

The grant-in-aid is contingent upon the agency having obtained from the community in which the youth intervention program is established local matching money two times the amount of the grant that is sought. The matching requirement is intended to leverage the investment of state and community dollars in supporting the efforts of the grantees to provide early intervention services to youth and their families.

The commissioner shall provide the application form, procedures for making application form, criteria for review of the application, and kinds of contributions in addition to cash that qualify as local matching money. No grant to any agency may exceed $50,000.

Subd. 3. **GRANT ALLOCATION FORMULA.** Up to one percent of the appropriations to the grants-in-aid to the youth intervention program may be used for a grant to the Minnesota Youth Intervention Programs Association for expenses in providing collaborative training and technical assistance to community-based grantees of the program.

Subd. 4. **ADMINISTRATIVE COSTS.** The commissioner may use up to two percent of the biennial appropriation for grants-in-aid to the youth intervention

program to pay costs incurred by the department in administering the youth intervention program.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 2. Minnesota Statutes 2004, section 169.71, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITIONS GENERALLY; EXCEPTIONS.** ~~No~~ (a) A person shall not drive or operate any motor vehicle with:

(1) a windshield cracked or discolored to an extent to limit or obstruct proper vision~~, or, except for law enforcement vehicles, with~~;

(2) any objects suspended between the driver and the windshield, other than sun visors and ~~rear vision~~ rearview mirrors~~,~~ and electronic toll collection devices; or ~~with~~

(3) any sign, poster, or other nontransparent material upon the front windshield, sidewings, or side or rear windows of ~~such~~ the vehicle, other than a certificate or other paper required to be so displayed by law~~,~~ or authorized by the state director of the Division of Emergency Management~~,~~ or the commissioner of public safety.

(b) Paragraph (a), clauses (2) and (3), do not apply to law enforcement vehicles.

(c) Paragraph (a), clause (2), does not apply to authorized emergency vehicles.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 3. Minnesota Statutes 2004, section 214.04, subdivision 1, is amended to read:

Subdivision 1. **SERVICES PROVIDED.** (a) The commissioner of administration with respect to the Board of Electricity~~,~~; the commissioner of education with respect to the Board of Teaching~~,~~; the commissioner of public safety with respect to the Board of Private Detective and Protective Agent Services~~, and~~; the panel established pursuant to section 299A.465, subdivision 7; the Board of Peace Officer Standards and Training~~,~~; and the commissioner of revenue with respect to the Board of Assessors, shall provide suitable offices and other space, joint conference and hearing facilities, examination rooms, and the following administrative support services: purchasing service, accounting service, advisory personnel services, consulting services relating to evaluation procedures and techniques, data processing, duplicating, mailing services, automated printing of license renewals, and such other similar services of a housekeeping nature as are generally available to other agencies of state government. Investigative services shall be provided the boards by employees of the Office of Attorney General. The commissioner of health with respect to the health-related licensing boards shall provide mailing and office supply services and may provide other facilities and services listed in this subdivision at a central location upon request of the health-related licensing boards. The commissioner of commerce with respect to the remaining non-health-related licensing boards shall provide the above facilities and services at a central location for the remaining non-health-related licensing boards. The legal and investigative services for the boards shall be provided by employees of the

attorney general assigned to the departments servicing the boards. Notwithstanding the foregoing, the attorney general shall not be precluded by this section from assigning other attorneys to service a board if necessary in order to insure competent and consistent legal representation. Persons providing legal and investigative services shall to the extent practicable provide the services on a regular basis to the same board or boards.

(b) The requirements in paragraph (a) with respect to the panel established in section 299A.465, subdivision 7, expire July 1, 2008.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2004, section 216D.08, subdivision 1, is amended to read:

Subdivision 1. ~~**PENALTY**~~ **PENALTIES.** A person who is engaged in excavation for remuneration or an operator other than an operator subject to section 299F.59, subdivision 1, who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed by the commissioner not to exceed $1,000 for each violation per day of violation. An operator subject to section 299F.59, subdivision 1, who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed under section 299F.60. The district court may hear, try, and determine actions commenced under this section. Trials under this section must be to the court sitting without a jury. If the fine exceeds the maximum limit for conciliation court, the person appealing the fine may request the commissioner to conduct an administrative hearing under chapter 14.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 5. Minnesota Statutes 2004, section 216D.08, subdivision 2, is amended to read:

Subd. 2. **SETTLEMENT.** The commissioner may negotiate a compromise settlement of a civil penalty. In determining the amount of the penalty, or the amount of the compromise settlement, the commissioner shall consider the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation. Unless the commissioner chooses to proceed in district court under subdivision 1, the contested case and judicial review provisions of chapter 14 apply to the orders of the commissioner imposing a penalty under sections 216D.01 to 216D.07. The amount of the penalty, when finally determined, may be deducted from sums owing by the state of Minnesota to the person charged.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 6. Minnesota Statutes 2004, section 259.11, is amended to read:

259.11 **ORDER; FILING COPIES.**

(a) Upon meeting the requirements of section 259.10, the court shall grant the application unless: (1) it finds that there is an intent to defraud or mislead; (2) section

259.13 prohibits granting the name change; or (3) in the case of the change of a minor child's name, the court finds that such name change is not in the best interests of the child. The court shall set forth in the order the name and age of the applicant's spouse and each child of the applicant, if any, and shall state a description of the lands, if any, in which the applicant and the spouse and children, if any, claim to have an interest. The court administrator shall file such order, and record the same in the judgment book. If lands be described therein, a certified copy of the order shall be filed for record, by the applicant, with the county recorder of each county wherein any of the same are situated. Before doing so the court administrator shall present the same to the county auditor who shall enter the change of name in the auditor's official records and note upon the instrument, over an official signature, the words "change of name recorded." Any such order shall not be filed, nor any certified copy thereof be issued, until the applicant shall have paid to the county recorder and court administrator the fee required by law. No application shall be denied on the basis of the marital status of the applicant.

(b) When a person applies for a name change, the court shall determine whether the person has ~~been convicted of a felony~~ a criminal history in this or any other state. The court may conduct a search of national records through the Federal Bureau of Investigation by submitting a set of fingerprints and the appropriate fee to the Bureau of Criminal Apprehension. If ~~so~~ it is determined that the person has a criminal history in this or any other state, the court shall, within ten days after the name change application is granted, report the name change to the Bureau of Criminal Apprehension. The person whose name is changed shall also report the change to the Bureau of Criminal Apprehension within ten days. The court granting the name change application must explain this reporting duty in its order. Any person required to report the person's name change to the Bureau of Criminal Apprehension who fails to report the name change as required under this paragraph is guilty of a gross misdemeanor.

(c) Paragraph (b) does not apply to either:

(1) a request for a name change as part of an application for a marriage license under section 517.08; or

(2) a request for a name change in conjunction with a marriage dissolution under section 518.27.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 7. Minnesota Statutes 2004, section 299A.465, is amended by adding a subdivision to read:

Subd. 6. **DETERMINATION OF SCOPE AND DUTIES.** (a) Whenever a peace officer or firefighter has been approved to receive a duty-related disability pension, the officer or firefighter may apply to the panel established in subdivision 7 for a determination of whether or not the officer or firefighter meets the requirements in subdivision 1, paragraph (a), clause (2). In making this decision, the panel shall determine whether or not the officer's or firefighter's occupational duties or professional responsibilities put the officer or firefighter at risk for the type of illness or

injury actually sustained. A final determination by the panel is binding on the applicant and the employer, subject to any right of judicial review. Applications must be made within 90 days of receipt of approval of a duty-related pension and must be acted upon by the panel within 90 days of receipt. Applications that are not acted upon within 90 days of receipt by the panel are approved. Applications and supporting documents are private data.

(b) This subdivision expires July 1, 2008.

EFFECTIVE DATE. This section is effective July 1, 2005, and applies to duty-related pension approvals made on or after that date.

Sec. 8. Minnesota Statutes 2004, section 299A.465, is amended by adding a subdivision to read:

Subd. 7. **COURSE AND SCOPE OF DUTIES PANEL.** (a) A panel is established for the purpose set forth in subdivision 6, composed of the following seven members:

(1) two members recommended by the Minnesota League of Cities or a successor;

(2) one member recommended by the Association of Minnesota Counties or a successor;

(3) two members recommended by the Minnesota Police and Peace Officers Association or a successor;

(4) one member recommended by the Minnesota Professional Firefighters Association or a successor; and

(5) one nonorganizational member recommended by the six organizational members.

(b) Recommendations must be forwarded to the commissioner of public safety who shall appoint the recommended members after determining that they were properly recommended. Members shall serve for two years or until their successors have been seated. No member may serve more than three consecutive terms. Vacancies on the panel must be filled by recommendation by the organization whose representative's seat has been vacated. A vacancy of the nonorganizational seat must be filled by the recommendation of the panel. Vacancies may be declared by the panel in cases of resignation or when a member misses three or more consecutive meetings, or by a nominating organization when its nominee is no longer a member in good standing of the organization, an employee of the organization, or an employee of a member in good standing of the organization. A member appointed because of a vacancy shall serve until the expiration of the vacated term.

(c) Panel members shall be reimbursed for expenses related to their duties according to section 15.059, subdivision 3, paragraph (a), but shall not receive compensation or per diem payments. The panel's proceedings and determinations constitute a quasi-judicial process and its operation must comply with chapter 14. Membership on the panel does not constitute holding a public office and members of

the panel are not required to take and file oaths of office or submit a public official's bond before serving on the panel. No member of the panel may be disqualified from holding any public office or employment by reason of being appointed to the panel. Members of the panel and staff or consultants working with the panel are covered by the immunity provision in section 214.34, subdivision 2. The panel shall elect a chair and adopt rules of order. The panel shall convene no later than July 1, 2005.

(d) This subdivision expires July 1, 2008.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 9. Minnesota Statutes 2004, section 299C.095, subdivision 1, is amended to read:

Subdivision 1. **ACCESS TO DATA ON JUVENILES.** (a) The bureau shall administer and maintain the computerized juvenile history record system based on sections 260B.171 and 260C.171 and other statutes requiring the reporting of data on juveniles. The data in the system are private data as defined in section 13.02, subdivision 12, but are accessible to criminal justice agencies as defined in section 13.02, subdivision 3a, to all trial courts and appellate courts, to a person who has access to the juvenile court records as provided in sections 260B.171 and 260C.171 or under court rule, to public defenders as provided in section 611.272, and to criminal justice agencies in other states in the conduct of their official duties.

(b) Except for access authorized under paragraph (a), the bureau shall only disseminate a juvenile adjudication history record in connection with a background check required by statute or rule and performed on a licensee, license applicant, or employment applicant or performed under section 299C.62 or 624.713. If the background check is performed under section 299C.62, juvenile adjudication history disseminated under this paragraph is limited to offenses that would constitute a background check crime as defined in section 299C.61, subdivision 2. A consent for release of information from an individual who is the subject of a juvenile adjudication history is not effective and the bureau shall not release a juvenile adjudication history record and shall not release information in a manner that reveals the existence of the record. Data maintained under section 243.166, released in conjunction with a background check, regardless of the age of the offender at the time of the offense, does not constitute releasing information in a manner that reveals the existence of a juvenile adjudication history.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 10. Minnesota Statutes 2004, section 299C.11, is amended to read:

299C.11 **IDENTIFICATION DATA FURNISHED TO BUREAU.**

(a) Each sheriff and chief of police shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data as may be requested or required by the superintendent of the bureau, which must be taken under the provisions of section

299C.10. In addition, sheriffs and chiefs of police shall furnish this identification data to the bureau for individuals found to have been convicted of a felony, gross misdemeanor, or targeted misdemeanor, within the ten years immediately preceding their arrest. When the bureau learns that an individual who is the subject of a background check has used, or is using, identifying information, including, but not limited to, name and date of birth, other than those listed on the criminal history, the bureau may add the new identifying information to the criminal history when supported by fingerprints.

(b) No petition under chapter 609A is required if the person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding the determination of all pending criminal actions or proceedings in favor of the arrested person, and either of the following occurred:

(1) all charges were dismissed prior to a determination of probable cause; or

(2) the prosecuting authority declined to file any charges and a grand jury did not return an indictment.

Where these conditions are met, the bureau or agency shall, upon demand, return to the arrested person finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them.

(c) Except as otherwise provided in paragraph (b), upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau shall seal finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them if the arrested person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding such determination.

(d) DNA samples and DNA records of the arrested person shall not be returned, sealed, or destroyed as to a charge supported by probable cause.

(e) For purposes of this section:

(1) "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

(i) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or chapter 609A;

(ii) the arrested person's successful completion of a diversion program;

(iii) an order of discharge under section 609.165; or

(iv) a pardon granted under section 638.02; and

(2) "targeted misdemeanor" has the meaning given in section 299C.10, subdivision 1.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 11. Minnesota Statutes 2004, section 326.3382, is amended by adding a subdivision to read:

Subd. 5. **SPECIAL PROTECTIVE AGENT CLASSIFICATION.** The board shall establish a special protective agent license classification that provides that a person described in section 326.338, subdivision 4, clause (4), who is otherwise qualified under this section need not meet the requirements of subdivision 2, paragraph (c).

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 12. Minnesota Statutes 2004, section 340A.301, subdivision 6, is amended to read:

Subd. 6. **FEES.** The annual fees for licenses under this section are as follows:

(a)	Manufacturers (except as provided in clauses (b) and (c))	~~$15,000~~	$30,000
	Duplicates	$ 3,000	
(b)	Manufacturers of wines of not more than 25 percent alcohol by volume	$ 500	
(c)	Brewers other than those described in clauses (d) and (i)	$ ~~2,500~~	4,000
(d)	Brewers who also hold one or more retail on-sale licenses and who manufacture fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, using only wort produced in Minnesota, the entire production of which is solely for consumption on tap on the licensed premises or for off-sale from that licensed premises. A brewer licensed under this clause must obtain a separate license for each licensed premises where the brewer brews malt liquor. A brewer licensed under this clause may not be licensed as an importer under this chapter	$ 500	
(e)	Wholesalers (except as provided in clauses (f), (g), and (h))	$15,000	
	Duplicates	$ 3,000	
(f)	Wholesalers of wines of not more than 25 percent alcohol by volume	$ ~~2,000~~	3,750
(g)	Wholesalers of intoxicating malt liquor	$ ~~600~~	1,000
	Duplicates	$ 25	
(h)	Wholesalers of 3.2 percent malt liquor	$ 10	
(i)	Brewers who manufacture fewer than 2,000 barrels of malt liquor in a year	$ 150	

If a business licensed under this section is destroyed, or damaged to the extent that it cannot be carried on, or if it ceases because of the death or illness of the licensee,

the commissioner may refund the license fee for the balance of the license period to the licensee or to the licensee's estate.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 13. Minnesota Statutes 2004, section 340A.302, subdivision 3, is amended to read:

Subd. 3. **FEES.** Annual fees for licenses under this section, which must accompany the application, are as follows:

Importers of distilled spirits, wine, or ethyl alcohol	$420
Importers of malt liquor	~~$800~~ $1,600

If an application is denied, $100 of the fee shall be retained by the commissioner to cover costs of investigation.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 14. Minnesota Statutes 2004, section 340A.311, is amended to read:

340A.311 **BRAND REGISTRATION.**

(a) A brand of intoxicating liquor or 3.2 percent malt liquor may not be manufactured, imported into, or sold in the state unless the brand label has been registered with and approved by the commissioner. A brand registration must be renewed every three years in order to remain in effect. The fee for an initial brand registration is ~~$30~~ $40. The fee for brand registration renewal is ~~$20~~ $30. The brand label of a brand of intoxicating liquor or 3.2 percent malt liquor for which the brand registration has expired, is conclusively deemed abandoned by the manufacturer or importer.

(b) In this section "brand" and "brand label" include trademarks and designs used in connection with labels.

(c) The label of any brand of wine or intoxicating or nonintoxicating malt beverage may be registered only by the brand owner or authorized agent. No such brand may be imported into the state for sale without the consent of the brand owner or authorized agent. This section does not limit the provisions of section 340A.307.

(d) The commissioner shall refuse to register a malt liquor brand label, and shall revoke the registration of a malt liquor brand label already registered, if the brand label states or implies in a false or misleading manner a connection with an actual living or dead American Indian leader. This paragraph does not apply to a brand label registered for the first time in Minnesota before January 1, 1992.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 15. Minnesota Statutes 2004, section 340A.404, subdivision 12, is amended to read:

Subd. 12. **CATERER'S PERMIT.** The commissioner may issue a caterer's permit to a restaurant that holds an on-sale intoxicating liquor license issued by any municipality. The holder of a caterer's permit may sell intoxicating liquor as an incidental part of a food service that serves prepared meals at a place other than the premises for which the holder's on-sale intoxicating liquor license is issued.

(a) A caterer's permit is auxiliary to the primary on-sale license held by the licensee.

(b) The restrictions and regulations which apply to the sale of intoxicating liquor on the licensed premises also apply to the sale under the authority of a caterer's permit, and any act that is prohibited on the licensed premises is also prohibited when the licensee is operating other than on the licensed premises under a caterer's permit.

(c) Any act, which if done on the licensed premises would be grounds for cancellation or suspension of the on-sale licensee, is grounds for cancellation of both the on-sale license and the caterer's permit if done when the permittee is operating away from the licensed premises under the authority of the caterer's permit.

(d) The permittee shall notify prior to any catered event:

(1) the police chief of the city where the event will take place, if the event will take place within the corporate limits of a city; or

(2) the county sheriff of the county where the event will take place, if the event will be outside the corporate limits of any city.

(e) If the primary license ceases to be valid for any reason, the caterer's permit ceases to be valid.

(f) Permits issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except those laws and ordinances which by their nature are not applicable.

(g) The annual state fee for a caterer's permit is ~~$200~~ $300.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 16. Minnesota Statutes 2004, section 340A.408, subdivision 4, is amended to read:

Subd. 4. **LAKE SUPERIOR, ST. CROIX RIVER, AND MISSISSIPPI RIVER TOUR BOATS; COMMON CARRIERS.** (a) The annual license fee for licensing of Lake Superior, St. Croix River, and Mississippi River tour boats under section 340A.404, subdivision 8, shall be ~~$1,000~~ $1,500. The commissioner shall transmit one-half of this fee to the governing body of the city that is the home port of the tour boat or to the county in which the home port is located if the home port is outside a city.

(b) The annual license fee for common carriers licensed under section 340A.407 is:

(1) $50 for 3.2 percent malt liquor, and $20 for a duplicate license; and

(2) ~~$200~~ $250 for intoxicating liquor, and ~~$20~~ $30 for a duplicate license.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 17. Minnesota Statutes 2004, section 340A.414, subdivision 6, is amended to read:

Subd. 6. **PERMIT FEES.** The annual fee for issuance of a permit under this section is ~~$150~~ $250. The governing body of a city or county where the establishment is located may impose an additional fee of not more than $300.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 18. Minnesota Statutes 2004, section 340A.504, subdivision 3, is amended to read:

Subd. 3. **INTOXICATING LIQUOR; SUNDAY SALES; ON-SALE.** (a) A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon on Sundays and 2:00 a.m. on Mondays.

(b) The governing body of a municipality may after one public hearing by ordinance permit a restaurant, hotel, bowling center, or club to sell alcoholic beverages for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and 2:00 a.m. on Mondays, provided that the licensee is in conformance with the Minnesota Clean Air Act.

(c) An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. The license must be issued by the governing body of the municipality for a period of one year, and the fee for the license may not exceed $200.

(d) A city may issue a Sunday intoxicating liquor license only if authorized to do so by the voters of the city voting on the question at a general or special election. A county may issue a Sunday intoxicating liquor license in a town only if authorized to do so by the voters of the town as provided in paragraph (e). A county may issue a Sunday intoxicating liquor license in unorganized territory only if authorized to do so by the voters of the election precinct that contains the licensed premises, voting on the question at a general or special election.

(e) An election conducted in a town on the question of the issuance by the county of Sunday sales licenses to establishments located in the town must be held on the day of the annual election of town officers.

(f) Voter approval is not required for licenses issued by the Metropolitan Airports Commission or common carrier licenses issued by the commissioner. Common carriers serving intoxicating liquor on Sunday must obtain a Sunday license from the commissioner at an annual fee of ~~$50~~ $75, plus ~~$20~~ $30 for each duplicate.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 19. Minnesota Statutes 2004, section 340A.504, subdivision 7, is amended to read:

Subd. 7. **SALES AFTER 1:00 A.M.; PERMIT FEE.** (a) No licensee may sell intoxicating liquor or 3.2 percent malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the commissioner. Application for the permit must be on a form the commissioner prescribes. Permits are effective for one year from date of issuance. For retailers of intoxicating liquor, the fee for the permit is based on the licensee's gross receipts from on-sales of alcoholic beverages in the 12 months prior to the month in which the permit is issued, and is at the following rates:

(1) up to $100,000 in gross receipts, ~~$200~~ $300;

(2) over $100,000 but not over $500,000 in gross receipts, ~~$500~~ $750; and

(3) over $500,000 in gross receipts, ~~$600~~ $1,000.

For a licensed retailer of intoxicating liquor who did not sell intoxicating liquor at on-sale for a full 12 months prior to the month in which the permit is issued, the fee is $200. For a retailer of 3.2 percent malt liquor, the fee is $200.

(b) The commissioner shall deposit all permit fees received under this subdivision in the alcohol enforcement account in the special revenue fund.

(c) Notwithstanding any law to the contrary, the commissioner of revenue may furnish to the commissioner the information necessary to administer and enforce this subdivision.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 20. Minnesota Statutes 2004, section 518B.01, is amended by adding a subdivision to read:

Subd. 23. **PROHIBITION AGAINST EMPLOYER RETALIATION.** (a) An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to obtain or attempt to obtain relief under this chapter. Except in cases of imminent danger to the health or safety of the employee or the employee's child, or unless impracticable, an employee who is absent from the workplace shall give 48 hours' advance notice to the employer. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

(b) An employer who violates paragraph (a) is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to pay back wages and offer job reinstatement to any employee discharged from employment in violation of paragraph (a).

(c) In addition to any remedies otherwise provided by law, an employee injured by a violation of paragraph (a) may bring a civil action for recovery of damages, together with costs and disbursements, including reasonable attorney's fees, and may

receive such injunctive and other equitable relief, including reinstatement, as determined by the court.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 21. Minnesota Statutes 2004, section 609.748, is amended by adding a subdivision to read:

Subd. 10. **PROHIBITION AGAINST EMPLOYER RETALIATION.** (a) An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to obtain or attempt to obtain relief under this section. Except in cases of imminent danger to the health or safety of the employee or the employee's child, or unless impracticable, an employee who is absent from the workplace shall give 48 hours' advance notice to the employer. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

(b) An employer who violates paragraph (a) is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to pay back wages and offer job reinstatement to any employee discharged from employment in violation of paragraph (a).

(c) In addition to any remedies otherwise provided by law, an employee injured by a violation of paragraph (a) may bring a civil action for recovery of damages, together with costs and disbursements, including reasonable attorney's fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 22. Minnesota Statutes 2004, section 611A.01, is amended to read:

611A.01 **DEFINITIONS.**

For the purposes of sections 611A.01 to 611A.06:

(a) "crime" means conduct that is prohibited by local ordinance and results in bodily harm to an individual; or conduct that is included within the definition of "crime" in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state, or (ii) the act was alleged or found to have been committed by a juvenile;

(b) "victim" means a natural person who incurs loss or harm as a result of a crime, including a good faith effort to prevent a crime, and for purposes of sections 611A.04 and 611A.045, also includes (i) a corporation that incurs loss or harm as a result of a

crime, (ii) a government entity that incurs loss or harm as a result of a crime, and (iii) any other entity authorized to receive restitution under section 609.10 or 609.125. ~~If the victim is a natural person and is deceased, "victim" means the deceased's surviving spouse or next of kin~~ The term "victim" includes the family members, guardian, or custodian of a minor, incompetent, incapacitated, or deceased person. In a case where the prosecutor finds that the number of family members makes it impracticable to accord all of the family members the rights described in sections 611A.02 to 611A.0395, the prosecutor shall establish a reasonable procedure to give effect to those rights. The procedure may not limit the number of victim impact statements submitted to the court under section 611A.038. The term "victim" does not include the person charged with or alleged to have committed the crime; and

(c) "juvenile" has the same meaning as given to the term "child" in section 260B.007, subdivision 3.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 23. Minnesota Statutes 2004, section 611A.036, is amended to read:

611A.036 **PROHIBITION AGAINST EMPLOYER RETALIATION.**

Subdivision 1. **VICTIM OR WITNESS.** An employer ~~or employer's agent who threatens to discharge or discipline~~ must allow a victim or witness, ~~or who discharges, disciplines, or causes a victim or witness to be discharged from employment or disciplined because the victim or the witness~~ who is subpoenaed or requested by the prosecutor to attend court for the purpose of giving testimony, ~~is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to offer job reinstatement to any victim or witness discharged from employment in violation of this section, and to pay the victim or witness back wages as appropriate~~ reasonable time off from work to attend criminal proceedings related to the victim's case.

Subd. 2. **VICTIM'S SPOUSE OR NEXT OF KIN.** An employer must allow a victim of a heinous crime, as well as the victim's spouse or next of kin, reasonable time off from work to attend criminal proceedings related to the victim's case.

Subd. 3. **PROHIBITED ACTS.** An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to attend a criminal proceeding pursuant to this section.

Subd. 4. **VERIFICATION; CONFIDENTIALITY.** An employee who is absent from the workplace shall give 48 hours' advance notice to the employer, unless impracticable or an emergency prevents the employee from doing so. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

Subd. 5. **PENALTY.** An employer who violates this section is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall

order the employer to offer job reinstatement to any employee discharged from employment in violation of this section, and to pay the employee back wages as appropriate.

Subd. 6. **CIVIL ACTION.** In addition to any remedies otherwise provided by law, an employee injured by a violation of this section may bring a civil action for recovery for damages, together with costs and disbursements, including reasonable attorney's fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court.

Subd. 7. **DEFINITION.** 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 or if the complainant was a minor at the time of the offense.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 24. Minnesota Statutes 2004, section 611A.19, is amended to read:

611A.19 **TESTING OF SEX OFFENDER FOR HUMAN IMMUNODEFICIENCY VIRUS.**

Subdivision 1. **TESTING ON REQUEST OF VICTIM.** (a) Upon the request or with the consent of the victim, the prosecutor shall make a motion in camera and the sentencing court shall issue an order requiring an adult convicted of or a juvenile adjudicated delinquent for violating section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or any other violent crime, as defined in section 609.1095, to submit to testing to determine the presence of human immunodeficiency virus (HIV) antibody if:

(1) the crime involved sexual penetration, however slight, as defined in section 609.341, subdivision 12; or

(2) evidence exists that the broken skin or mucous membrane of the victim was exposed to or had contact with the offender's semen or blood during the commission of the crime in a manner which has been demonstrated epidemiologically to transmit the human immunodeficiency virus (HIV).

(b) When the court orders an offender to submit to testing under paragraph (a), the court shall order that the test be performed by an appropriate health professional who is trained to provide the counseling described in section 144.7414, and that no reference to the test, the motion requesting the test, the test order, or the test results may appear in the criminal record or be maintained in any record of the court or court services, except in the medical record maintained by the Department of Corrections.

(c) The order shall include the name and contact information of the victim's choice of health care provider.

Subd. 2. **DISCLOSURE OF TEST RESULTS.** The date and results of a test performed under subdivision 1 are private data as defined in section 13.02, subdivision 12, when maintained by a person subject to chapter 13, or may be released only with the subject's consent, if maintained by a person not subject to chapter 13. The results are available, on request, to the victim or, if the victim is a minor, to the victim's parent or guardian and positive test results shall be reported to the commissioner of health. Unless the subject of the test is an inmate at a state correctional facility, any test results given to a victim or victim's parent or guardian shall be provided by a health professional who is trained to provide the counseling described in section 144.7414. If the subject of the test is an inmate at a state correctional facility, test results shall be given by the Department of Corrections' medical director to the victim's health care provider who shall give the results to the victim or victim's parent or guardian. Data regarding administration and results of the test are not accessible to any other person for any purpose and shall not be maintained in any record of the court or court services or any other record. After the test results are given to the victim or the victim's parent or guardian, data on the test must be removed from any medical data or health records maintained under section 13.384 or 144.335 and destroyed, except for those medical records maintained by the Department of Corrections.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 25. Minnesota Statutes 2004, section 611A.53, subdivision 1b, is amended to read:

Subd. 1b. **MINNESOTA RESIDENTS INJURED ELSEWHERE.** (a) A Minnesota resident who is the victim of a crime committed outside the geographical boundaries of this state but who otherwise meets the requirements of this section shall have the same rights under this chapter as if the crime had occurred within this state upon a showing that the state, territory, ~~or~~ United States possession, country, or political subdivision of a country in which the crime occurred does not have a crime victim reparations law covering the resident's injury or death.

(b) Notwithstanding paragraph (a), a Minnesota resident who is the victim of a crime involving international terrorism who otherwise meets the requirements of this section has the same rights under this chapter as if the crime had occurred within this state regardless of where the crime occurred or whether the jurisdiction has a crime victims reparations law.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to those seeking reparations on or after that date.

Sec. 26. **SPECIAL REVENUE SPENDING AUTHORIZATION FROM CRIMINAL JUSTICE SPECIAL PROJECTS ACCOUNT.**

Remaining balances in the special revenue fund from spending authorized by Laws 2001, First Special Session chapter 8, article 7, section 14, subdivision 1, for which spending authorization ended June 30, 2003, under Laws 2001, First Special

Session, chapter 8, article 7, section 14, subdivision 3, are transferred to the general fund.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 27. **HOMELESSNESS PILOT PROJECTS; GRANTS.**

Subdivision 1. **GRANTS.** The commissioner of public safety, in consultation with the director of ending long-term homelessness, the Ending Long-Term Homelessness Advisory Council, and the Department of Human Services Office of Economic Opportunity, shall award grants to organizations that provide homeless outreach and a bridge to stable housing and services for the homeless. At a minimum, the commissioner shall award grants to qualified applicants in Hennepin County, Ramsey County, and one county outside the seven-county metropolitan area. An entity outside the seven-county metropolitan area receiving a grant under this section shall provide a 25 percent match. An entity within the seven-county metropolitan area receiving a grant under this section shall provide a 50 percent match. Grants must be used for homelessness pilot projects of a two-year duration that reduce recidivism and promote stronger communities through street and shelter outreach to connect people experiencing homelessness to housing and services.

Subd. 2. **APPLICATIONS.** An applicant for a grant under subdivision 1 must establish that:

(1) the applicant is experienced in homeless outreach services and will have staff qualified to work with people with serious mental illness, chemical dependency, and other factors contributing to homelessness;

(2) the applicant employs outreach staff who are trained and qualified to work with racially and culturally diverse populations;

(3) outreach services will be targeted to, but not limited to, people experiencing long-term homelessness, and people who have had repeated interactions with law enforcement;

(4) outreach services will provide intervention strategies linking people to housing and services as an alternative to arrest;

(5) the applicant has a plan to connect people experiencing homelessness to services for which they may be eligible such as supplemental security income, veterans benefits, health care, housing assistance, and long-term support programs for those with serious mental illness;

(6) the applicant's project will promote community collaboration with local law enforcement, local and county governments, social services providers, mental health crisis providers, and other community organizations to address homelessness;

(7) the applicant has a plan to leverage resources from the entities listed in clause (6) and other private sources to accomplish the goal of moving people into housing and services; and

(8) the applicant has a plan for evaluation of the applicant's pilot project that is designed to measure the program's effectiveness in connecting people experiencing homelessness to housing and services and reducing the use of public safety and corrections resources.

Subd. 3. **ANNUAL REPORT.** Grant recipients shall report to the commissioner by June 30, 2006, and June 30, 2007, on the services provided, expenditures of grant money, and an evaluation of the program's success in: (1) connecting individuals experiencing homelessness to housing and services; and (2) reducing the use of public safety and corrections resources. The commissioner shall submit reports to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over public safety and health and human services by November 1, 2006, and November 1, 2007. The commissioner's reports must explain how the grant proceeds were used and evaluate the effectiveness of the pilot projects funded by the grants.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 28. **TRANSFER OF RESPONSIBILITIES.**

The responsibility of the Department of Employment and Economic Development for the youth intervention program is transferred to the Department of Public Safety.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 29. **REVISOR INSTRUCTION.**

The revisor of statutes shall renumber Minnesota Statutes, section 116L.30 as section 299A.73. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

EFFECTIVE DATE. This section is effective July 1, 2005.

ARTICLE 9

FIRE MARSHAL

Section 1. Minnesota Statutes 2004, section 84.362, is amended to read:

84.362 **REMOVAL OF STRUCTURES.**

Until after the sale of any parcel of tax-forfeited land, whether classified as agricultural or nonagricultural hereunder, the county auditor may, with the approval of the commissioner, provide:

(1) for the sale or demolition of any structure located ~~thereon, which~~ on the land that has been determined by the county board to be ~~within the purview of section 299F.10,~~ especially liable to fire or so situated as to endanger life or limb or other

buildings or property in the vicinity because of age, dilapidated condition, defective chimney, defective electric wiring, any gas connection, heating apparatus, or other defect; and

(2) for the sale of salvage material, if any, therefrom.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 2. Minnesota Statutes 2004, section 231.08, subdivision 5, as added by Laws 2005, chapter 92, section 3, is amended to read:

Subd. 5. **FIRE PROTECTION.** All warehouses must be protected against fire ~~by an automatic device or fire extinguishers~~ in accordance with the State Fire Code.

Sec. 3. Minnesota Statutes 2004, section 282.04, subdivision 2, is amended to read:

Subd. 2. **RIGHTS BEFORE SALE; IMPROVEMENTS, INSURANCE, DEMOLITION.** (a) Before the sale of a parcel of forfeited land the county auditor may, with the approval of the county board of commissioners, provide for the repair and improvement of any building or structure located upon the parcel, and may provide for maintenance of tax-forfeited lands, if it is determined by the county board that such repairs, improvements, or maintenance are necessary for the operation, use, preservation, and safety of the building or structure.

(b) If so authorized by the county board, the county auditor may insure the building or structure against loss or damage resulting from fire or windstorm, may purchase workers' compensation insurance to insure the county against claims for injury to the persons employed in the building or structure by the county, and may insure the county, its officers and employees against claims for injuries to persons or property because of the management, use, or operation of the building or structure.

(c) The county auditor may, with the approval of the county board, provide:

(1) for the demolition of the building or structure, which has been determined by the county board to be ~~within the purview of section 299F.10,~~ especially liable to fire or so situated as to endanger life or limb or other buildings or property in the vicinity because of age, dilapidated condition, defective chimney, defective electric wiring, any gas connection, heating apparatus, or other defect; and

(2) for the sale of salvaged materials from the building or structure.

(d) The county auditor, with the approval of the county board, may provide for the sale of abandoned personal property. The sale may be made by the sheriff using the procedures for the sale of abandoned property in section 345.15 or by the county auditor using the procedures for the sale of abandoned property in section 504B.271. The net proceeds from any sale of the personal property, salvaged materials, timber or other products, or leases made under this law must be deposited in the forfeited tax sale fund and must be distributed in the same manner as if the parcel had been sold.

(e) The county auditor, with the approval of the county board, may provide for the demolition of any structure on tax-forfeited lands, if in the opinion of the county board,

the county auditor, and the land commissioner, if there is one, the sale of the land with the structure on it, or the continued existence of the structure by reason of age, dilapidated condition or excessive size as compared with nearby structures, will result in a material lessening of net tax capacities of real estate in the vicinity of the tax-forfeited lands, or if the demolition of the structure or structures will aid in disposing of the tax-forfeited property.

(f) Before the sale of a parcel of forfeited land located in an urban area, the county auditor may with the approval of the county board provide for the grading of the land by filling or the removal of any surplus material from it. If the physical condition of forfeited lands is such that a reasonable grading of the lands is necessary for the protection and preservation of the property of any adjoining owner, the adjoining property owner or owners may apply to the county board to have the grading done. If, after considering the application, the county board believes that the grading will enhance the value of the forfeited lands commensurate with the cost involved, it may approve it, and the work must be performed under the supervision of the county or city engineer, as the case may be, and the expense paid from the forfeited tax sale fund.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 4. Minnesota Statutes 2004, section 299F.011, subdivision 7, is amended to read:

Subd. 7. **FEES.** ~~A fee of $100 shall be charged by~~ The state fire marshal shall charge a fee of $100 for each plan review involving:

(1) flammable liquids ~~under Minnesota Rules, part 7510.3650~~;

(2) motor vehicle fuel-dispensing stations ~~under Minnesota Rules, part 7510.3610~~; or

(3) liquefied petroleum gases ~~under Minnesota Rules, part 7510.3670~~.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 5. Minnesota Statutes 2004, section 299F.014, is amended to read:

299F.014 **RULES FOR CERTAIN PETROLEUM STORAGE TANKS; TANK VEHICLE PARKING.**

(a) Any rule of the commissioner of public safety that adopts provisions of the ~~Uniform~~ State Fire Code relating to aboveground tanks for petroleum storage that are not used for dispensing to the public is superseded by Minnesota Rules, chapter 7151, in regard to: secondary containment, substance transfer areas, tank and piping standards, overfill protection, corrosion protection, leak detection, labeling, monitoring, maintenance, record keeping, and decommissioning. If Minnesota Rules, chapter 7151, does not address an issue relating to aboveground tanks for petroleum storage that are not used for dispensing to the public, any applicable provision of the ~~Uniform~~ State Fire Code~~, 1997 Edition, shall apply~~ applies.

(b) A motorized tank vehicle used to transport petroleum products may be parked within 500 feet of a residence if the vehicle is parked at an aboveground tank facility used for dispensing petroleum into cargo tanks for sale at another location.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 6. Minnesota Statutes 2004, section 299F.05, is amended to read:

299F.05 **LAW ENFORCEMENT POWERS; INFORMATION SYSTEM.**

Subdivision 1. **INVESTIGATION, ARREST, AND PROSECUTION.** ~~The state fire marshal,~~ On determining that reasonable grounds exist to believe that a violation of sections 609.561 to 609.576 has occurred~~,~~ or ~~reasonable~~ grounds ~~to believe~~ that some other crime has occurred in connection with a fire investigated pursuant to section 299F.04, the state fire marshal shall so inform the ~~superintendent of the Bureau of Criminal Apprehension.~~ ~~The superintendent~~ law enforcement authority having jurisdiction, who shall cooperate with the fire marshal and local fire officials in further investigating the reported incident in a manner ~~which~~ that may include supervising and directing the subsequent criminal investigation~~,~~ and taking the testimony on oath of all persons supposed to be cognizant of any facts relating to the matter under investigation. ~~If the superintendent believes~~ On determining that there is evidence sufficient to charge any person with a violation of sections 609.561 to 609.576, or of any other crime in connection with an investigated fire, the ~~superintendent~~ authority having jurisdiction shall ~~arrest or cause~~ have the person ~~to be~~ arrested and charged with the offense and furnish to the proper prosecuting attorney all relevant evidence, together with the copy of all names of witnesses and all the information obtained by the ~~superintendent~~ authority or the state fire marshal, including a copy of all pertinent and material testimony taken in the case.

Subd. 2. **INFORMATION SYSTEM.** The state fire marshal ~~and the superintendent of the Bureau of Criminal Apprehension~~ shall maintain a record of arrests, charges filed, and final disposition of all fires reported and investigated under sections 299F.04 and 299F.05. For this purpose, the Department of Public Safety shall implement a single reporting system ~~shall be implemented by the Department of Public Safety~~ utilizing the systems operated by the fire marshal ~~and the bureau~~. The system ~~shall~~ must be operated in such a way as to minimize duplication and discrepancies in reported figures.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 7. Minnesota Statutes 2004, section 299F.051, subdivision 4, is amended to read:

Subd. 4. **COOPERATIVE INVESTIGATION~~; REIMBURSEMENT~~.** The state fire marshal and the superintendent of the Bureau of Criminal Apprehension shall encourage the cooperation of local firefighters and peace officers in the investigation of violations of sections 609.561 to 609.576 or other crimes associated with reported fires in all appropriate ways~~, including providing reimbursement to political subdivisions at a rate not to exceed 50 percent of the salaries of peace officers and firefighters for time spent in attending fire investigation training courses offered by the arson training unit. Volunteer firefighters from a political subdivision shall be reimbursed at the rate of $35 per day plus expenses incurred in attending fire investigation training~~

~~courses offered by the arson training unit. Reimbursement shall be made only in the event that both a peace officer and a firefighter from the same political subdivision attend the same training course. The reimbursement shall be subject to the limitation of funds appropriated and available for expenditure. The state fire marshal and the superintendent also shall encourage local firefighters and peace officers to seek assistance from the arson strike force established in section 299F.058.~~

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 8. Minnesota Statutes 2004, section 299F.06, subdivision 1, is amended to read:

Subdivision 1. **SUMMON WITNESSES; PRODUCE DOCUMENTARY EVIDENCE.** (a) In order to establish if reasonable grounds exist to believe that a violation of sections 609.561 to 609.576~~,~~ has occurred, or to determine compliance with the ~~Uniform~~ State Fire Code or corrective orders issued ~~thereunder~~ under that code, the state fire marshal and the staff designated by the state fire marshal ~~shall have the power~~, in any county of the state ~~to~~, may summon and compel the attendance of witnesses to testify before the state fire marshal, chief assistant fire marshal, or deputy state fire marshals~~,~~ and may require the production of any book, paper, or document deemed pertinent. ~~The state fire marshal may also designate certain individuals from fire departments in cities of the first class and cities of the second class as having the powers set forth in this paragraph. These designated individuals may only exercise their powers in a manner prescribed by the state fire marshal. "Fire department" has the meaning given in section 299F.092, subdivision 6. "Cities of the first class" and "cities of the second class" have the meanings given in section 410.01.~~

(b) A summons issued under this subdivision ~~shall~~ must be served in the same manner and ~~have~~ has the same effect as ~~subpoenas~~ a subpoena issued from a district ~~courts~~ court. All witnesses ~~shall~~ must receive the same compensation as is paid to witnesses in district courts, which ~~shall~~ must be paid out of the fire marshal fund upon ~~vouchers~~ a voucher certificate signed by the state fire marshal, chief assistant fire marshal, or deputy fire marshal before whom any witnesses ~~shall~~ have attended and this officer shall, at the close of the investigation ~~wherein~~ in which the witness was subpoenaed, certify to the attendance and mileage of the witness~~, which~~. This certificate ~~shall~~ must be filed in the Office of the State Fire Marshal. All investigations held by or under the direction of the state fire marshal~~,~~ or any subordinate~~,~~ may, in the state fire marshal's discretion, be private and persons other than those required to be present by the provisions of this chapter may be excluded from the place where the investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 9. Minnesota Statutes 2004, section 299F.19, subdivision 1, is amended to read:

Subdivision 1. **RULES.** The commissioner of public safety shall adopt rules for the safekeeping, storage, handling, use, or other disposition of ~~flammable liquids,~~

~~flammable~~ ~~gases,~~ blasting agents~~,~~ and explosives. Loads carried in or on vehicles transporting ~~such~~ these products upon public highways within this state ~~shall be~~ are governed by the uniform vehicle size and weights provisions in sections 169.80 to 169.88 and the transportation of hazardous materials provisions of section 221.033. ~~The rules for flammable liquids and flammable gases shall be distinguished from each other and from the rules covering other materials subject to regulation under this subdivision.~~

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 10. Minnesota Statutes 2004, section 299F.19, subdivision 2, is amended to read:

Subd. 2. **BLASTING AGENT DEFINED; EXPLOSIVES CLASSIFIED.** ~~(a)~~ For the purposes of this section~~,~~ and the rules adopted pursuant ~~thereto, the term~~ to this section:

(a) "Blasting agent" means any material or mixture, consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive and in which none of the ingredients is classified as an explosive~~,~~; providing that, the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a number 8 test blasting cap when unconfined. ~~The term~~ "Blasting agent" does not include flammable liquids or flammable gases.

(b) ~~For the purposes of this section, and the rules adopted pursuant thereto,~~ "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, igniters, display fireworks, and class 1.3G fireworks (formerly classified as Class B special fireworks). "Explosive" includes any material determined to be within the scope of United States Code, title 18, chapter 40, and also includes any material classified as an explosive other than consumer fireworks, 1.4G (Class C, Common), by the hazardous materials regulations of the United States Department of Transportation (DOTn) in Code of Federal Regulations, title 49.

(c) Explosives are divided into ~~three classes~~ four categories and are defined as follows:

~~(1) class A explosives: possessing detonating or otherwise maximum hazard, such as dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, blasting caps, and detonating primers;~~

~~(2) class B explosives: possessing flammable hazard, such as propellant explosives (including some smokeless powders), black powder, photographic flash powders, and some special fireworks;~~

~~(3) class C explosives: includes certain types of manufactured articles which contain class A, or class B explosives, or both, as components but in restricted quantities.~~

~~The term explosive or explosives means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion; that is, with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the United States Department of Transportation. The term explosives includes all material which is classified as class A, class B, and class C explosives by the United States Department of Transportation, and includes, but is not limited to dynamite, black powder, pellet powder, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonate fuse, instantaneous fuse, igniter cord, igniters, and some special fireworks. Commercial explosives are those explosives which are intended to be used in commercial or industrial operation. The term explosives does not include flammable liquids or flammable gases.~~

(1) High explosive: explosive material, such as dynamite, that can be caused to detonate by means of a number eight test blasting cap when unconfined.

(2) Low explosive: explosive material that will burn or deflagrate when ignited, characterized by a rate of reaction that is less than the speed of sound, including, but not limited to, black powder, safety fuse, igniters, igniter cord, fuse lighters, class 1.3G fireworks (formerly classified as Class B special fireworks), and class 1.3C propellants.

(3) Mass-detonating explosives: division 1.1, 1.2, and 1.5 explosives alone or in combination, or loaded into various types of ammunition or containers, most of which can be expected to explode virtually instantaneously when a small portion is subjected to fire, severe concussion, impact, the impulse of an initiating agent, or the effect of a considerable discharge of energy from without. Materials that react in this manner represent a mass explosion hazard. Such an explosive will normally cause severe structural damage to adjacent objects. Explosive propagation could occur immediately to other items of ammunition and explosives stored sufficiently close to and not adequately protected from the initially exploding pile with a time interval short enough so that two or more quantities must be considered as one for quantity-distance purposes.

(4) United Nations/United States Department of Transportation (UN/DOTn) Class 1 explosives: the hazard class of explosives that further defines and categorizes explosives under the current system applied by DOTn for all explosive materials into further divisions as follows, with the letter G identifying the material as a pyrotechnic substance or article containing a pyrotechnic substance and similar materials:

(i) Division 1.1 explosives have a mass explosion hazard. A mass explosion is one that affects almost the entire load instantaneously.

(ii) Division 1.2 explosives have a projection hazard but not a mass explosion hazard.

(iii) Division 1.3 explosives have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard.

(iv) Division 1.4 explosives pose a minor explosion hazard. The explosive effects are largely confined to the package and no projection of fragments of appreciable size

or range is to be expected. An external fire must not cause virtually instantaneous explosion of almost the entire contents of the package.

(v) Division 1.5 explosives are very insensitive and are comprised of substances that have a mass explosion hazard, but are so insensitive that there is very little probability of initiation or of transition from burning to detonation under normal conditions of transport.

(vi) Division 1.6 explosives are extremely insensitive and do not have a mass explosion hazard, comprised of articles that contain only extremely insensitive detonating substances and that demonstrate a negligible probability of accidental initiation or propagation.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 11. Minnesota Statutes 2004, section 299F.362, subdivision 3, is amended to read:

Subd. 3. **SMOKE DETECTOR FOR ANY DWELLING.** Every dwelling unit within a dwelling ~~shall~~ must be provided with a smoke detector meeting the requirements of ~~Underwriters Laboratories, Inc., or approved by the International Conference of Building Officials~~ the State Fire Code. The detector ~~shall~~ must be mounted in accordance with the rules regarding smoke detector location ~~promulgated~~ adopted under ~~the provisions of~~ subdivision 2. When actuated, the detector ~~shall~~ must provide an alarm in the dwelling unit.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 12. Minnesota Statutes 2004, section 299F.362, subdivision 4, is amended to read:

Subd. 4. **SMOKE DETECTOR FOR APARTMENT, LODGING HOUSE, OR HOTEL.** Every dwelling unit within an apartment house and every guest room in a lodging house or hotel used for sleeping purposes ~~shall~~ must be provided with a smoke detector conforming to the requirements of ~~Underwriters Laboratories, Inc., or approved by the International Conference of Building Officials~~ the State Fire Code. In dwelling units, detectors ~~shall~~ must be mounted in accordance with the rules regarding smoke detector location ~~promulgated~~ adopted under ~~the provisions of~~ subdivision 2. When actuated, the detector ~~shall~~ must provide an alarm in the dwelling unit or guest room.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 13. Minnesota Statutes 2004, section 624.22, subdivision 1, is amended to read:

Subdivision 1. **GENERAL REQUIREMENTS; PERMIT; INVESTIGATION; FEE.** (a) Sections 624.20 to 624.25 do not prohibit the supervised display of fireworks by a statutory or home rule charter city, fair association, amusement park, or other organization, except that:

(1) a fireworks display may be conducted only when supervised by an operator certified by the state fire marshal; and

(2) a fireworks display must either be given by a municipality or fair association within its own limits, or by any other organization, whether public or private, only after a permit for the display has first been secured.

(b) An application for a permit for an outdoor fireworks display must be made in writing to the municipal clerk at least 15 days in advance of the date of the display and must list the name of an operator who is certified by the state fire marshal and will supervise the display. The application must be promptly referred to the chief of the fire department, who shall make an investigation to determine whether the operator of the display is competent and is certified by the state fire marshal, and whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. The fire chief shall report the results of this investigation to the clerk. If the fire chief reports that the operator is certified, that in the chief's opinion the operator is competent, and that the fireworks display as planned will conform to the safety guidelines of the state fire marshal provided for in paragraph (f), the clerk shall issue a permit for the display when the applicant pays a permit fee.

(c) When the supervised outdoor fireworks display for which a permit is sought is to be held outside the limits of an incorporated municipality, the application must be made to the county auditor, and the auditor shall perform duties imposed by sections 624.20 to 624.25 upon the clerk of the municipality. When an application is made to the auditor, the county sheriff shall perform the duties imposed on the fire chief of the municipality by sections 624.20 to 624.25.

(d) An application for an indoor fireworks display permit must be made in writing to the state fire marshal by the operator of the facility in which the display is to occur at least 15 days in advance of the date of any performance, show, or event which will include the discharge of fireworks inside a building or structure. The application must list the name of an operator who is certified by the state fire marshal and will supervise the display. The state fire marshal shall make an investigation to determine whether the operator of the display is competent and is properly certified and whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. If the state fire marshal determines that the operator is certified and competent, that the indoor fireworks display as planned will conform to the safety guidelines provided for in paragraph (f), and that adequate notice will be given to inform patrons of the indoor fireworks display, the state fire marshal shall issue a permit for the display when the applicant pays an indoor fireworks fee of $150 and reimburses the fire marshal for costs of inspection. Receipts from the indoor fireworks fee and inspection reimbursements must be deposited in the general fund as a nondedicated receipt. The state fire marshal may issue a single permit for multiple indoor fireworks displays when all of the displays are to take place at the same venue as part of a series of performances by the same performer or group of performers. A copy of the application must be promptly conveyed to the chief of the local fire department, who shall make appropriate preparations to ensure public safety

in the vicinity of the display. The operator of a facility where an indoor fireworks display occurs must provide notice in a prominent place as approved by the state fire marshal to inform patrons attending a performance when indoor fireworks will be part of that performance. The state fire marshal may grant a local fire chief the authority to issue permits for indoor fireworks displays. Before issuing a permit, a local fire chief must make the determinations required in this paragraph.

(e) After a permit has been granted under either paragraph (b) or (d), sales, possession, use and distribution of fireworks for a display are lawful for that purpose only. A permit is not transferable.

(f) The state fire marshal shall adopt and disseminate to political subdivisions rules establishing guidelines on fireworks display safety that are consistent with sections 624.20 to 624.25 and the most recent ~~editions~~ edition of the ~~Minnesota Uniform~~ State Fire Code ~~and the National Fire Protection Association Standards~~, to insure that fireworks displays are given safely. In the guidelines, the state fire marshal shall allow political subdivisions to exempt the use of relatively safe fireworks for theatrical special effects, ceremonial occasions, and other limited purposes, as determined by the state fire marshal.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 14. **INSTRUCTION TO REVISOR.**

The revisor of statutes shall change the terms "Minnesota Uniform Fire Code" and "Uniform Fire Code" to "State Fire Code" where found in Minnesota Statutes, sections 16B.61, subdivision 2; 126C.10, subdivision 14; 136F.61; 245A.151; 299F.011, subdivisions 1, 4, 4b, 4c, 5, and 6; 299F.013; 299F.015, subdivision 1; 299F.06, subdivision 1; 299F.092, subdivision 6; 299F.093, subdivision 1; 299F.362, subdivision 6; 299F.391, subdivisions 2 and 3; 299M.12; 414.0325, subdivision 5; and 462.3585.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 15. **REPEALER.**

Minnesota Statutes 2004, sections 69.011, subdivision 5; 299F.011, subdivision 4c; 299F.015; 299F.10; 299F.11; 299F.12; 299F.13; 299F.14; 299F.15; 299F.16; 299F.17; 299F.361; 299F.451; and 299F.452, are repealed.

EFFECTIVE DATE. This section is effective July 1, 2005.

ARTICLE 10

911 EMERGENCY TELECOMMUNICATIONS SERVICES

Section 1. **[237.491] COMBINED PER NUMBER FEE.**

Subdivision 1. **DEFINITIONS.** (a) The definitions in this subdivision apply to this section.

(b) "911 emergency and public safety communications program" means the program governed by chapter 403.

(c) "Minnesota telephone number" means a ten-digit telephone number being used to connect to the public switched telephone network and starting with area code 218, 320, 507, 612, 651, 763, or 952, or any subsequent area code assigned to this state.

(d) "Service provider" means a provider doing business in this state who provides real time, two-way voice service with a Minnesota telephone number.

(e) "Telecommunications access Minnesota program" means the program governed by sections 237.50 to 237.55.

(f) "Telephone assistance program" means the program governed by sections 237.69 to 237.711.

Subd. 2. **PER NUMBER FEE.** (a) By January 15, 2006, the commissioner of commerce shall report to the legislature and to the senate Committee on Jobs, Energy, and Community Development and the house Committee on Regulated Industries, recommendations for the amount of and method for assessing a fee that would apply to each service provider based upon the number of Minnesota telephone numbers in use by current customers of the service provider. The fee would be set at a level calculated to generate only the amount of revenue necessary to fund:

(1) the telephone assistance program and the telecommunications access Minnesota program at the levels established by the commission under sections 237.52, subdivision 2, and 237.70; and

(2) the 911 emergency and public safety communications program at the levels appropriated by law to the commissioner of public safety and the commissioner of finance for purposes of sections 403.11, 403.113, 403.27, 403.30, and 403.31 for each fiscal year.

(b) The recommendations must include any changes to Minnesota Statutes necessary to establish the procedures whereby each service provider, to the extent allowed under federal law, would collect and remit the fee proceeds to the commissioner of revenue. The commissioner of revenue would allocate the fee proceeds to the three funding areas in paragraph (a) and credit the allocations to the appropriate accounts.

(c) The recommendations must be designed to allow the combined per telephone number fee to be collected beginning July 1, 2006. The per access line fee used to collect revenues to support the TAP, TAM, and 911 programs remains in effect until the statutory changes necessary to implement the per telephone number fee have been enacted into law and taken effect.

(d) As part of the process of developing the recommendations and preparing the report to the legislature required under paragraph (a), the commissioner of commerce

must, at a minimum, consult regularly with the Departments of Public Safety, Finance, and Administration, the Public Utilities Commission, service providers, the chairs and ranking minority members of the senate and house committees, subcommittees, and divisions having jurisdiction over telecommunications and public safety, and other affected parties.

Sec. 2. Minnesota Statutes 2004, section 237.70, subdivision 7, is amended to read:

Subd. 7. **APPLICATION, NOTICE, FINANCIAL ADMINISTRATION, COMPLAINT INVESTIGATION.** The telephone assistance plan must be administered jointly by the commission, the Department of Commerce, and the local service providers in accordance with the following guidelines:

(a) The commission and the Department of Commerce shall develop an application form that must be completed by the subscriber for the purpose of certifying eligibility for telephone assistance plan credits to the local service provider. The application must contain the applicant's Social Security number. Applicants who refuse to provide a Social Security number will be denied telephone assistance plan credits. The application form must also include a statement that the applicant household is currently eligible for one of the programs that confers eligibility for the federal Lifeline Program. The application must be signed by the applicant, certifying, under penalty of perjury, that the information provided by the applicant is true.

(b) Each local service provider shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing and shall mail the application form to customers when requested.

The notice must state the following:

YOU MAY BE ELIGIBLE FOR ASSISTANCE IN PAYING YOUR TELEPHONE BILL IF YOU RECEIVE BENEFITS FROM CERTAIN LOW-INCOME ASSISTANCE PROGRAMS. FOR MORE INFORMATION OR AN APPLICATION FORM PLEASE CONTACT .....

(c) An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf. On completing the application certifying that the statutory criteria for eligibility are satisfied, the applicant must return the application to the subscriber's local service provider. On receiving a completed application from an applicant, the subscriber's local service provider shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of the application. The applicant must receive telephone assistance plan credits until the earliest possible month following the service provider's receipt of information that the applicant is ineligible.

If the telephone assistance plan credit is not itemized on the subscriber's monthly charges bill for local telephone service, the local service provider must notify the subscriber of the approval for the telephone assistance plan credit.

(d) The commission shall serve as the coordinator of the telephone assistance plan and be reimbursed for its administrative expenses from the surcharge revenue pool. As the coordinator, the commission shall:

(1) establish a uniform statewide surcharge in accordance with subdivision 6;

(2) establish a uniform statewide level of telephone assistance plan credit that each local service provider shall extend to each eligible household in its service area;

(3) require each local service provider to account to the commission on a periodic basis for surcharge revenues collected by the provider, expenses incurred by the provider, not to include expenses of collecting surcharges, and credits extended by the provider under the telephone assistance plan;

(4) require each local service provider to remit surcharge revenues to the Department of ~~Administration~~ Public Safety for deposit in the fund; and

(5) remit to each local service provider from the surcharge revenue pool the amount necessary to compensate the provider for expenses, not including expenses of collecting the surcharges, and telephone assistance plan credits. When it appears that the revenue generated by the maximum surcharge permitted under subdivision 6 will be inadequate to fund any particular established level of telephone assistance plan credits, the commission shall reduce the credits to a level that can be adequately funded by the maximum surcharge. Similarly, the commission may increase the level of the telephone assistance plan credit that is available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

(e) Each local service provider shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan and shall, as part of its annual report or separately, provide the commission and the Department of Commerce with a financial report of its experience under the telephone assistance plan for the previous year. That report must also be adequate to satisfy the reporting requirements of the federal matching plan.

(f) The Department of Commerce shall investigate complaints against local service providers with regard to the telephone assistance plan and shall report the results of its investigation to the commission.

Sec. 3. Minnesota Statutes 2004, section 403.02, subdivision 7, is amended to read:

Subd. 7. **AUTOMATIC LOCATION IDENTIFICATION.** "Automatic location identification" means the process of electronically identifying and displaying ~~on a special viewing screen~~ the name of the subscriber and the location, where available, of the calling telephone number to a person answering a 911 emergency call.

Sec. 4. Minnesota Statutes 2004, section 403.02, subdivision 13, is amended to read:

Subd. 13. **ENHANCED 911 SERVICE.** "Enhanced 911 service" means the use of ~~selective routing,~~ automatic location identification~~,~~ or local location identification as

part of local 911 service provided by an enhanced 911 system consisting of a common 911 network and database and customer data and network components connecting to the common 911 network and database.

Sec. 5. Minnesota Statutes 2004, section 403.02, subdivision 17, is amended to read:

Subd. 17. **911 SERVICE.** "911 service" means a telecommunications service that automatically connects a person dialing the digits 911 to an established public safety answering point. 911 service includes:

(1) ~~equipment for connecting and outswitching 911 calls within a telephone central office, trunking facilities from the central office to a public safety answering point~~ customer data and network components connecting to the common 911 network and database;

(2) common 911 network and database equipment, as appropriate, for automatically selectively routing 911 calls ~~in situations where one telephone central office serves more than one~~ to the public safety answering point serving the caller's jurisdiction; and

(3) provision of automatic location identification if the public safety answering point has the capability of providing that service.

Sec. 6. Minnesota Statutes 2004, section 403.02, is amended by adding a subdivision to read:

Subd. 17a. **911 EMERGENCY TELECOMMUNICATIONS SERVICE PROVIDER.** "911 emergency telecommunications service provider" means a telecommunications service provider or other entity, determined by the commissioner to be capable of providing effective and efficient components of the 911 system, that provides all or portions of the network and database for automatically selectively routing 911 calls to the public safety answering point serving the caller's jurisdiction.

Sec. 7. Minnesota Statutes 2004, section 403.025, subdivision 3, is amended to read:

Subd. 3. **~~WIRE-LINE~~ CONNECTED TELECOMMUNICATIONS SERVICE PROVIDER REQUIREMENTS.** Every owner and operator of a wire-line or wireless circuit switched or packet-based telecommunications system connected to the public switched telephone network shall design and maintain the system to dial the 911 number without charge to the caller.

Sec. 8. Minnesota Statutes 2004, section 403.025, subdivision 7, is amended to read:

Subd. 7. **CONTRACTUAL REQUIREMENTS.** (a) The state, together with the county or other governmental agencies operating public safety answering points, shall contract with the appropriate wire-line telecommunications service providers or other entities determined by the commissioner to be capable of providing effective and

efficient components of the 911 system for the operation, maintenance, enhancement, and expansion of the 911 system.

(b) The state shall contract with the appropriate wireless telecommunications service providers for maintaining, enhancing, and expanding the 911 system.

(c) The contract language or subsequent amendments to the contract must include a description of the services to be furnished ~~by wireless and wire-line telecommunications service providers~~ to the county or other governmental agencies operating public safety answering points~~, as well as compensation based on the effective tariff or price list approved by the Public Utilities Commission~~. The contract language or subsequent amendments must include the terms of compensation based on the effective tariff or price list filed with the Public Utilities Commission or the prices agreed to by the parties.

(d) The contract language or subsequent amendments to contracts between the parties must contain a provision for resolving disputes.

Sec. 9. Minnesota Statutes 2004, section 403.05, subdivision 3, is amended to read:

Subd. 3. **AGREEMENTS FOR SERVICE.** Each county and any other governmental agency shall contract with the state and wire-line telecommunications service providers or other entities determined by the commissioner to be capable of providing effective and efficient components of the 911 system for the recurring and nonrecurring costs associated with operating and maintaining 911 emergency communications systems.

Sec. 10. Minnesota Statutes 2004, section 403.07, subdivision 3, is amended to read:

Subd. 3. **DATABASE.** In 911 systems that have been approved by the commissioner for a local location identification database, each wire-line telecommunications service provider shall provide current customer names, service addresses, and telephone numbers to each public safety answering point within the 911 system and shall update the information according to a schedule prescribed by the county 911 plan. Information provided under this subdivision must be provided in accordance with the transactional record disclosure requirements of the federal ~~Electronic~~ Communications ~~Privacy~~ Act of ~~1986~~ 1932, United States Code, title ~~18~~ 47, section ~~2703~~ 222, subsection ~~(c), paragraph (1), subparagraph (B)(iv)~~ (g).

Sec. 11. Minnesota Statutes 2004, section 403.08, subdivision 10, is amended to read:

Subd. 10. **PLAN INTEGRATION.** Counties shall incorporate the statewide design when modifying county 911 plans to provide for integrating wireless 911 service into existing county 911 systems. The commissioner shall contract with the involved wireless service providers and 911 emergency telecommunications service providers to integrate cellular and other wireless services into existing 911 systems where feasible.

Sec. 12. Minnesota Statutes 2004, section 403.11, subdivision 1, is amended to read:

Subdivision 1. **EMERGENCY TELECOMMUNICATIONS SERVICE FEE; ACCOUNT.** (a) Each customer of a wireless or wire-line switched or packet-based telecommunications service provider connected to the public switched telephone network that furnishes service capable of originating a 911 emergency telephone call is assessed a fee based upon the number of wired or wireless telephone lines, or their equivalent, to cover the costs of ongoing maintenance and related improvements for trunking and central office switching equipment for 911 emergency telecommunications service, plus administrative and staffing costs of the commissioner related to managing the 911 emergency telecommunications service program. Recurring charges by a wire-line telecommunications service provider for updating the information required by section 403.07, subdivision 3, must be paid by the commissioner if the wire-line telecommunications service provider is included in an approved 911 plan and the charges are made pursuant to ~~tariff, price list, or~~ contract. The fee assessed under this section must also be used for the purpose of offsetting the costs, including administrative and staffing costs, incurred by the State Patrol Division of the Department of Public Safety in handling 911 emergency calls made from wireless phones.

(b) Money remaining in the 911 emergency telecommunications service account after all other obligations are paid must not cancel and is carried forward to subsequent years and may be appropriated from time to time to the commissioner to provide financial assistance to counties for the improvement of local emergency telecommunications services. The improvements may include providing access to 911 service for telecommunications service subscribers currently without access and upgrading existing 911 service to include automatic number identification, local location identification, automatic location identification, and other improvements specified in revised county 911 plans approved by the commissioner.

(c) The fee may not be less than eight cents nor more than ~~40~~ 65 cents a month for each customer access line or other basic access service, including trunk equivalents as designated by the Public Utilities Commission for access charge purposes and including wireless telecommunications services. With the approval of the commissioner of finance, the commissioner of public safety shall establish the amount of the fee within the limits specified and inform the companies and carriers of the amount to be collected. When the revenue bonds authorized under section 403.27, subdivision 1, have been fully paid or defeased, the commissioner shall reduce the fee to reflect that debt service on the bonds is no longer needed. The commissioner shall provide companies and carriers a minimum of 45 days' notice of each fee change. The fee must be the same for all customers.

(d) The fee must be collected by each wireless or wire-line telecommunications service provider subject to the fee. Fees are payable to and must be submitted to the commissioner monthly before the 25th of each month following the month of collection, except that fees may be submitted quarterly if less than $250 a month is due, or annually if less than $25 a month is due. Receipts must be deposited in the state

treasury and credited to a 911 emergency telecommunications service account in the special revenue fund. The money in the account may only be used for 911 telecommunications services.

(e) This subdivision does not apply to customers of interexchange carriers.

(f) The installation and recurring charges for integrating wireless 911 calls into enhanced 911 systems must be paid by the commissioner if the 911 service provider is included in the statewide design plan and the charges are made pursuant to ~~tariff, price list, or~~ contract.

Sec. 13. Minnesota Statutes 2004, section 403.11, subdivision 3, is amended to read:

Subd. 3. **METHOD OF PAYMENT.** (a) Any wireless or wire-line telecommunications service provider incurring reimbursable costs under subdivision 1 shall submit an invoice itemizing rate elements by county or service area to the commissioner for 911 services furnished under ~~tariff, price list, or~~ contract. Any wireless or wire-line telecommunications service provider is eligible to receive payment for 911 services rendered according to the terms and conditions specified in the contract. Competitive local exchange carriers holding certificates of authority from the Public Utilities Commission are eligible to receive payment for recurring 911 services provided after July 1, 2001. The commissioner shall pay the invoice within 30 days following receipt of the invoice unless the commissioner notifies the service provider that the commissioner disputes the invoice.

(b) The commissioner shall estimate the amount required to reimburse 911 emergency telecommunications service providers and wireless and wire-line telecommunications service providers for the state's obligations under subdivision 1 and the governor shall include the estimated amount in the biennial budget request.

Sec. 14. Minnesota Statutes 2004, section 403.11, subdivision 3a, is amended to read:

Subd. 3a. **TIMELY CERTIFICATION.** A certification must be submitted to the commissioner no later than ~~two years~~ one year after commencing a new or additional eligible 911 service. ~~Any wireless or wire-line telecommunications service provider incurring reimbursable costs under this section at any time before January 1, 2003, may certify those costs for payment to the commissioner according to this section for a period of 90 days after January 1, 2003. During this period, the commissioner shall reimburse any wireless or wire-line telecommunications service provider for approved, certified costs without regard to any contrary provision of this subdivision~~ Each applicable contract must provide that, if certified expenses under the contract deviate from estimates in the contract by more than ten percent, the commissioner may reduce the level of service without incurring any termination fees.

Sec. 15. Minnesota Statutes 2004, section 403.113, subdivision 1, is amended to read:

Subdivision 1. **FEE.** (a) Each customer receiving service from a wireless or wire-line switched or packet-based telecommunications service provider connected to

the public telephone network that furnishes service capable of originating a 911 emergency telephone call is assessed a fee to fund implementation, operation, maintenance, enhancement, and expansion of enhanced 911 service, including acquisition of necessary equipment and the costs of the commissioner to administer the program. The actual fee assessed under section 403.11 and the enhanced 911 service fee must be collected as one amount and may not exceed the amount specified in section 403.11, subdivision 1, paragraph (c).

(b) The enhanced 911 service fee must be collected and deposited in the same manner as the fee in section 403.11 and used solely for the purposes of paragraph (a) and subdivision 3.

(c) The commissioner, in consultation with counties and 911 system users, shall determine the amount of the enhanced 911 service fee. ~~The fee must include at least ten cents per month to be distributed under subdivision 2.~~ The commissioner shall inform wireless and wire-line telecommunications service providers that provide service capable of originating a 911 emergency telephone call of the total amount of the 911 service fees in the same manner as provided in section 403.11.

Sec. 16. Minnesota Statutes 2004, section 403.21, subdivision 8, is amended to read:

Subd. 8. **SUBSYSTEMS.** "Subsystems" or "public safety radio subsystems" means systems identified in the plan or a plan developed under section 403.36 as subsystems interconnected by the system backbone ~~in subsequent phases~~ and operated by the Metropolitan Radio Board, a regional radio board, or local government units for their own internal operations.

Sec. 17. Minnesota Statutes 2004, section 403.27, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZATION.** ~~(a)~~ After consulting with the commissioner of finance, the council, if requested by a vote of at least two-thirds of all of the members of the Metropolitan Radio Board, may, by resolution, authorize the issuance of its revenue bonds for any of the following purposes to:

(1) provide funds for regionwide mutual aid and emergency medical services communications;

(2) provide funds for the elements of the first phase of the regionwide public safety radio communication system that the board determines are of regionwide benefit and support mutual aid and emergency medical services communication including, but not limited to, costs of master controllers of the backbone;

(3) provide money for the second phase of the public safety radio communication system;

(4) to the extent money is available after meeting the needs described in clauses (1) to (3), provide money to reimburse local units of government for amounts expended for capital improvements to the first phase system previously paid for by the local government units; or

(5) refund bonds issued under this section.

~~(b) After consulting with the commissioner of finance, the council, if requested by a vote of at least two-thirds of all of the members of the Statewide Radio Board, may, by resolution, authorize the issuance of its revenue bonds to provide money for the third phase of the public safety radio communication system.~~

Sec. 18. Minnesota Statutes 2004, section 403.27, subdivision 3, is amended to read:

Subd. 3. **LIMITATIONS.** (a) The principal amount of the bonds issued pursuant to subdivision 1, exclusive of any original issue discount, shall not exceed the amount of $10,000,000 plus the amount the council determines necessary to pay the costs of issuance, fund reserves, debt service, and pay for any bond insurance or other credit enhancement.

(b) In addition to the amount authorized under paragraph (a), the council may issue bonds under subdivision 1 in a principal amount of $3,306,300, plus the amount the council determines necessary to pay the cost of issuance, fund reserves, debt service, and any bond insurance or other credit enhancement. The proceeds of bonds issued under this paragraph may not be used to finance portable or subscriber radio sets.

~~(c) In addition to the amount authorized under paragraphs (a) and (b), the council may issue bonds under subdivision 1 in a principal amount of $18,000,000, plus the amount the council determines necessary to pay the costs of issuance, fund reserves, debt service, and any bond insurance or other credit enhancement. The proceeds of bonds issued under this paragraph must be used to pay up to 50 percent of the cost to a local government unit of building a subsystem and may not be used to finance portable or subscriber radio sets. The bond proceeds may be used to make improvements to an existing 800 MHz radio system that will interoperate with the regionwide public safety radio communication system, provided that the improvements conform to the board's plan and technical standards. The council must time the sale and issuance of the bonds so that the debt service on the bonds can be covered by the additional revenue that will become available in the fiscal year ending June 30, 2005, generated under section 403.11 and appropriated under section 403.30.~~

~~(d) In addition to the amount authorized under paragraphs (a) to (c), the council may issue bonds under subdivision 1 in a principal amount of up to $27,000,000, plus the amount the council determines necessary to pay the costs of issuance, fund reserves, debt service, and any bond insurance or other credit enhancement. The proceeds of bonds issued under this paragraph are appropriated to the commissioner of public safety for phase three of the public safety radio communication system. In anticipation of the receipt by the commissioner of public safety of the bond proceeds, the Metropolitan Radio Board may advance money from its operating appropriation to the commissioner of public safety to pay for design and preliminary engineering for phase three. The commissioner of public safety must return these amounts to the Metropolitan Radio Board when the bond proceeds are received.~~

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

Sec. 19. **[403.275] STATE 911 REVENUE BONDS.**

Subdivision 1. **BONDING AUTHORITY.** (a) The commissioner of finance, if requested by a vote of at least two-thirds of all the members of the Statewide Radio Board, shall sell and issue state revenue bonds for the following purposes:

(1) to pay the costs of the statewide public safety radio communication system backbone identified in the plan under section 403.36 and those elements that the Statewide Radio Board determines are of regional or statewide benefit and support mutual aid and emergency medical services communication, including, but not limited to, costs of master controllers of the backbone;

(2) to pay the costs of issuance, debt service, and bond insurance or other credit enhancements, and to fund reserves; and

(3) to refund bonds issued under this section.

(b) The amount of bonds that may be issued for the purposes of clause (1) will be set from time to time by law; the amount of bonds that may be issued for the purposes of clauses (2) and (3) is not limited.

(c) The bond proceeds may be used to to pay up to 50 percent of the cost to a local government unit of building a subsystem. The bond proceeds may be used to make improvements to an existing 800 MHz radio system that will interoperate with the regionwide public safety radio communication system, provided that the improvements conform to the Statewide Radio Board's plan and technical standards. The bond proceeds may not be used to pay for portable or subscriber radio sets.

Subd. 2. **PROCEDURE.** (a) The commissioner may sell and issue the bonds on the terms and conditions the commissioner determines to be in the best interests of the state. The bonds may be sold at public or private sale. The commissioner may enter any agreements or pledges the commissioner determines necessary or useful to sell the bonds that are not inconsistent with sections 403.21 to 403.40. Sections 16A.672 to 16A.675 apply to the bonds. The proceeds of the bonds issued under this section must be credited to a special 911 revenue bond proceeds account in the state treasury.

(b) Before the proceeds are received in the 911 revenue bond proceeds account, the commissioner of finance may transfer to the account from the 911 emergency telecommunications service account amounts not exceeding the expected proceeds from the next bond sale. The commissioner of finance shall return these amounts to the 911 emergency telecommunications service account by transferring proceeds when received. The amounts of these transfers are appropriated from the 911 emergency telecommunications service account and from the 911 revenue bond proceeds account.

Subd. 3. **REVENUE SOURCES.** The debt service on the bonds is payable only from the following sources:

(1) revenue credited to the 911 emergency telecommunications service account from the fee imposed and collected under section 237.491 or 403.11, subdivision 1, or from any other source; and

(2) other revenues pledged to the payment of the bonds.

Subd. 4. **REFUNDING BONDS.** The commissioner may issue bonds to refund outstanding bonds issued under subdivision 1, including the payment of any redemption premiums on the bonds and any interest accrued or to accrue to the first redemption date after delivery of the refunding bonds. The proceeds of the refunding bonds may, in the discretion of the commissioner, be applied to the purchases or payment at maturity of the bonds to be refunded, or the redemption of the outstanding bonds on the first redemption date after delivery of the refunding bonds and may, until so used, be placed in escrow to be applied to the purchase, retirement, or redemption. Refunding bonds issued under this subdivision must be issued and secured in the manner provided by the commissioner.

Subd. 5. **NOT A GENERAL OR MORAL OBLIGATION.** Bonds issued under this section are not public debt, and the full faith, credit, and taxing powers of the state are not pledged for their payment. The bonds may not be paid, directly in whole or in part from a tax of statewide application on any class of property, income, transaction, or privilege. Payment of the bonds is limited to the revenues explicitly authorized to be pledged under this section. The state neither makes nor has a moral obligation to pay the bonds if the pledged revenues and other legal security for them is insufficient.

Subd. 6. **TRUSTEE.** The commissioner may contract with and appoint a trustee for bond holders. The trustee has the powers and authority vested in it by the commissioner under the bond and trust indentures.

Subd. 7. **PLEDGES.** Any pledge made by the commissioner is valid and binding from the time the pledge is made. The money or property pledged and later received by the commissioner is immediately subject to the lien of the pledge without any physical delivery of the property or money or further act, and the lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the commissioner, whether or not those parties have notice of the lien or pledge. Neither the order nor any other instrument by which a pledge is created need be recorded.

Subd. 8. **BONDS; PURCHASE AND CANCELLATION.** The commissioner, subject to agreements with bondholders that may then exist, may, out of any money available for the purpose, purchase bonds of the commissioner at a price not exceeding (1) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (2) if the bonds are not redeemable, the redemption price applicable on the first date after the purchase upon which the bonds become subject to redemption plus accrued interest to that date.

Subd. 9. **STATE PLEDGE AGAINST IMPAIRMENT OF CONTRACTS.** The state pledges and agrees with the holders of any bonds that the state will not limit or alter the rights vested in the commissioner to fulfill the terms of any agreements made with the bondholders, or in any way impair the rights and remedies of the holders until the bonds, together with interest on them, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged. The commissioner may

include this pledge and agreement of the state in any agreement with the holders of bonds issued under this section.

Sec. 20. Minnesota Statutes 2004, section 403.30, subdivision 1, is amended to read:

Subdivision 1. **STANDING APPROPRIATION; COSTS COVERED.** ~~For each fiscal year beginning with the fiscal year commencing July 1, 1997,~~ The amount necessary to pay ~~the following~~ debt service costs and reserves for bonds issued by the Metropolitan Council under section 403.27 or by the commissioner of finance under section 403.275 is appropriated ~~to the commissioner of public safety~~ from the 911 emergency telecommunications service account established under section 403.11~~:~~

~~(1) debt service costs and reserves for bonds issued pursuant to section 403.27;~~

~~(2) repayment of the right-of-way acquisition loans;~~

~~(3) costs of design, construction, maintenance of, and improvements to those elements of the first, second, and third phases that support mutual aid communications and emergency medical services;~~

~~(4) recurring charges for leased sites and equipment for those elements of the first, second, and third phases that support mutual aid and emergency medical communication services; or~~

~~(5) aid to local units of government for sites and equipment in support of mutual aid and emergency medical communications services~~ to the commissioner of finance. The commissioner of finance shall transmit the necessary amounts to the Metropolitan Council as requested by the council.

This appropriation shall be used to pay annual debt service costs and reserves for bonds issued pursuant to section 403.27 or 403.275 prior to use of fee money to pay other costs ~~eligible under this subdivision. In no event shall the appropriation for each fiscal year exceed an amount equal to four cents a month for each customer access line or other basic access service, including trunk equivalents as designated by the Public Utilities Commission for access charge purposes and including cellular and other nonwire access services, in the fiscal year. Beginning July 1, 2004, this amount will increase to 13 cents a month~~ or to support other appropriations.

Sec. 21. **REPEALER.**

Minnesota Statutes 2004, section 403.30, subdivision 3, is repealed.

Sec. 22. **EFFECTIVE DATE.**

Sections 1 to 21 are effective the day following final enactment and apply to contracts entered into on or after that date. Notwithstanding Minnesota Statutes, section 403.11, subdivision 1, as amended by this act, a fee change under that subdivision in calendar year 2005 may become effective after a minimum of 30 days' notice.

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

ARTICLE 11

LAW ENFORCEMENT POLICY

Section 1. Minnesota Statutes 2004, section 299A.38, subdivision 2, is amended to read:

Subd. 2. **STATE AND LOCAL REIMBURSEMENT.** Peace officers and heads of local law enforcement agencies who buy vests for the use of peace officer employees may apply to the commissioner for reimbursement of funds spent to buy vests. On approving an application for reimbursement, the commissioner shall pay the applicant an amount equal to the lesser of one-half of the vest's purchase price or ~~$300~~ $600, as adjusted according to subdivision 2a. The political subdivision that employs the peace officer shall pay at least the lesser of one-half of the vest's purchase price or ~~$300~~ $600, as adjusted according to subdivision 2a. The political subdivision may not deduct or pay its share of the vest's cost from any clothing, maintenance, or similar allowance otherwise provided to the peace officer by the law enforcement agency.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2004, section 299A.38, subdivision 2a, is amended to read:

Subd. 2a. **ADJUSTMENT OF REIMBURSEMENT AMOUNT.** On October 1, ~~1997~~ 2006, the commissioner of public safety shall adjust the ~~$300~~ $600 reimbursement amounts specified in subdivision 2, and in each subsequent year, on October 1, the commissioner shall adjust the reimbursement amount applicable immediately preceding that October 1 date. The adjusted rate must reflect the annual percentage change in the Consumer Price Index for all urban consumers, published by the federal Bureau of Labor Statistics, occurring in the one-year period ending on the preceding June 1.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2004, section 299A.38, subdivision 3, is amended to read:

Subd. 3. **ELIGIBILITY REQUIREMENTS.** (a) Only vests that either meet or exceed the requirements of standard 0101.03 of the National Institute of Justice or that meet or exceed the requirements of that standard, except wet armor conditioning, are eligible for reimbursement.

(b) Eligibility for reimbursement is limited to vests bought after December 31, 1986, by or for peace officers (1) who did not own a vest meeting the requirements of paragraph (a) before the purchase, or (2) who owned a vest that was at least ~~six~~ five years old.

(c) The requirement set forth in paragraph (b), clauses (1) and (2), shall not apply to any peace officer who purchases a vest constructed from a zylon-based material,

provided that the peace officer provides proof of purchase or possession of the vest prior to July 1, 2005.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. **[299A.641] GANG AND DRUG OVERSIGHT COUNCIL.**

Subdivision 1. **OVERSIGHT COUNCIL ESTABLISHED.** The Gang and Drug Oversight Council is established to provide guidance related to the investigation and prosecution of gang and drug crime.

Subd. 2. **MEMBERSHIP.** The oversight council shall consist of the following individuals or their designees:

(1) the director of the office of special investigations, as the representative of the commissioner of corrections;

(2) the superintendent of the Bureau of Criminal Apprehension as the representative of the commissioner of public safety;

(3) the attorney general;

(4) eight chiefs of police, selected by the Minnesota Chiefs of Police Association, two of which must be selected from cities with populations greater than 200,000;

(5) eight sheriffs, selected by the Minnesota Sheriffs Association to represent each district, two of which must be selected from counties with populations greater than 500,000;

(6) the United States attorney for the district of Minnesota;

(7) two county attorneys, selected by the Minnesota County Attorneys Association;

(8) a command-level representative of a gang strike force;

(9) a representative from a drug task force, selected by the Minnesota State Association of Narcotics Investigators;

(10) a representative from the United States Drug Enforcement Administration;

(11) a representative from the United States Bureau of Alcohol, Tobacco, and Firearms;

(12) a representative from the Federal Bureau of Investigation;

(13) a tribal peace officer, selected by the Minnesota Tribal Law Enforcement Association; and

(14) two additional members who may be selected by the oversight council.

The oversight council may adopt procedures to govern its conduct as necessary and may select a chair from among its members.

Subd. 3. **OVERSIGHT COUNCIL'S DUTIES.** The oversight council shall develop an overall strategy to ameliorate the harm caused to the public by gang and

drug crime within the state of Minnesota. This strategy may include the development of protocols and procedures to investigate gang and drug crime and a structure for best addressing these issues in a multijurisdictional manner. Additionally, the oversight council shall:

(1) identify and recommend a candidate or candidates for statewide coordinator to the commissioner of public safety;

(2) establish multijurisdictional task forces and strike forces to combat gang and drug crime, to include a metro gang strike force;

(3) assist the Department of Public Safety in developing an objective grant review application process that is free from conflicts of interest;

(4) make funding recommendations to the commissioner of public safety on grants to support efforts to combat gang and drug crime;

(5) assist in developing a process to collect and share information to improve the investigation and prosecution of drug offenses;

(6) develop and approve an operational budget for the office of the statewide coordinator and the oversight council; and

(7) adopt criteria and identifying characteristics for use in determining whether individuals are or may be members of gangs involved in criminal activity.

Subd. 4. **STATEWIDE COORDINATOR.** The current gang strike force commander shall serve as a transition coordinator until July 1, 2006, at which time the commissioner of public safety shall appoint a statewide coordinator as recommended by the oversight council. The coordinator serving in the unclassified service shall:

(1) coordinate and monitor all multijurisdictional gang and drug enforcement activities;

(2) facilitate local efforts and ensure statewide coordination with efforts to combat gang and drug crime;

(3) facilitate training for personnel;

(4) monitor compliance with investigative protocols; and

(5) implement an outcome evaluation and data quality control process.

Subd. 5. **PARTICIPATING OFFICERS; EMPLOYMENT STATUS.** All participating law enforcement officers must be licensed peace officers as defined in section 626.84, subdivision 1, or qualified federal law enforcement officers as defined in section 626.8453. Participating officers remain employees of the same entity that employed them before joining any multijurisdictional entity established under this section. Participating officers are not employees of the state.

Subd. 6. **JURISDICTION AND POWERS.** Law enforcement officers participating in any multijurisdictional entity established under this section have statewide

jurisdiction to conduct criminal investigations and have the same powers of arrest as those possessed by a sheriff.

Subd. 7. **GRANTS AUTHORIZED.** The commissioner of public safety, upon recommendation of the council, may make grants to state and local units of government to combat gang and drug crime.

Subd. 8. **OVERSIGHT COUNCIL IS PERMANENT.** Notwithstanding section 15.059, this section does not expire.

Subd. 9. **FUNDING.** Participating agencies may accept lawful grants or contributions from any federal source or legal business or entity.

Subd. 10. **ROLE OF THE ATTORNEY GENERAL.** The attorney general or a designee shall generally advise on any matters that the oversight council deems appropriate.

Subd. 11. **ATTORNEY GENERAL; COMMUNITY LIAISON.** (a) The attorney general or a designee shall serve as a liaison between the oversight council and the councils created in sections 3.922, 3.9223, 3.9225, and 3.9226. The attorney general or designee will be responsible for:

(1) informing the councils of the plans, activities, and decisions and hearing their reactions to those plans, activities, and decisions; and

(2) providing the oversight council with the councils' position on the oversight council's plan, activities, and decisions.

(b) In no event is the oversight council required to disclose the names of individuals identified by it to the councils referenced in this subdivision.

(c) Nothing in this subdivision changes the data classification of any data held by the oversight council.

Subd. 12. **REQUIRED REPORT.** By February 1 of each year, the council shall report to the chairs of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding on the activities of the council and any strike or task forces. This annual report shall include:

(1) a description of the council's goals for the previous year and for the coming year;

(2) a description of the outcomes the council achieved or did not achieve during the preceding year and a description of the outcomes the council will seek to achieve during the coming year; and

(3) any legislative recommendations the council has including, where necessary, a description of the specific legislation needed to implement the recommendations.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 5. **[299A.681] MINNESOTA FINANCIAL CRIMES OVERSIGHT COUNCIL AND TASK FORCE.**

Subdivision 1. **OVERSIGHT COUNCIL.** The Minnesota Financial Crimes Oversight Council shall provide guidance related to the investigation and prosecution of identity theft and financial crime.

Subd. 2. **MEMBERSHIP.** The oversight council consists of the following individuals, or their designees:

(1) the commissioner of public safety;

(2) the attorney general;

(3) two chiefs of police, selected by the Minnesota Chiefs of Police Association from police departments that participate in the Minnesota Financial Crimes Task Force;

(4) two sheriffs, selected by the Minnesota Sheriffs Association from sheriff departments that participate in the task force;

(5) the United States attorney for the district of Minnesota;

(6) a county attorney, selected by the Minnesota County Attorneys Association;

(7) a representative from the United States Postal Inspector's Office, selected by the oversight council;

(8) a representative from a not-for-profit retail merchants industry, selected by the oversight council;

(9) a representative from a not-for-profit banking and credit union industry, selected by the oversight council;

(10) a representative from a not-for-profit association representing senior citizens, selected by the oversight council;

(11) the statewide commander of the task force;

(12) a representative from the Board of Public Defense, selected by the board; and

(13) two additional members selected by the oversight council.

The oversight council may adopt procedures to govern its conduct and shall select a chair from among its members.

Subd. 3. **DUTIES.** The oversight council shall develop an overall strategy to ameliorate the harm caused to the public by identity theft and financial crime within Minnesota. The strategy may include the development of protocols and procedures to investigate financial crimes and a structure for best addressing these issues in a multijurisdictional manner. Additionally, the oversight council shall:

(1) establish a multijurisdictional statewide Minnesota Financial Crimes Task Force to investigate major financial crimes;

(2) select a statewide commander of the task force who serves at the pleasure of the oversight council;

(3) assist the Department of Public Safety in developing an objective grant review application process that is free from conflicts of interest;

(4) make funding recommendations to the commissioner of public safety on grants to support efforts to combat identity theft and financial crime;

(5) assist law enforcement agencies and victims in developing a process to collect and share information to improve the investigation and prosecution of identity theft and financial crime;

(6) develop and approve an operational budget for the office of the statewide commander and the oversight council; and

(7) enter into any contracts necessary to establish and maintain a relationship with retailers, financial institutions, and other businesses to deal effectively with identity theft and financial crime.

The task force described in clause (1) may consist of members from local law enforcement agencies, federal law enforcement agencies, state and federal prosecutors' offices, the Board of Public Defense, and representatives from elderly victims, retail, financial institutions, and not-for-profit organizations.

Subd. 4. **STATEWIDE COMMANDER.** (a) The Minnesota Financial Crimes Task Force commander under Minnesota Statutes 2004, section 299A.68, shall oversee the transition of that task force into the task force described in subdivision 3 and remain in place as its commander until July 1, 2008. On that date, the commissioner of public safety shall appoint as statewide commander the individual selected by the oversight council under subdivision 3.

(b) The commander shall:

(1) coordinate and monitor all multijurisdictional identity theft and financial crime enforcement activities;

(2) facilitate local efforts and ensure statewide coordination with efforts to combat identity theft and financial crime;

(3) facilitate training for law enforcement and other personnel;

(4) monitor compliance with investigative protocols;

(5) implement an outcome evaluation and data quality control process;

(6) be responsible for the selection and for cause removal of assigned task force investigators who are designated participants under a memorandum of understanding or who receive grant funding;

(7) provide supervision of assigned task force investigators;

(8) submit a task force operational budget to the oversight council for approval; and

(9) submit quarterly task force activity reports to the oversight council.

Subd. 5. **PARTICIPATING OFFICERS; EMPLOYMENT STATUS.** All law enforcement officers selected to participate in the task force must be licensed peace officers as defined in section 626.84, subdivision 1, or qualified federal law

enforcement officers as defined in section 626.8453. Participating officers remain employees of the same entity that employed them before joining any multijurisdictional entity established under this section. Participating officers are not employees of the state.

Subd. 6. **JURISDICTION AND POWERS.** Law enforcement officers participating in any multijurisdictional entity established under this section have statewide jurisdiction to conduct criminal investigations and have the same powers of arrest as those possessed by a sheriff. The task force shall retain from its predecessor the assigned originating reporting number for case reporting purposes.

Subd. 7. **GRANTS AUTHORIZED.** The commissioner of public safety, upon recommendation of the oversight council, shall make grants to state and local units of government to combat identity theft and financial crime. The commander, as funding permits, may prepare a budget to establish four regional districts and funding grant allocations programs outside the counties of Hennepin, Ramsey, Anoka, Washington, and Dakota. The budget must be reviewed and approved by the oversight council and recommended to the commissioner to support these efforts.

Subd. 8. **VICTIMS ASSISTANCE PROGRAM.** (a) The oversight council may establish a victims' assistance program to assist victims of economic crimes and provide prevention and awareness programs. The oversight council may retain the services of not-for-profit organizations to assist in the development and delivery systems in aiding victims of financial crime. The program may not provide any financial assistance to victims, but may assist victims in obtaining police assistance and advise victims in how to protect personal accounts and identities. Services may include a victim toll-free telephone number, fax number, Web site, Monday through Friday telephone service, e-mail response, and interfaces to other helpful Web sites. Victims' information compiled are governed under chapter 13.

(b) The oversight council may post or communicate through public service announcements in newspapers, radio, television, cable access, billboards, Internet, Web sites, and other normal advertising channels, a financial reward of up to $2,000 for tips leading to the apprehension and successful prosecution of individuals committing economic crime. All rewards must meet the oversight council's standards. The release of funds must be made to an individual whose information leads to the apprehension and prosecution of offenders committing economic or financial crimes against citizens or businesses in Minnesota. All rewards paid to an individual must be reported to the Department of Revenue along with the individual's Social Security number.

Subd. 9. **OVERSIGHT COUNCIL AND TASK FORCE IS PERMANENT.** Notwithstanding section 15.059, this section does not expire.

Subd. 10. **FUNDING.** The oversight council may accept lawful grants and in-kind contributions from any federal, state, or local source or legal business or individual not funded by this section for general operation support, including personnel costs. These grants or in-kind contributions are not to be directed toward the case of a particular victim or business. The oversight council's fiscal agent shall handle all funds approved by the oversight council, including in-kind contributions.

Subd. 11. **FORFEITURE.** Property seized by the task force is subject to forfeiture pursuant to sections 609.531, 609.5312, 609.5313, and 609.5315 if ownership cannot be established. The council shall receive the proceeds from the sale of all property properly seized and forfeited.

Subd. 12. **TRANSFER EQUIPMENT FROM CURRENT TASK FORCE.** All equipment possessed by the task force described in Minnesota Statutes 2004, section 299A.68, is transferred to the oversight council for use by the task force described in this section.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 6. **[299A.78] STATEWIDE HUMAN TRAFFICKING ASSESSMENT.**

Subdivision 1. **DEFINITIONS.** For purposes of sections 299A.78 to 299A.785, the following definitions apply:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Nongovernmental organizations" means nonprofit, nongovernmental organizations that provide legal, social, or other community services.

(c) "Blackmail" has the meaning given in section 609.281, subdivision 2.

(d) "Debt bondage" has the meaning given in section 609.281, subdivision 3.

(e) "Forced labor or services" has the meaning given in section 609.281, subdivision 4.

(f) "Labor trafficking" has the meaning given in section 609.281, subdivision 5.

(g) "Labor trafficking victim" has the meaning given in section 609.281, subdivision 6.

(h) "Sex trafficking" has the meaning given in section 609.321, subdivision 7a.

(i) "Sex trafficking victim" has the meaning given in section 609.321, subdivision 7b.

(j) "Trafficking" includes "labor trafficking" and "sex trafficking."

(k) "Trafficking victim" includes "labor trafficking victim" and "sex trafficking victim."

Subd. 2. **GENERAL DUTIES.** The commissioner of public safety, in cooperation with local authorities, shall collect, share, and compile trafficking data among government agencies to assess the nature and extent of trafficking in Minnesota.

Subd. 3. **OUTSIDE SERVICES.** As provided for in section 15.061, the commissioner of public safety may contract with professional or technical services in connection with the duties to be performed under section 299A.785. The commissioner may also contract with other outside organizations to assist with the duties to be performed under section 299A.785.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 7. **[299A.785] TRAFFICKING STUDY.**

Subdivision 1. **INFORMATION TO BE COLLECTED.** The commissioner shall elicit the cooperation and assistance of government agencies and nongovernmental organizations as appropriate to assist in the collection of trafficking data. The commissioner shall direct the appropriate authorities in each agency and organization to make best efforts to collect information relevant to tracking progress on trafficking. The information to be collected may include, but is not limited to:

(1) the numbers of arrests, prosecutions, and successful convictions of traffickers and those committing trafficking related crimes, including, but not limited to, the following offenses: 609.27 (coercion); 609.282 (labor trafficking); 609.283 (unlawful conduct with respect to documents in furtherance of labor or sex trafficking); 609.321 (promotion of prostitution); 609.322 (solicitation of prostitution); 609.324 (other prostitution crimes); 609.33 (disorderly house); 609.352 (solicitation of a child); and 617.245 and 617.246 (use of minors in sexual performance);

(2) statistics on the number of trafficking victims, including demographics, method of recruitment, and method of discovery;

(3) trafficking routes and patterns, states or country of origin, transit states or countries;

(4) method of transportation, motor vehicles, aircraft, watercraft, or by foot if any transportation took place; and

(5) social factors that contribute to and foster trafficking, especially trafficking of women and children.

Subd. 2. **REPORT AND ANNUAL PUBLICATION.** (a) By September 1, 2006, the commissioner of public safety shall report to the chairs of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding a summary of its findings. This report shall include, to the extent possible, the information to be collected in subdivision 1 and any other information the commissioner finds relevant to the issue of trafficking in Minnesota.

(b) The commissioner shall gather, compile, and publish annually statistical data on the extent and nature of trafficking in Minnesota. This annual publication shall be available to the public and include, to the extent possible, the information to be collected in subdivision 1 and any other information the commissioner finds relevant to the issue of trafficking in Minnesota.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 8. Minnesota Statutes 2004, section 299C.10, subdivision 1, is amended to read:

Subdivision 1. **REQUIRED FINGERPRINTING.** (a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities shall take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, information on any known aliases or street names,

and other identification data requested or required by the superintendent of the bureau, of the following:

(1) persons arrested for, appearing in court on a charge of, or convicted of a felony, gross misdemeanor, or targeted misdemeanor;

(2) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent for, or alleged to have committed felonies or gross misdemeanors as distinguished from those committed by adult offenders;

(3) persons reasonably believed by the arresting officer to be fugitives from justice;

(4) persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes; ~~and~~

(5) juveniles referred by a law enforcement agency to a diversion program for a felony or gross misdemeanor offense; and

(6) persons currently involved in the criminal justice process, on probation, on parole, or in custody for the offenses in suspense whom the superintendent of the bureau identifies as being the subject of a court disposition record which cannot be linked to an arrest record, and whose fingerprints are necessary in order to maintain and ensure the accuracy of the bureau's criminal history files, to reduce the number of suspense files, or to comply with the mandates of section 299C.111, relating to the reduction of the number of suspense files. This duty to obtain fingerprints for the offenses in suspense at the request of the bureau shall include the requirement that fingerprints be taken in post-arrest interviews; while making court appearances; while in custody; or while on any form of probation, diversion, or supervised release.

(b) Unless the superintendent of the bureau requires a shorter period, within 24 hours the fingerprint records and other identification data specified under paragraph (a) must be forwarded to the bureau on such forms and in such manner as may be prescribed by the superintendent.

(c) Prosecutors, courts, and probation officers and their agents, employees, and subordinates, shall attempt to ensure that the required identification data is taken on a person described in paragraph (a). Law enforcement may take fingerprints of an individual who is presently on probation.

(d) For purposes of this section, a targeted misdemeanor is a misdemeanor violation of section 169A.20 (driving while impaired), 518B.01 (order for protection violation), 609.224 (fifth degree assault), 609.2242 (domestic assault), 609.746 (interference with privacy), 609.748 (harassment or restraining order violation), or 617.23 (indecent exposure).

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 9. Minnesota Statutes 2004, section 299C.10, is amended by adding a subdivision to read:

Subd. 1a. **COURT DISPOSITION RECORD IN SUSPENSE; FINGERPRINTING.** The superintendent of the bureau shall inform a prosecuting authority that a person prosecuted by that authority is the subject of a court disposition record in suspense which requires fingerprinting under this section. Upon being notified by the superintendent or otherwise learning of the suspense status of a court disposition record, any prosecuting authority may bring a motion in district court to compel the taking of the person's fingerprints upon a showing to the court that the person is the subject of the court disposition record in suspense.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 10. Minnesota Statutes 2004, section 299C.14, is amended to read:

299C.14 **INFORMATION ON RELEASED PRISONER.**

It shall be the duty of the officials having charge of the penal institutions of the state or the release of prisoners therefrom to furnish to the bureau, as the superintendent may require, finger and thumb prints, photographs, distinctive physical mark identification data, other identification data, modus operandi reports, and criminal records of prisoners heretofore, now, or hereafter confined in such penal institutions, together with the period of their service and the time, terms, and conditions of their discharge. This duty to furnish information includes, but is not limited to, requests for fingerprints as the superintendent of the bureau deems necessary to maintain and ensure the accuracy of the bureau's criminal history files, to reduce the number of suspense files, or to comply with the mandates of section 299C.111 relating to the reduction of the number of suspense files where a disposition record is received that cannot be linked to an arrest record.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 11. Minnesota Statutes 2004, section 299C.145, subdivision 3, is amended to read:

Subd. 3. **AUTHORITY TO ENTER OR RETRIEVE DATA.** Only ~~law enforcement~~ criminal justice agencies, as defined in section 299C.46, subdivision 2, may submit data to and obtain data from the distinctive physical mark identification system.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 12. Minnesota Statutes 2004, section 299C.65, subdivision 1, is amended to read:

Subdivision 1. **MEMBERSHIP, DUTIES.** (a) The Criminal and Juvenile Justice Information Policy Group consists of the commissioner of corrections, the commissioner of public safety, the commissioner of administration, the commissioner of finance, ~~and~~ four members of the judicial branch appointed by the chief justice of the Supreme Court, and the chair and first vice chair of the Criminal and Juvenile Justice Information Task Force. The policy group may appoint additional, nonvoting members as necessary from time to time.

(b) The commissioner of public safety is designated as the chair of the policy group. The commissioner and the policy group have overall responsibility for the successful completion of statewide criminal justice information system integration (CriMNet). The policy group may hire ~~a program manager~~ an executive director to manage the CriMNet projects and to be responsible for the day-to-day operations of CriMNet. The executive director shall serve at the pleasure of the policy group in unclassified service. The policy group must ensure that generally accepted project management techniques are utilized for each CriMNet project, including:

(1) clear sponsorship;

(2) scope management;

(3) project planning, control, and execution;

(4) continuous risk assessment and mitigation;

(5) cost management;

(6) quality management reviews;

(7) communications management; ~~and~~

(8) proven methodology; and

(9) education and training.

(c) Products and services for CriMNet project management, system design, implementation, and application hosting must be acquired using an appropriate procurement process, which includes:

(1) a determination of required products and services;

(2) a request for proposal development and identification of potential sources;

(3) competitive bid solicitation, evaluation, and selection; and

(4) contract administration and close-out.

(d) The policy group shall study and make recommendations to the governor, the Supreme Court, and the legislature on:

(1) a framework for integrated criminal justice information systems, including the development and maintenance of a community data model for state, county, and local criminal justice information;

(2) the responsibilities of each entity within the criminal and juvenile justice systems concerning the collection, maintenance, dissemination, and sharing of criminal justice information with one another;

(3) actions necessary to ensure that information maintained in the criminal justice information systems is accurate and up-to-date;

(4) the development of an information system containing criminal justice information on gross misdemeanor-level and felony-level juvenile offenders that is part of the integrated criminal justice information system framework;

(5) the development of an information system containing criminal justice information on misdemeanor arrests, prosecutions, and convictions that is part of the integrated criminal justice information system framework;

(6) comprehensive training programs and requirements for all individuals in criminal justice agencies to ensure the quality and accuracy of information in those systems;

(7) continuing education requirements for individuals in criminal justice agencies who are responsible for the collection, maintenance, dissemination, and sharing of criminal justice data;

(8) a periodic audit process to ensure the quality and accuracy of information contained in the criminal justice information systems;

(9) the equipment, training, and funding needs of the state and local agencies that participate in the criminal justice information systems;

(10) the impact of integrated criminal justice information systems on individual privacy rights;

(11) the impact of proposed legislation on the criminal justice system, including any fiscal impact, need for training, changes in information systems, and changes in processes;

(12) the collection of data on race and ethnicity in criminal justice information systems;

(13) the development of a tracking system for domestic abuse orders for protection;

(14) processes for expungement, correction of inaccurate records, destruction of records, and other matters relating to the privacy interests of individuals; and

(15) the development of a database for extended jurisdiction juvenile records and whether the records should be public or private and how long they should be retained.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 13. Minnesota Statutes 2004, section 299C.65, subdivision 2, is amended to read:

Subd. 2. **~~REPORT,~~ TASK FORCE.** ~~(a) The policy group shall file an annual report with the governor, Supreme Court, and chairs and ranking minority members of the senate and house committees and divisions with jurisdiction over criminal justice funding and policy by December 1 of each year.~~

~~(b) The report must make recommendations concerning any legislative changes or appropriations that are needed to ensure that the criminal justice information systems operate accurately and efficiently. To assist them in developing their recommendations,~~ The policy group shall appoint a task force ~~consisting~~ to assist them in their duties. The task force shall monitor, review, and report to the policy group on CriMNet-related projects and provide oversight to ongoing operations as directed by the policy group.

The task force shall consist of ~~its members or their designees and~~ the following ~~additional~~ members:

(1) ~~the director of the Office of Strategic and Long-Range Planning;~~

~~(2)~~ two sheriffs recommended by the Minnesota Sheriffs Association;

~~(3)~~ (2) two police chiefs recommended by the Minnesota Chiefs of Police Association;

~~(4)~~ (3) two county attorneys recommended by the Minnesota County Attorneys Association;

~~(5)~~ (4) two city attorneys recommended by the Minnesota League of Cities;

~~(6)~~ (5) two public defenders appointed by the Board of Public Defense;

~~(7)~~ (6) two district judges appointed by the Conference of Chief Judges, one of whom is currently assigned to the juvenile court;

~~(8)~~ (7) two community corrections administrators recommended by the Minnesota Association of Counties, one of whom represents a community corrections act county;

~~(9)~~ (8) two probation officers;

~~(10)~~ (9) four public members, one of whom has been a victim of crime, and two who are representatives of the private business community who have expertise in integrated information systems;

~~(11)~~ (10) two court administrators;

~~(12)~~ (11) one member of the house of representatives appointed by the speaker of the house;

~~(13)~~ (12) one member of the senate appointed by the majority leader;

~~(14)~~ (13) the attorney general or a designee;

~~(15) the commissioner of administration or a designee;~~

~~(16)~~ (14) ~~an individual~~ two individuals recommended by the Minnesota League of Cities, one of whom works or resides in greater Minnesota and one of whom works or resides in the seven county metropolitan area; ~~and~~

~~(17)~~ (15) ~~an individual~~ two individuals recommended by the Minnesota Association of Counties, one of whom works or resides in greater Minnesota and one of whom works or resides in the seven county metropolitan area;

(16) the director of the Sentencing Guidelines Commission;

(17) one member appointed by the commissioner of public safety;

(18) one member appointed by the commissioner of corrections;

(19) one member appointed by the commissioner of administration; and

(20) one member appointed by the chief justice of the Supreme Court.

In making these appointments, the appointing authority shall select members with expertise in integrated data systems or best practices.

~~(c)~~ The commissioner of public safety may appoint additional, nonvoting members to the task force as necessary from time to time.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 14. Minnesota Statutes 2004, section 299C.65, is amended by adding a subdivision to read:

Subd. 3a. **REPORT.** The policy group, with the assistance of the task force, shall file an annual report with the governor, Supreme Court, and chairs and ranking minority members of the senate and house committees and divisions with jurisdiction over criminal justice funding and policy by January 15 of each year. The report must provide the following:

(1) status and review of current integration efforts and projects;

(2) recommendations concerning any legislative changes or appropriations that are needed to ensure that the criminal justice information systems operate accurately and efficiently; and

(3) summary of the activities of the policy group and task force.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 15. Minnesota Statutes 2004, section 299C.65, subdivision 5, is amended to read:

Subd. 5. **REVIEW OF FUNDING AND GRANT REQUESTS.** (a) The Criminal and Juvenile Justice Information Policy Group shall review the funding requests for criminal justice information systems from state, county, and municipal government agencies. The policy group shall review the requests for compatibility to statewide criminal justice information system standards. The review shall be forwarded to the chairs and ranking minority members of the house and senate committees and divisions with jurisdiction over criminal justice funding and policy.

(b) The ~~policy group shall also review funding requests for criminal justice information systems grants to be made by the commissioner of public safety as provided in this section. Within the limits of available appropriations, the commissioner of public safety shall make grants for projects that have been approved by the policy group.~~ CriMNet program office, in consultation with the Criminal and Juvenile Justice Information Task Force and with the approval of the policy group, shall create the requirements for any grant request and determine the integration priorities for the grant period. The CriMNet program office shall also review the requests submitted for compatibility to statewide criminal justice information systems standards.

(c) ~~If a funding request is for development of a comprehensive criminal justice information integration plan, the policy group shall ensure that the request contains the components specified in subdivision 6. If a funding request is for implementation of a~~

~~plan or other criminal justice information systems project, the policy group shall ensure that:~~

~~(1) the government agency has adopted a comprehensive plan that complies with subdivision 6;~~

~~(2) the request contains the components specified in subdivision 7; and~~

~~(3) the request demonstrates that it is consistent with the government agency's comprehensive plan.~~ The task force shall review funding requests for criminal justice information systems grants and make recommendations to the policy group. The policy group shall review the recommendations of the task force and shall make a final recommendation for criminal justice information systems grants to be made by the commissioner of public safety. Within the limits of available state appropriations and federal grants, the commissioner of public safety shall make grants for projects that have been recommended by the policy group.

(d) The policy group may approve grants only if the applicant provides an appropriate share of matching funds as determined by the policy group to help pay up to one-half of the costs of the grant request. The matching requirement must be constant for all counties. The policy group shall adopt policies concerning the use of in-kind resources to satisfy the match requirement and the sources from which matching funds may be obtained. Local operational or technology staffing costs may be considered as meeting this match requirement. Each grant recipient shall certify to the policy group that it has not reduced funds from local, county, federal, or other sources which, in the absence of the grant, would have been made available to the grant recipient to improve or integrate criminal justice technology.

(e) All grant recipients shall submit to the CriMNet program office all requested documentation including grant status, financial reports, and a final report evaluating how the grant funds improved the agency's criminal justice integration priorities. The CriMNet program office shall establish the recipient's reporting dates at the time funds are awarded.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 16. Minnesota Statutes 2004, section 326.3384, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITION.** No license holder or employee of a license holder shall, in a manner that implies that the person is an employee or agent of a governmental agency, display on a badge, identification card, emblem, vehicle, uniform, stationery, or in advertising for private detective or protective agent services:

(1) the words "public safety," "police," "constable," "highway patrol," "state patrol," "sheriff," "trooper," or "law enforcement"; or

(2) the name of a municipality, county, state, or of the United States, or any governmental subdivision thereof.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 17. **[629.406] MAINTENANCE OF BOOKING RECORDINGS.**

When a law enforcement agency elects to produce an electronic recording of any portion of the arrest, booking, or testing process in connection with the arrest of a person, the agency must maintain the recording for a minimum of 30 days after the date the person was booked.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 18. **REPEALER.**

(a) Minnesota Statutes 2004, sections 299A.64; 299A.65; and 299A.66, are repealed.

(b) Minnesota Statutes 2004, sections 299A.68; and 299C.65, subdivisions 3, 4, 6, 7, 8, 8a, and 9, are repealed.

EFFECTIVE DATE. Paragraph (a) is effective January 1, 2006. Paragraph (b) is effective July 1, 2005.

ARTICLE 12

DNA COLLECTION

Section 1. Minnesota Statutes 2004, section 13.6905, subdivision 17, is amended to read:

Subd. 17. **DNA EVIDENCE.** DNA identification data maintained by the Bureau of Criminal Apprehension are governed by ~~section~~ sections 299C.11 and 299C.155.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 2. Minnesota Statutes 2004, section 299C.03, is amended to read:

299C.03 **SUPERINTENDENT; RULES.**

The superintendent, with the approval of the commissioner of public safety, from time to time, shall make such rules and adopt such measures as the superintendent deems necessary, within the provisions and limitations of sections 299C.03 to 299C.08, 299C.10, 299C.105, 299C.11, 299C.17, 299C.18, and 299C.21, to secure the efficient operation of the bureau. The bureau shall cooperate with the respective sheriffs, constables, marshals, police, and other peace officers of the state in the detection of crime and the apprehension of criminals throughout the state, and shall have the power to conduct such investigations as the superintendent, with the approval of the commissioner of public safety, may deem necessary to secure evidence which may be essential to the apprehension and conviction of alleged violators of the criminal laws of the state. The various members of the bureau shall have and may exercise throughout the state the same powers of arrest possessed by a sheriff, but they shall not

be employed to render police service in connection with strikes and other industrial disputes.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 3. Minnesota Statutes 2004, section 299C.08, is amended to read:

299C.08 **OATH OF SUPERINTENDENT AND EMPLOYEES.**

The superintendent and each employee in the bureau whom the superintendent shall designate, before entering upon the performance of duties under sections 299C.03 to 299C.08, 299C.10, 299C.105, 299C.11, 299C.17, 299C.18, and 299C.21, shall take the usual oath.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 4. **[299C.105] DNA DATA REQUIRED.**

Subdivision 1. **REQUIRED COLLECTION OF BIOLOGICAL SPECIMEN FOR DNA TESTING.** (a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities shall take or cause to be taken biological specimens for the purpose of DNA analysis as defined in section 299C.155, of the following:

(1) persons who have appeared in court and have had a judicial probable cause determination on a charge of committing, or persons having been convicted of or attempting to commit, any of the following:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 609.3453;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3;

(2) persons sentenced as patterned sex offenders under section 609.108; or

(3) juveniles who have appeared in court and have had a judicial probable cause determination on a charge of committing, or juveniles having been adjudicated delinquent for committing or attempting to commit, any of the following:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 609.3453;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3.

(b) Unless the superintendent of the bureau requires a shorter period, within 72 hours the biological specimen required under paragraph (a) must be forwarded to the bureau in such a manner as may be prescribed by the superintendent.

(c) Prosecutors, courts, and probation officers shall attempt to ensure that the biological specimen is taken on a person described in paragraph (a).

Subd. 2. **LAW ENFORCEMENT TRAINING; DUTIES.** (a) The persons who collect the biological specimens required under subdivision 1 must be trained to bureau-established standards in the proper method of collecting and transmitting biological specimens.

(b) A law enforcement officer who seeks to collect a biological specimen from a juvenile pursuant to subdivision 1 must notify the juvenile's parent or guardian prior to collecting the biological specimen.

Subd. 3. **BUREAU DUTY.** (a) The bureau shall destroy the biological specimen and return all records to a person who submitted a biological specimen under subdivision 1 but who was found not guilty of a felony. Upon the request of a person who submitted a biological specimen under subdivision 1 but where the charge against the person was later dismissed, the bureau shall destroy the person's biological specimen and return all records to the individual.

(b) If the bureau destroys a biological specimen under paragraph (a), the bureau shall also remove the person's information from the bureau's combined DNA index system and return all related records, and all copies or duplicates of them.

EFFECTIVE DATE. This section is effective July 1, 2005, and applies to persons arrested on or after that date.

Sec. 5. Minnesota Statutes 2004, section 299C.11, is amended to read:

299C.11 **IDENTIFICATION DATA FURNISHED TO BUREAU.**

Subdivision 1. **IDENTIFICATION DATA OTHER THAN DNA.** (a) Each sheriff and chief of police shall furnish the bureau, upon such form as the

superintendent shall prescribe, with such finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data as may be requested or required by the superintendent of the bureau, which must be taken under the provisions of section 299C.10. In addition, sheriffs and chiefs of police shall furnish this identification data to the bureau for individuals found to have been convicted of a felony, gross misdemeanor, or targeted misdemeanor, within the ten years immediately preceding their arrest.

(b) No petition under chapter 609A is required if the person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding the determination of all pending criminal actions or proceedings in favor of the arrested person, and either of the following occurred:

(1) all charges were dismissed prior to a determination of probable cause; or

(2) the prosecuting authority declined to file any charges and a grand jury did not return an indictment.

Where these conditions are met, the bureau or agency shall, upon demand, return to the arrested person finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them.

(c) Except as otherwise provided in paragraph (b), upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau shall seal finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them if the arrested person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding such determination.

~~(d)~~ Subd. 2. **DNA SAMPLES; LAW ENFORCEMENT DUTIES.** (a) Each sheriff and chief of police shall furnish the bureau, in such form as the superintendent shall prescribe, with the biological specimens required to be taken under section 299C.105.

(b) DNA samples and DNA records of the arrested person obtained through authority other than section 299C.105 shall not be returned, sealed, or destroyed as to a charge supported by probable cause.

~~(e)~~ Subd. 3. **DEFINITIONS.** For purposes of this section:

(1) "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

(i) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or chapter 609A;

(ii) the arrested person's successful completion of a diversion program;

(iii) an order of discharge under section 609.165; or

(iv) a pardon granted under section 638.02; and

(2) "targeted misdemeanor" has the meaning given in section 299C.10, subdivision 1.

EFFECTIVE DATE. This section is effective July 1, 2005, and applies to offenders arrested on or after that date.

Sec. 6. Minnesota Statutes 2004, section 299C.155, is amended to read:

299C.155 **STANDARDIZED EVIDENCE COLLECTION; DNA ANALYSIS.**

Subdivision 1. **DEFINITION.** As used in this section, "DNA analysis" means the process through which deoxyribonucleic acid (DNA) in a human biological specimen is analyzed and compared with DNA from another human biological specimen for identification purposes.

Subd. 2. **UNIFORM EVIDENCE COLLECTION.** The bureau shall develop uniform procedures and protocols for collecting evidence in cases of alleged or suspected criminal sexual conduct, including procedures and protocols for the collection and preservation of human biological specimens for DNA analysis. Law enforcement agencies and medical personnel who conduct evidentiary exams shall use the uniform procedures and protocols in their investigation of criminal sexual conduct offenses. The uniform procedures and protocols developed under this subdivision are not subject to the rulemaking provisions of chapter 14.

Subd. 3. **DNA ANALYSIS AND DATA BANK.** The bureau shall adopt uniform procedures and protocols to maintain, preserve, and analyze human biological specimens for DNA. The bureau shall establish a centralized system to cross-reference data obtained from DNA analysis. Data contained on the bureau's centralized system is private data on individuals, as that term is defined in section 13.02. The bureau's centralized system may only be accessed by authorized law enforcement personnel and used solely for law enforcement identification purposes. The remedies in section 13.08 apply to a violation of this subdivision. The uniform procedures and protocols developed under this subdivision are not subject to the rulemaking provisions of chapter 14.

Subd. 4. **RECORD.** The bureau shall perform DNA analysis and make data obtained available to law enforcement officials in connection with criminal investigations in which human biological specimens have been recovered. Upon request, the bureau shall also make the data available to the prosecutor and the subject of the data in any subsequent criminal prosecution of the subject. The results of the bureau's DNA analysis and related records are private data on individuals, as that term is defined in section 13.02, and may only be used for law enforcement identification purposes. The remedies in section 13.08 apply to a violation of this subdivision.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 7. Minnesota Statutes 2004, section 299C.21, is amended to read:

299C.21 **PENALTY ON LOCAL OFFICER REFUSING INFORMATION.**

If any public official charged with the duty of furnishing to the bureau fingerprint records, biological specimens, reports, or other information required by sections 299C.06, 299C.10, 299C.105, 299C.11, 299C.17, shall neglect or refuse to comply with such requirement, the bureau, in writing, shall notify the state, county, or city officer charged with the issuance of a warrant for the payment of the salary of such official. Upon the receipt of the notice the state, county, or city official shall withhold the issuance of a warrant for the payment of the salary or other compensation accruing to such officer for the period of 30 days thereafter until notified by the bureau that such suspension has been released by the performance of the required duty.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 8. **[590.10] PRESERVATION OF EVIDENCE.**

Subdivision 1. **PRESERVATION.** Notwithstanding any other provision of law, all appropriate governmental entities shall retain any biological evidence relating to the identification of a defendant used to secure a conviction in a criminal case until expiration of sentence unless earlier disposition is authorized by court order after notice to the defendant and defense counsel. No order for earlier disposition of this evidence shall be issued if the defendant or defense counsel objects.

The governmental entity need retain only the portion of such evidence as was used to obtain an accurate biological sample used to obtain a conviction. If the size of the biological sample requires that it be consumed in analysis, the Minnesota Rules of Criminal Procedure shall apply. If evidence is intentionally destroyed after the filing of a petition under section 590.01, subdivision 1a, the court may impose appropriate sanctions on the responsible party or parties.

Subd. 2. **DEFINITION.** For purposes of this section, "biological evidence" means:

(1) the samples obtained in a sexual assault examination kit; or

(2) any item that contains blood, semen, hair, saliva, skin, tissue, or other identifiable biological material present on physical evidence or preserved on a slide or swab if such evidence relates to the identification of the defendant.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 9. Minnesota Statutes 2004, section 609.117, is amended to read:

609.117 **DNA ANALYSIS OF CERTAIN OFFENDERS REQUIRED.**

Subdivision 1. **UPON SENTENCING.** If an offender has not already done so, 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 any of the following,~~ committing or attempting to commit a felony offense and the

person is convicted of that offense or of any offense arising out of the same set of circumstances:

~~(i) murder under section 609.185, 609.19, or 609.195;~~

~~(ii) manslaughter under section 609.20 or 609.205;~~

~~(iii) assault under section 609.221, 609.222, or 609.223;~~

~~(iv) robbery under section 609.24 or aggravated robbery under section 609.245;~~

~~(v) kidnapping under section 609.25;~~

~~(vi) false imprisonment under section 609.255;~~

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

~~(viii) incest under section 609.365;~~

~~(ix) burglary under section 609.582, subdivision 1; or~~

~~(x) indecent exposure under section 617.23, subdivision 3;~~

~~(2) the court sentences a person as a patterned sex offender under section 609.108;~~ or

~~(3)~~ (2) the juvenile court adjudicates a person a delinquent child who is ~~the subject of a delinquency petition for violating or attempting to violate any of the following, 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:~~

~~(i) murder under section 609.185, 609.19, or 609.195;~~

~~(ii) manslaughter under section 609.20 or 609.205;~~

~~(iii) assault under section 609.221, 609.222, or 609.223;~~

~~(iv) robbery under section 609.24 or aggravated robbery under section 609.245;~~

~~(v) kidnapping under section 609.25;~~

~~(vi) false imprisonment under section 609.255;~~

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

~~(viii) incest under section 609.365;~~

~~(ix) burglary under section 609.582, subdivision 1; or~~

~~(x) indecent exposure under section 617.23, subdivision 3~~ petitioned for committing or attempting to commit a felony offense and is adjudicated delinquent for that offense or 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.

Subd. 2. **BEFORE RELEASE.** The commissioner of corrections or local corrections authority shall order a person to provide a biological specimen for the purpose of DNA analysis before completion of the person's term of imprisonment when the person has not provided a biological specimen for the purpose of DNA analysis and the person:

(1) ~~is currently serving a term of imprisonment for or has a past conviction for violating or attempting to violate any of the following or a similar law of another state or the United States or~~ was initially charged with ~~violating one of the following sections or a similar law of another state or the United States and~~ committing or attempting to commit a felony offense and was convicted of ~~another~~ that offense or of any offense arising out of the same set of circumstances~~:~~

~~(i) murder under section 609.185, 609.19, or 609.195;~~

~~(ii) manslaughter under section 609.20 or 609.205;~~

~~(iii) assault under section 609.221, 609.222, or 609.223;~~

~~(iv) robbery under section 609.24 or aggravated robbery under section 609.245;~~

~~(v) kidnapping under section 609.25;~~

~~(vi) false imprisonment under section 609.255;~~

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

~~(viii) incest under section 609.365;~~

~~(ix) burglary under section 609.582, subdivision 1; or~~

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

~~(2) was sentenced as a patterned sex offender under section 609.108, and committed to the custody of the commissioner of corrections,~~ or the person has a past felony conviction in this or any other state; or

~~(3)~~ (2) is 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~~ committing or attempting to commit a felony offense or of any offense arising out of the same set of circumstances if the person was initially charged with committing or attempting to commit a felony offense. The commissioner of corrections or local corrections authority shall forward the sample to the Bureau of Criminal Apprehension.

Subd. 3. **OFFENDERS FROM OTHER STATES.** When the state accepts an offender from another state under the interstate compact authorized by section 243.16, the acceptance is conditional on the offender providing a biological specimen for the purposes of DNA analysis as defined in section 299C.155, if the offender was ~~convicted of an offense described in subdivision 1 or a similar law of the United States or any other state~~ initially charged with committing or attempting to commit a felony offense and was convicted of that offense or of any offense arising out of the same set

of circumstances. The specimen must be provided under supervision of staff from the Department of Corrections or a Community Corrections Act county within 15 business days after the offender reports to the supervising agent. The cost of obtaining the biological specimen is the responsibility of the agency providing supervision.

EFFECTIVE DATE. This section is effective July 1, 2005, and applies to offenders sentenced, released from incarceration, or accepted for supervision on or after that date.

Sec. 10. Minnesota Statutes 2004, section 609A.02, subdivision 3, is amended to read:

Subd. 3. **CERTAIN CRIMINAL PROCEEDINGS NOT RESULTING IN A CONVICTION.** A petition may be filed under section 609A.03 to seal all records relating to an arrest, indictment or information, trial, or verdict if the records are not subject to section 299C.11, subdivision 1, paragraph (b), and if all pending actions or proceedings were resolved in favor of the petitioner. For purposes of this chapter, a verdict of not guilty by reason of mental illness is not a resolution in favor of the petitioner.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 11. Minnesota Statutes 2004, section 609A.03, subdivision 7, is amended to read:

Subd. 7. **LIMITATIONS OF ORDER.** (a) Upon issuance of an expungement order related to a charge supported by probable cause, the DNA samples and DNA records held by the Bureau of Criminal Apprehension and collected under authority other than section 299C.105, shall not be sealed, returned to the subject of the record, or destroyed.

(b) Notwithstanding the issuance of an expungement order:

(1) an expunged record may be opened for purposes of a criminal investigation, prosecution, or sentencing, upon an ex parte court order; and

(2) an expunged record of a conviction may be opened for purposes of evaluating a prospective employee in a criminal justice agency without a court order.

Upon request by law enforcement, prosecution, or corrections authorities, an agency or jurisdiction subject to an expungement order shall inform the requester of the existence of a sealed record and of the right to obtain access to it as provided by this paragraph. For purposes of this section, a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 12. **REPEALER.**

Minnesota Statutes 2004, section 609.119, is repealed.

EFFECTIVE DATE. This section is effective July 1, 2005.

ARTICLE 13

CORRECTIONS

Section 1. Minnesota Statutes 2004, section 16C.09, is amended to read:

16C.09 **PROCEDURE FOR SERVICE CONTRACTS.**

(a) Before entering into or approving a service contract, the commissioner must determine, at least, that:

(1) no current state employee is able and available to perform the services called for by the contract;

(2) the work to be performed under the contract is necessary to the agency's achievement of its statutory responsibilities and there is statutory authority to enter into the contract;

(3) the contract will not establish an employment relationship between the state or the agency and any persons performing under the contract;

(4) the contractor and agents are not employees of the state;

(5) the contracting agency has specified a satisfactory method of evaluating and using the results of the work to be performed; and

(6) the combined contract and amendments will not exceed five years without specific, written approval by the commissioner according to established policy, procedures, and standards, or unless otherwise provided for by law. The term of the original contract must not exceed two years, unless the commissioner determines that a longer duration is in the best interest of the state.

(b) For purposes of paragraph (a), clause (1), employees are available if qualified and:

(1) are already doing the work in question; or

(2) are on layoff status in classes that can do the work in question.

An employee is not available if the employee is doing other work, is retired, or has decided not to do the work in question.

(c) This section does not apply to an agency's use of inmates pursuant to sections 241.20 to 241.23 or to an agency's use of persons required by a court to provide:

(1) community service; or

(2) conservation or maintenance services on lands under the jurisdiction and control of the state.

EFFECTIVE DATE. This section is effective July 1, 2005.

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

Sec. 2. Minnesota Statutes 2004, section 43A.047, is amended to read:

43A.047 **CONTRACTED SERVICES.**

(a) Executive agencies, including the Minnesota State Colleges and Universities system, must demonstrate that they cannot use available staff before hiring outside consultants or services. If use of consultants is necessary, agencies are encouraged to negotiate contracts that will involve permanent staff, so as to upgrade and maximize training of state employees.

(b) If agencies reduce operating budgets, agencies must give priority to reducing spending on professional and technical service contracts before laying off permanent employees.

(c) This section does not apply to an agency's use of inmates pursuant to sections 241.20 to 241.23 or to an agency's use of persons required by a court to provide:

(1) community service; or

(2) conservation or maintenance services on lands under the jurisdiction and control of the state.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 3. **[241.026] CORRECTIONAL OFFICERS DISCIPLINE PROCEDURES.**

Subdivision 1. **DEFINITIONS.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Correctional officer" and "officer" mean a person employed by the state, a state correctional facility, or a local correctional or detention facility in a security capacity.

(c) "Formal statement" means the questioning of an officer in the course of obtaining a recorded, stenographic, or signed statement to be used as evidence in a disciplinary proceeding against the officer.

Subd. 2. **APPLICABILITY.** The procedures and provisions of this section apply to state and local correctional authorities.

Subd. 3. **GOVERNING FORMAL STATEMENT PROCEDURES.** The formal statement of an officer must be taken according to subdivision 4.

Subd. 4. **PLACE OF FORMAL STATEMENT.** The formal statement must be taken at a facility of the employing or investigating agency or at a place agreed to by the investigating individual and the investigated officer.

Subd. 5. **ADMISSIONS.** Before an officer's formal statement is taken, the officer shall be advised in writing or on the record that admissions made in the course of the formal statement may be used as evidence of misconduct or as a basis for discipline.

Subd. 6. **DISCLOSURE OF FINANCIAL RECORDS.** No employer may require an officer to produce or disclose the officer's personal financial records except pursuant to a valid search warrant or subpoena.

Subd. 7. **RELEASE OF PHOTOGRAPHS.** No state or local correctional facility or governmental unit may publicly release photographs of an officer without the written permission of the officer, except that the facility or unit may display a photograph of an officer to a prospective witness as part of an agency or unit investigation.

Subd. 8. **DISCIPLINARY LETTER.** No disciplinary letter or reprimand may be included in an officer's personnel record unless the officer has been given a copy of the letter or reprimand.

Subd. 9. **RETALIATORY ACTION PROHIBITED.** No officer may be discharged, disciplined, or threatened with discharge or discipline as retaliation for or solely by reason of the officer's exercise of the rights provided by this section.

Subd. 10. **RIGHTS NOT REDUCED.** The rights of officers provided by this section are in addition to and do not diminish the rights and privileges of officers that are provided under an applicable collective bargaining agreement or any other applicable law.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 4. Minnesota Statutes 2004, section 243.1606, subdivision 1, is amended to read:

Subdivision 1. **MEMBERSHIP.** The Advisory Council on Interstate Adult Offender Supervision consists of the following individuals or their designees:

(1) the governor;

(2) the chief justice of the Supreme Court;

(3) two senators, one from the majority and the other from the minority party, selected by the Subcommittee on Committees of the senate Committee on Rules and Administration;

(4) two representatives, one from the majority and the other from the minority party, selected by the house speaker;

(5) the compact administrator, selected as provided in section 243.1607; ~~and~~

(6) the executive director of the Center for Crime Victim Services; and

(7) other members as appointed by the commissioner of corrections.

The council may elect a chair from among its members.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 5. Minnesota Statutes 2004, section 243.24, subdivision 2, is amended to read:

Subd. 2. **CHIEF EXECUTIVE OFFICER TO INCREASE FUND TO $100.** If the fund standing to the credit of the prisoner on the prisoner's leaving the facility by discharge, supervised release, or on parole be less than $100, the warden or chief executive officer is directed to pay out of the current expense fund of the facility

sufficient funds to make the total of said earnings the sum of $100. Offenders who have previously received the $100 upon their initial release from incarceration will not receive the $100 on any second or subsequent release from incarceration for that offense. Offenders who were sentenced as short-term offenders under section 609.105 shall not receive gate money.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 6. **[244.055] CONDITIONAL RELEASE OF NONVIOLENT CONTROLLED SUBSTANCE OFFENDERS; OPPORTUNITY FOR DRUG TREATMENT.**

Subdivision 1. **CONDITIONAL RELEASE AUTHORITY.** The commissioner of corrections has the authority to release offenders committed to the commissioner's custody who meet the requirements of this section and of any rules adopted by the commissioner.

Subd. 2. **CONDITIONAL RELEASE OF CERTAIN NONVIOLENT CONTROLLED SUBSTANCE OFFENDERS.** An offender who has been committed to the commissioner's custody may petition the commissioner for conditional release from prison before the offender's scheduled supervised release date or target release date if:

(1) the offender is serving a sentence for violating section 152.021, subdivision 2 or 2a; 152.022, subdivision 2; 152.023; 152.024; or 152.025;

(2) the offender committed the crime as a result of a controlled substance addiction, and not primarily for profit;

(3) the offender has served at least 36 months or one-half of the offender's term of imprisonment, whichever is less;

(4) the offender successfully completed a chemical dependency treatment program of the type described in this section while in prison;

(5) the offender has not previously been conditionally released under this section; and

(6) the offender has not within the past ten years been convicted or adjudicated delinquent for a violent crime as defined in section 609.1095 other than the current conviction for the controlled substance offense.

Subd. 3. **OFFER OF CHEMICAL DEPENDENCY TREATMENT.** The commissioner shall offer all offenders meeting the criteria described in subdivision 2, clauses (1), (2), (5), and (6), the opportunity to begin a suitable chemical dependency treatment program of the type described in this section within 160 days after the offender's term of imprisonment begins or as soon after 160 days as possible.

Subd. 4. **CHEMICAL DEPENDENCY TREATMENT PROGRAM COMPONENTS.** (a) The chemical dependency treatment program described in subdivisions 2 and 3 must:

(1) contain a highly structured daily schedule for the offender;

(2) contain individualized educational programs designed to improve the basic educational skills of the offender and to provide vocational training, if appropriate;

(3) contain programs designed to promote the offender's self-worth and the offender's acceptance of responsibility for the consequences of the offender's own decisions;

(4) be licensed by the Department of Human Services and designed to serve the inmate population; and

(5) require that each offender submit to a chemical use assessment and that the offender receive the appropriate level of treatment as indicated by the assessment.

(b) The commissioner shall expel from the chemical dependency treatment program, any offender who:

(1) commits a material violation of, or repeatedly fails to follow the rules of the program;

(2) commits any criminal offense while in the program; or

(3) presents any risk to other inmates based on the offender's behavior or attitude.

Subd. 5. **ADDITIONAL REQUIREMENTS.** To be eligible for release under this section, an offender shall sign a written contract with the commissioner agreeing to comply with the requirements of this section and the conditions imposed by the commissioner. In addition to other items, the contract must specifically refer to the term of imprisonment extension in subdivision 6. In addition, the offender shall agree to submit to random drug and alcohol tests and electronic or home monitoring as determined by the commissioner or the offender's supervising agent. The commissioner may impose additional requirements on the offender that are necessary to carry out the goals of this section.

Subd. 6. **EXTENSION OF TERM OF IMPRISONMENT FOR OFFENDERS WHO FAIL IN TREATMENT.** When an offender fails to successfully complete the chemical dependency treatment program under this section, the commissioner shall add the time that the offender was participating in the program to the offender's term of imprisonment. However, the offender's term of imprisonment may not be extended beyond the offender's executed sentence.

Subd. 7. **RELEASE PROCEDURES.** The commissioner may deny conditional release to an offender under this section if the commissioner determines that the offender's release may reasonably pose a danger to the public or an individual. In making this determination, the commissioner shall follow the procedures contained in section 244.05, subdivision 5, and the rules adopted by the commissioner under that subdivision. The commissioner shall consider whether the offender was involved in criminal gang activity during the offender's prison term. The commissioner shall also consider the offender's custody classification and level of risk of violence and the availability of appropriate community supervision for the offender. Conditional release

granted under this section continues until the offender's sentence expires, unless release is rescinded under subdivision 8. The commissioner may not grant conditional release unless a release plan is in place for the offender that addresses, at a minimum, plans for aftercare, community-based chemical dependency treatment, gaining employment, and securing housing.

Subd. 8. **CONDITIONAL RELEASE.** The conditions of release granted under this section are governed by the statutes and rules governing supervised release under this chapter, except that release may be rescinded without hearing by the commissioner if the commissioner determines that continuation of the conditional release poses a danger to the public or to an individual. If the commissioner rescinds an offender's conditional release, the offender shall be returned to prison and shall serve the remaining portion of the offender's sentence.

Subd. 9. **OFFENDERS SERVING OTHER SENTENCES.** An offender who is serving both a sentence for an offense described in subdivision 2 and an offense not described in subdivision 2, is not eligible for release under this section unless the offender has completed the offender's full term of imprisonment for the other offense.

Subd. 10. **NOTICE.** Upon receiving an offender's petition for release under subdivision 2, the commissioner shall notify the prosecuting authority responsible for the offender's conviction and the sentencing court. The commissioner shall give the authority and court a reasonable opportunity to comment on the offender's potential release. This subdivision applies only to offenders sentenced before July 1, 2005.

Subd. 11. **SUNSET.** This section expires July 1, 2007.

EFFECTIVE DATE. This section is effective July 1, 2005, and applies to persons in prison on or after that date.

Sec. 7. Minnesota Statutes 2004, section 244.18, subdivision 2, is amended to read:

Subd. 2. **LOCAL CORRECTIONAL FEES.** A local correctional agency may establish a schedule of local correctional fees to charge persons ~~convicted~~ of a ~~crime and~~ under the supervision and control of the local correctional agency to defray costs associated with correctional services. The local correctional fees on the schedule must be reasonably related to defendants' abilities to pay and the actual cost of correctional services.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 8. Minnesota Statutes 2004, section 609.531, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purpose of sections 609.531 to 609.5318, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property

which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a dangerous weapon as defined under section 609.02, subdivision 6, that the actor used or had in possession in furtherance of a crime.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Minnesota Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's department, the Suburban Hennepin Regional Park District park rangers, the Department of Natural Resources Division of Enforcement, the University of Minnesota Police Department, the Department of Corrections' Fugitive Apprehension Unit, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;

(2) for driver's license or identification card transactions: any violation of section 171.22; and

(3) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.66, subdivision 1e; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 609.895; 617.246; or a gross misdemeanor or felony violation of section 609.891 or 624.7181; or any violation of section 609.324.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 9. Minnesota Statutes 2004, section 609.5311, subdivision 2, is amended to read:

Subd. 2. **ASSOCIATED PROPERTY.** (a) All property, real and personal, that has been used, or is intended for use, or has in any way facilitated, in whole or in part, the manufacturing, compounding, processing, delivering, importing, cultivating, exporting, transporting, or exchanging of contraband or a controlled substance that has not been lawfully manufactured, distributed, dispensed, and acquired is subject to forfeiture under this section, except as provided in subdivision 3.

(b) The Department of Corrections' Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture under paragraph (a).

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 10. Minnesota Statutes 2004, section 609.5311, subdivision 3, is amended to read:

Subd. 3. **LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.** (a) A conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is $25 or more and the conveyance device is associated with a felony-level controlled substance crime.

(b) Real property is subject to forfeiture under this section only if the retail value of the controlled substance or contraband is $1,000 or more.

(c) Property used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the use or intended use of the property as described in subdivision 2.

(d) Property is subject to forfeiture under this section only if its owner was privy to the use or intended use described in subdivision 2, or the unlawful use or intended use of the property otherwise occurred with the owner's knowledge or consent.

(e) Forfeiture under this section of a conveyance device or real property encumbered by a bona fide security interest is subject to the interest of the secured party unless the secured party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(f) Forfeiture under this section of real property is subject to the interests of a good faith purchaser for value unless the purchaser had knowledge of or consented to the act or omission upon which the forfeiture is based.

(g) Notwithstanding paragraphs (d), (e), and (f), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the unlawful use or intended use of the property if: (1) the owner or secured party took reasonable steps to terminate use of the property by the offender; or (2) the property is real property owned by the parent of the offender, unless the parent actively participated in, or knowingly acquiesced to, a violation of chapter 152, or the real property constitutes proceeds derived from or traceable to a use described in subdivision 2.

(h) The Department of Correction's Fugitive Apprehension Unit shall not seize a conveyance device or real property, for the purposes of forfeiture under paragraphs (a) to (g).

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 11. Minnesota Statutes 2004, section 609.5312, subdivision 1, is amended to read:

Subdivision 1. **PROPERTY SUBJECT TO FORFEITURE.** (a) All personal property is subject to forfeiture if it was used or intended for use to commit or facilitate

the commission of a designated offense. All money and other property, real and personal, that represent proceeds of a designated offense, and all contraband property, are subject to forfeiture, except as provided in this section.

(b) The Department of Corrections' Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture under paragraph (a).

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 12. Minnesota Statutes 2004, section 609.5312, subdivision 3, is amended to read:

Subd. 3. **VEHICLE FORFEITURE FOR PROSTITUTION OFFENSES.** (a) A motor vehicle is subject to forfeiture under this subdivision if it was used to commit or facilitate, or used during the commission of, a violation of section 609.324 or a violation of a local ordinance substantially similar to section 609.324. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense. Except as otherwise provided in this subdivision, a forfeiture under this subdivision is governed by sections 609.531, 609.5312, and 609.5313.

(b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance of a judicial forfeiture order, a hearing before a judge or referee must be held within 96 hours of the seizure. Notice of the hearing must be given to the registered owner within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of the hearing, that it has filed or intends to file charges against the alleged violator for violating section 609.324 or a local ordinance substantially similar to section 609.324. After conducting the hearing, the court shall order that the motor vehicle be returned to the owner if:

(1) the prosecutor has failed to make the certification required by paragraph (b);

(2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the owner has a defense to the forfeiture, including but not limited to the defenses contained in subdivision 2; or

(3) the court determines that seizure of the vehicle creates or would create an undue hardship for members of the owner's family.

(c) If the defendant is acquitted or prostitution charges against the defendant are dismissed, neither the owner nor the defendant is responsible for paying any costs associated with the seizure or storage of the vehicle.

(d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180 days or less is not subject to forfeiture under this subdivision.

(e) For purposes of this subdivision, seizure occurs either:

(1) at the date at which personal service of process upon the registered owner is made; or

(2) at the date when the registered owner has been notified by certified mail at the address listed in the Minnesota Department of Public Safety computerized motor vehicle registration records.

(f) The Department of Corrections' Fugitive Apprehension Unit shall not participate in paragraphs (a) to (e).

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 13. Minnesota Statutes 2004, section 609.5312, subdivision 4, is amended to read:

Subd. 4. **VEHICLE FORFEITURE FOR FLEEING A PEACE OFFICER.** (a) A motor vehicle is subject to forfeiture under this subdivision if it was used to commit a violation of section 609.487 and endanger life or property. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense. Except as otherwise provided in this subdivision, a forfeiture under this subdivision is governed by sections 609.531, 609.5312, 609.5313, and 609.5315, subdivision 6.

(b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance of a judicial forfeiture order, a hearing before a judge or referee must be held within 96 hours of the seizure. Notice of the hearing must be given to the registered owner within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of the hearing, that it has filed or intends to file charges against the alleged violator for violating section 609.487. After conducting the hearing, the court shall order that the motor vehicle be returned to the owner if:

(1) the prosecutor has failed to make the certification required by this paragraph;

(2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the owner has a defense to the forfeiture, including but not limited to the defenses contained in subdivision 2; or

(3) the court determines that seizure of the vehicle creates or would create an undue hardship for members of the owner's family.

(c) If the defendant is acquitted or the charges against the defendant are dismissed, neither the owner nor the defendant is responsible for paying any costs associated with the seizure or storage of the vehicle.

(d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180 days or less is not subject to forfeiture under this subdivision.

(e) A motor vehicle that is an off-road recreational vehicle as defined in section 169A.03, subdivision 16, or a motorboat as defined in section 169A.03, subdivision 13, is not subject to paragraph (b).

(f) For purposes of this subdivision, seizure occurs either:

(1) at the date at which personal service of process upon the registered owner is made; or

(2) at the date when the registered owner has been notified by certified mail at the address listed in the Minnesota Department of Public Safety computerized motor vehicle registration records.

(g) The Department of Corrections' Fugitive Apprehension Unit shall not seize a motor vehicle for the purposes of forfeiture under paragraphs (a) to (f).

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 14. Minnesota Statutes 2004, section 609.5314, subdivision 1, is amended to read:

Subdivision 1. **PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE; PRESUMPTION.** (a) The following are presumed to be subject to administrative forfeiture under this section:

(1) all money, precious metals, and precious stones found in proximity to:

(i) controlled substances;

(ii) forfeitable drug manufacturing or distributing equipment or devices; or

(iii) forfeitable records of manufacture or distribution of controlled substances;

(2) all conveyance devices containing controlled substances with a retail value of $100 or more if possession or sale of the controlled substance would be a felony under chapter 152; and

(3) all firearms, ammunition, and firearm accessories found:

(i) in a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;

(ii) on or in proximity to a person from whom a felony amount of controlled substance is seized; or

(iii) on the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under chapter 152.

(4) The Department of Corrections' Fugitive Apprehension Unit shall not seize items listed in clauses (2) and (3) for the purposes of forfeiture.

(b) A claimant of the property bears the burden to rebut this presumption.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 15. Minnesota Statutes 2004, section 609.5317, subdivision 1, is amended to read:

Subdivision 1. **RENTAL PROPERTY.** (a) When contraband or a controlled substance manufactured, distributed, or acquired in violation of chapter 152 is seized on residential rental property incident to a lawful search or arrest, the county attorney shall give the notice required by this subdivision to (1) the landlord of the property or the fee owner identified in the records of the county assessor, and (2) the agent authorized by the owner to accept service pursuant to section 504B.181. The notice is not required during an ongoing investigation. The notice shall state what has been seized and specify the applicable duties and penalties under this subdivision. The notice shall state that the landlord who chooses to assign the right to bring an eviction

action retains all rights and duties, including removal of a tenant's personal property following issuance of the writ of restitution and delivery of the writ to the sheriff for execution. The notice shall also state that the landlord may contact the county attorney if threatened by the tenant. Notice shall be sent by certified letter, return receipt requested, within 30 days of the seizure. If receipt is not returned, notice shall be given in the manner provided by law for service of summons in a civil action.

(b) Within 15 days after notice of the first occurrence, the landlord shall bring, or assign to the county attorney of the county in which the real property is located, the right to bring an eviction action against the tenant. The assignment must be in writing on a form prepared by the county attorney. Should the landlord choose to assign the right to bring an eviction action, the assignment shall be limited to those rights and duties up to and including delivery of the writ of restitution to the sheriff for execution.

(c) Upon notice of a second occurrence on any residential rental property owned by the same landlord in the same county and involving the same tenant, and within one year after notice of the first occurrence, the property is subject to forfeiture under sections 609.531, 609.5311, 609.5313, and 609.5315, unless an eviction action has been commenced as provided in paragraph (b) or the right to bring an eviction action was assigned to the county attorney as provided in paragraph (b). If the right has been assigned and not previously exercised, or if the county attorney requests an assignment and the landlord makes an assignment, the county attorney may bring an eviction action rather than an action for forfeiture.

(d) The Department of Corrections' Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture as described in paragraphs (a) to (c).

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 16. Minnesota Statutes 2004, section 609.5318, subdivision 1, is amended to read:

Subdivision 1. **MOTOR VEHICLES SUBJECT TO FORFEITURE.** (a) A motor vehicle is subject to forfeiture under this section if the prosecutor establishes by clear and convincing evidence that the vehicle was used in a violation of section 609.66, subdivision 1e. The prosecutor need not establish that any individual was convicted of the violation, but a conviction of the owner for a violation of section 609.66, subdivision 1e, creates a presumption that the vehicle was used in the violation.

(b) The Department of Corrections' Fugitive Apprehension Unit shall not seize a motor vehicle for the purposes of forfeiture under paragraph (a).

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 17. Minnesota Statutes 2004, section 631.425, subdivision 4, is amended to read:

Subd. 4. **CONFINEMENT WHEN NOT EMPLOYED.** Unless the court otherwise directs, the sheriff or local correctional agency may electronically monitor or confine in jail each inmate ~~must be confined in jail~~ during the time the inmate is not

employed, or, if the inmate is employed, between the times of employment. The sheriff may not electronically monitor an offender who is sentenced for an offense within the definition of domestic abuse under section 518B.01, subdivision 2, unless the court directs otherwise. The sheriff may assess the cost of electronic monitoring on the offender.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 18. Minnesota Statutes 2004, section 641.21, is amended to read:

641.21 **JAIL, ADVICE AS TO CONSTRUCTION.**

When any county board determines to purchase, lease or erect a new jail, or to repair an existing one at an expense of more than ~~$5,000~~ $15,000, it shall pass a resolution to that effect, and transmit a copy thereof to the commissioner of corrections, who, within 30 days thereafter, shall transmit to that county board the advice and suggestions in reference to the purchase, lease or construction thereof as the commissioner deems proper.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 19. **MCF-FARIBAULT DEDICATION OF SPACE.**

While planning, designing, and constructing new facilities on the campus of the Minnesota Correctional Facility in Faribault, the commissioner of corrections shall designate a space on the campus sufficient in size to build one additional prison building. This space must be preserved and designated for the benefit of Rice County for the future construction of a county correctional facility.

EFFECTIVE DATE. This section is effective the day following final enactment and expires on July 1, 2015.

Sec. 20. **REPEALER.**

Minnesota Statutes 2004, section 243.162, is repealed.

EFFECTIVE DATE. This section is effective July 1, 2005.

ARTICLE 14

COURTS AND PUBLIC DEFENDER

Section 1. Minnesota Statutes 2004, section 2.722, subdivision 1, is amended to read:

Subdivision 1. **DESCRIPTION.** Effective July 1, 1959, the state is divided into ten judicial districts composed of the following named counties, respectively, in each of which districts judges shall be chosen as hereinafter specified:

1. Goodhue, Dakota, Carver, Le Sueur, McLeod, Scott, and Sibley; 33 judges; and four permanent chambers shall be maintained in Red Wing, Hastings, Shakopee, and Glencoe and one other shall be maintained at the place designated by the chief judge of the district;

2. Ramsey; 26 judges;

3. Wabasha, Winona, Houston, Rice, Olmsted, Dodge, Steele, Waseca, Freeborn, Mower, and Fillmore; 23 judges; and permanent chambers shall be maintained in Faribault, Albert Lea, Austin, Rochester, and Winona;

4. Hennepin; 60 judges;

5. Blue Earth, Watonwan, Lyon, Redwood, Brown, Nicollet, Lincoln, Cottonwood, Murray, Nobles, Pipestone, Rock, Faribault, Martin, and Jackson; 16 judges; and permanent chambers shall be maintained in Marshall, Windom, Fairmont, New Ulm, and Mankato;

6. Carlton, St. Louis, Lake, and Cook; 15 judges;

7. Benton, Douglas, Mille Lacs, Morrison, Otter Tail, Stearns, Todd, Clay, Becker, and Wadena; ~~25~~ 27 judges; and permanent chambers shall be maintained in Moorhead, Fergus Falls, Little Falls, and St. Cloud;

8. Chippewa, Kandiyohi, Lac qui Parle, Meeker, Renville, Swift, Yellow Medicine, Big Stone, Grant, Pope, Stevens, Traverse, and Wilkin; 11 judges; and permanent chambers shall be maintained in Morris, Montevideo, and Willmar;

9. Norman, Polk, Marshall, Kittson, Red Lake, Roseau, Mahnomen, Pennington, Aitkin, Itasca, Crow Wing, Hubbard, Beltrami, Lake of the Woods, Clearwater, Cass and Koochiching; 22 judges; and permanent chambers shall be maintained in Crookston, Thief River Falls, Bemidji, Brainerd, Grand Rapids, and International Falls; and

10. Anoka, Isanti, Wright, Sherburne, Kanabec, Pine, Chisago, and Washington; ~~41~~ 43 judges; and permanent chambers shall be maintained in Anoka, Stillwater, and other places designated by the chief judge of the district.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 2. Minnesota Statutes 2004, section 253B.08, subdivision 1, is amended to read:

Subdivision 1. **TIME FOR COMMITMENT HEARING.** The hearing on the commitment petition shall be held within 14 days from the date of the filing of the petition, except that the hearing on a commitment petition pursuant to section 253B.185 shall be held within 90 days from the date of the filing of the petition. For good cause shown, the court may extend the time of hearing up to an additional 30 days. The proceeding shall be dismissed if the proposed patient has not had a hearing on a commitment petition within the allowed time. The proposed patient, or the head of the treatment facility in which the person is held, may demand in writing at any time that the hearing be held immediately. Unless the hearing is held within five days of the

date of the demand, exclusive of Saturdays, Sundays and legal holidays, the petition shall be automatically discharged if the patient is being held in a treatment facility pursuant to court order. For good cause shown, the court may extend the time of hearing on the demand for an additional ten days.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 3. Minnesota Statutes 2004, 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 ~~$235~~ $240.

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 ~~$235~~ $240.

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, $12 for each name.

(4) Filing a motion or response to a motion in civil, family, excluding child support, and guardianship cases, $55.

(5) 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, $40.

(6) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, $30.

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

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

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

(10) For the filing of each partial, final, or annual account in all trusteeships, $40.

(11) For the deposit of a will, $20.

(12) For recording notary commission, $100, of which, notwithstanding subdivision 1a, paragraph (b), $80 must be forwarded to the commissioner of finance to be deposited in the state treasury and credited to the general fund.

(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) 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) 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 fathers' adoption registry under section 259.52.

The fees in clauses (3) and (5) need not be paid by a public authority or the party the public authority represents.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 4. Minnesota Statutes 2004, section 357.021, subdivision 6, is amended to read:

Subd. 6. **SURCHARGES ON CRIMINAL AND TRAFFIC OFFENDERS.** (a) Except as provided in this paragraph, the court shall impose and the court administrator shall collect a ~~$60~~ $72 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, for which there shall be a ~~$3~~ $4 surcharge. In the Second Judicial District, the court shall impose, and the court administrator shall collect, an additional $1 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, ~~other than~~ including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the $1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed. The surcharge shall not be imposed when a person is convicted of a petty misdemeanor for which no fine is imposed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the 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 commissioner of finance.

(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 commissioner of finance.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 5. Minnesota Statutes 2004, section 357.021, subdivision 7, is amended to read:

Subd. 7. **DISBURSEMENT OF SURCHARGES BY COMMISSIONER OF FINANCE.** (a) Except as provided in paragraphs (b), (c), and (d), the commissioner of finance shall disburse surcharges received under subdivision 6 and section 97A.065, subdivision 2, as follows:

(1) one percent 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 shall be credited to the peace officers training account in the special revenue fund; and

(3) 60 percent shall be credited to the general fund.

(b) The commissioner of finance shall credit $3 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, to the general fund.

(c) In addition to any amounts credited under paragraph (a), the commissioner of finance shall credit ~~$32~~ $44 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the ~~$3~~ $4 parking surcharge, to the general fund.

(d) If the Ramsey County Board of Commissioners authorizes imposition of the additional $1 surcharge provided for in subdivision 6, paragraph (a), the court administrator in the Second Judicial District shall ~~withhold $1 from each surcharge collected under subdivision 6. The court administrator must use the withheld funds solely to fund the petty misdemeanor diversion program administered by the Ramsey County Violations Bureau. The court administrator must transfer any unencumbered portion of the funds received under this subdivision to the commissioner of finance for distribution according to paragraphs (a) to (c)~~ transmit the surcharge to the commissioner of finance. The $1 special surcharge is deposited in a Ramsey County surcharge account in the special revenue fund and amounts in the account are appropriated to the trial courts for the administration of the petty misdemeanor diversion program operated by the Second Judicial District Ramsey County Violations Bureau.

EFFECTIVE DATE. The changes to paragraph (c) are effective July 1, 2005. The changes to paragraph (d) are effective either the day after the governing body of

Ramsey County authorizes imposition of the surcharge, or July 1, 2005, whichever is the later date, and applies to convictions on or after that date.

Sec. 6. Minnesota Statutes 2004, section 357.18, is amended to read:

357.18 **COUNTY RECORDER.**

Subdivision 1. **COUNTY RECORDER FEES.** The fees to be charged by the county recorder shall be ~~as follows~~ and not exceed the following:

(1) for indexing and recording any deed or other instrument ~~$1 for each page of an instrument, with a minimum fee of $15~~ a fee of $46; $10.50 shall be paid to the state treasury and credited to the general fund; $10 shall be deposited in the technology fund pursuant to subdivision 3; and $25.50 to the county general fund;

(2) for documents containing multiple assignments, partial releases or satisfactions ~~$10 for each document number or book and page cited~~ a fee of $40; if the document cites more than four recorded instruments, an additional fee of $10 for each additional instrument cited over the first four citations;

(3) for certified copies of any records or papers, ~~$1 for each page of an instrument with a minimum fee of $5~~ $10;

(4) for a noncertified copy of any instrument or writing on file or recorded in the office of the county recorder, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;

(5) for an abstract of title, the fees shall be determined by resolution of the county board duly adopted upon the recommendation of the county recorder, and the fees shall not exceed ~~$5~~ $10 for every entry, ~~$50~~ $100 for abstract certificate, $1 per page for each exhibit included within an abstract as a part of an abstract entry, and ~~$2~~ $5 per name for each required name search certification;

~~(5)~~ (6) for a copy of an official plat filed pursuant to section 505.08, the fee shall be ~~$9.50~~ $10 and an additional ~~50 cents~~ $5 shall be charged for the certification of each plat;

~~(6)~~ (7) for filing an amended floor plan in accordance with chapter 515, an amended condominium plat in accordance with chapter 515A, or a common interest community plat or amendment complying with section 515B.2-110, subsection (c), the fee shall be 50 cents per apartment or unit with a minimum fee of ~~$30~~ $50;

~~(7)~~ (8) for a copy of a floor plan filed pursuant to chapter 515, a copy of a condominium plat filed in accordance with chapter 515A, or a copy of a common interest community plat complying with section 515B.2-110, subsection (c), the fee shall be $1 for each page of the floor plan, condominium plat or common interest community plat with a minimum fee of $10;

(9) for recording any plat, a fee of $56, of which $10.50 must be paid to the state treasury and credited to the general fund, $10 must be deposited in the technology fund

pursuant to subdivision 3, and $35.50 must be deposited in the county general fund; and

(10) for a noncertified copy of any document submitted for recording, if the original document is accompanied by a copy or duplicate original, $2. Upon receipt of the copy or duplicate original and payment of the fee, a county recorder shall return it marked "copy" or "duplicate," showing the recording date and, if available, the document number assigned to the original.

Subd. 1a. **ABSTRACTING SERVICE FEES.** Fees fixed by or established pursuant to subdivision 1 shall be the maximum fee charged in all counties where the county recorder performs abstracting services and shall be charged by persons authorized to perform abstracting services in county buildings pursuant to section 386.18.

Subd. 2. **FEES FOR RECORDING INSTRUMENTS IN COUNTY RECORDER OFFICE.** Notwithstanding the provisions of any ~~general or~~ special law to the contrary, the ~~fees prescribed by this section shall govern the filing or recording of all instruments in the office of the county recorder~~ established fees pursuant to subdivision 1 shall be the fee charged in all counties for the specified service, other than Uniform Commercial Code documents, and documents filed or recorded pursuant to sections 270.69, subdivision 2, paragraph (c), 272.481 to 272.488, 277.20, and 386.77.

~~Subd. 3. **SURCHARGE.** In addition to the fees imposed in subdivision 1, a $4.50 surcharge shall be collected: on each fee charged under subdivision 1, clauses (1) and (6), and for each abstract certificate under subdivision 1, clause (4). Fifty cents of each surcharge shall be retained by the county to cover its administrative costs and $4 shall be paid to the state treasury and credited to the general fund.~~

Subd. 4. ~~**EQUIPMENT**~~ **TECHNOLOGY FUND.** ~~$1 of each~~ The $10 fee collected under subdivision 1, clause (1), shall be deposited in ~~an equipment~~ a technology fund ~~to~~ for obtaining, maintaining, and updating current technology and equipment to provide services from the record system. The fund shall be disbursed at the county recorder's discretion to provide modern information services from the records system. The fund is a supplemental fund and shall not be construed to diminish the duty of the county governing body to furnish funding for expenses and personnel necessary in the performance of the duties of the office pursuant to section 386.015, subdivision 6, paragraph (a), clause (2), and to comply with the requirements of section 357.182.

Subd. 5. **VARIANCE FROM STANDARDS.** A document ~~that does not~~ should conform to the standards in section 507.093, paragraph (a), ~~shall not be recorded except upon payment of an additional fee of $10 per document~~ but should not be rejected unless the document is not legible or cannot be archived. This subdivision applies only to documents dated after July 31, 1997, and does not apply to Minnesota uniform conveyancing blanks ~~contained in the book of forms~~ on file in the office of the commissioner of commerce provided for under section 507.09, certified copies, or any other form provided for under Minnesota Statutes.

Subd. 6. **REGISTRAR OF TITLES' FEES.** The fees to be charged by the registrar of titles are in sections 508.82 and 508A.82.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 7. **[357.182] COUNTY FEES AND RECORDING STANDARDS FOR THE RECORDING OF REAL ESTATE DOCUMENTS.**

Subdivision 1. **APPLICATION.** Unless otherwise specified in this section and notwithstanding any other law to the contrary, effective August 1, 2005, this section applies to each county in Minnesota. Documents presented for recording within 60 days after the effective date of this section and that are acknowledged, sworn to before a notary, or certified before the effective date of this section must not be rejected for failure to include the new filing fee.

Subd. 2. **FEE RESTRICTIONS.** Notwithstanding any local law or ordinance to the contrary, no county may charge or collect any fee, special or otherwise, or however described, other than a fee denominated or prescribed by state law, for any service, task, or step performed by any county officer or employee in connection with the receipt, recording, and return of any recordable instrument by the county recorder or registrar of titles, whether received by mail, in person, or by electronic delivery, including, but not limited to, opening mail; handling, transferring, or transporting the instrument; certifying no delinquent property taxes; payment of state deed tax, mortgage registry tax, or conservation fee; recording of approved plats, subdivision splits, or combinations; or any other prerequisites to recording, and returning the instrument by regular mail or in person to the person identified in the instrument for that purpose.

Subd. 3. **RECORDING REQUIREMENTS.** Each county recorder and registrar of titles shall, within 15 business days after any instrument in recordable form accompanied by payment of applicable fees by customary means is delivered to the county for recording or is otherwise received by the county recorder or registrar of titles for that purpose, record and index the instrument in the manner provided by law and return it by regular mail or in person to the person identified in the instrument for that purpose, if the instrument does not require certification of no-delinquent taxes, payment of state deed tax, mortgage registry tax, or conservation fee. Each county must establish a policy for the timely handling of instruments that require certification of no-delinquent taxes, payment of state deed tax, mortgage registry tax, or conservation fee and that policy may allow up to an additional five business days at the request of the office or offices responsible to complete the payment and certification process.

For calendar years 2009 and 2010, the maximum time allowed for completion of the recording process for documents presented in recordable form will be 15 business days.

For calendar year 2011 and thereafter, the maximum time allowed for completion of the recording process for documents presented in recordable form will be ten business days.

Instruments recorded electronically must be returned no later than five business days after receipt by the county in a recordable format.

Subd. 4. **COMPLIANCE WITH RECORDING REQUIREMENTS.** For calendar year 2007, a county is in compliance with the recording requirements prescribed by subdivision 3 if at least 60 percent of all recordable instruments described in subdivision 3 and received by the county in that year are recorded and returned within the time limits prescribed in subdivision 3. In calendar year 2008, at least 70 percent of all recordable instruments must be recorded and returned in compliance with the recording requirements; for calendar year 2009, at least 80 percent of all recordable instruments must be recorded and returned in compliance with the recording requirements; and for calendar year 2010 and later years, at least 90 percent of all recordable instruments must be recorded and returned in compliance with the recording requirements.

Subd. 5. **TEMPORARY SUSPENSION OF COMPLIANCE WITH RECORDING REQUIREMENTS.** Compliance with the requirements of subdivision 4 may be suspended for up to six months when a county undertakes material enhancements to its systems for receipt, handling, paying of deed and mortgage tax and conservation fees, recording, indexing, certification, and return of instruments. The six-month suspension may be extended for up to an additional six months if a county board finds by resolution that the additional time is necessary because of the difficulties of implementing the enhancement.

Subd. 6. **CERTIFICATION OF COMPLIANCE WITH RECORDING REQUIREMENTS.** Effective beginning in 2007 for the 2008 county budget and in each year thereafter, the county recorder and registrar of titles for each county shall file with the county commissioners, as part of their budget request, a report that establishes the status for the previous year of their compliance with the requirements established in subdivision 3. If the office has not achieved compliance with the recording requirements, the report must include an explanation of the failure to comply, recommendations by the recorder or registrar to cure the noncompliance and to prevent a reoccurrence, and a proposal identifying actions, deadlines, and funding necessary to bring the county into compliance.

Subd. 7. **RESTRICTION ON USE OF RECORDING FEES.** Notwithstanding any law to the contrary, for county budgets adopted after January 1, 2006, each county shall segregate the additional unallocated fee authorized by sections 357.18, 508.82, and 508A.82 from the application of the provisions of chapters 386, 507, 508, and 508A, in an appropriate account. This money is available as authorized by the Board of County Commissioners for supporting enhancements to the recording process, including electronic recording, to fund compliance efforts specified in subdivision 5 and for use in undertaking data integration and aggregation projects. Money remains in the account until expended for any of the authorized purposes set forth in this subdivision. This money must not be used to supplant the normal operating expenses for the office of county recorder or registrar of titles.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 8. Minnesota Statutes 2004, section 505.08, subdivision 2, is amended to read:

Subd. 2. **PUBLIC CERTIFIED COPIES.** The copies of the official plat or of the exact reproducible copy shall be compared and certified to by the county recorder in the manner in which certified copies of records are issued in the recorder's office, and the copy thereof shall be bound in a proper volume for the use of the general public and anyone shall have access to and may inspect such certified copy at their pleasure. When the plat includes both registered and nonregistered land two copies thereof shall be so certified and bound, one for such general public use in each of the offices of the county recorder and registrar of titles; provided, however, that only one such copy so certified and bound shall be provided for general public use in those counties wherein the office quarters of the county recorder and registrar of titles are one and the same. When the copy, or any part thereof, shall become unintelligible from use or wear or otherwise, at the request of the county recorder it shall be the duty of the county surveyor to make a reproduction copy of the official plat, or the exact transparent reproducible copy under the direct supervision of the county recorder, who shall compare the copy, certify that it is a correct copy thereof, by proper certificate as above set forth, and it shall be bound in the volume, and under the page, and in the place of the discarded copy. In counties not having a county surveyor the county recorder shall employ a licensed land surveyor to make such reproduction copy, at the expense of the county. The county recorder shall receive as a fee for filing these plats, as aforesaid described, ~~50 cents per lot, but shall receive not less than $30 for any plat filed in the recorder's office~~ pursuant to section 357.18, subdivision 1. Reproductions from the exact transparent reproducible copy shall be available to any person upon request and the cost of such reproductions shall be paid by the person making such request. If a copy of the official plat is requested the county recorder shall prepare it and duly certify that it is a copy of the official plat and the cost of such copy shall be paid by the person making such request.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 9. Minnesota Statutes 2004, section 508.82, is amended to read:

508.82 ~~REGISTRAR'S~~ **REGISTRAR OF TITLES' FEES.**

Subdivision 1. **STANDARD DOCUMENTS.** The fees to be ~~paid to~~ charged by the registrar of titles shall be ~~as follows~~ and not exceed the following:

(1) of the fees provided herein, ~~five percent~~ $1.50 of the fees collected under clauses (3), ~~(5),~~ ~~(11),~~ ~~(13),~~ (4), (10), (12), (14), (16), and (17), for filing or memorializing shall be paid to the ~~commissioner of finance~~ state treasury pursuant to section 508.75 and credited to the general fund; ~~plus a $4.50 surcharge shall be charged and collected in addition to the total fees charged for each transaction under clauses (2), (3), (5), (11), (13), (14), (16), and (17), with 50 cents of this surcharge to be retained by the county to cover its administrative costs, and $4 to be paid to the state treasury and credited to the general fund;~~

(2) for registering a first certificate of title, including issuing a copy of it, ~~$30~~ $46. Pursuant to clause (1), distribution of this fee is as follows:

(i) $10.50 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and

(iii) $25.50 shall be deposited in the county general fund;

(3) for registering each instrument transferring the fee simple title for which a new certificate of title is issued and for the registration of the new certificate of title, including a copy of it, ~~$30~~ $46. Pursuant to clause (1), distribution of this fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and

(iii) $24 shall be deposited in the county general fund;

(4) ~~for issuance of a CECT pursuant to section 508.351, $15;~~

~~(5)~~ for the entry of each memorial on a certificate, ~~$15~~ $46. For multiple certificate entries, $20 thereafter. Pursuant to clause (1), distribution of this fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3;

(iii) $24 shall be deposited in the county general fund; and

(iv) $20 shall be deposited in the county general fund for each multiple entry used;

~~(6)~~ (5) for issuing each residue certificate, ~~$20~~ $40;

~~(7)~~ (6) for exchange certificates, ~~$10~~ $20 for each certificate canceled and ~~$10~~ $20 for each new certificate issued;

~~(8)~~ (7) for each certificate showing condition of the register, ~~$10~~ $50;

~~(9)~~ (8) for any certified copy of any instrument or writing on file or recorded in the ~~registrar's~~ registrar of titles' office, ~~the same fees allowed by law to county recorders for like services~~ $10;

~~(10)~~ (9) for a noncertified copy of any certificate of title, other than the copies issued under clauses (2) and (3), any instrument or writing on file or recorded in the office of the registrar of titles, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;

(10) for a noncertified copy of any document submitted for recording, if the original document is accompanied by a copy or duplicate original, $2. Upon receipt of

the copy or duplicate original and payment of the fee, a registrar of titles shall return it marked "copy" or "duplicate," showing the recording date and, if available, the document number assigned to the original;

(11) for filing two copies of any plat in the office of the registrar, ~~$30~~ $56. Pursuant to clause (1), distribution of this fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and

(iii) $34 shall be deposited in the county general fund;

(12) for any other service under this chapter, such fee as the court shall determine;

(13) for filing an amendment to a declaration in accordance with chapter 515, ~~$10~~ $46 for each certificate upon which the document is registered and ~~$30~~ for multiple certificate entries, $20 thereafter; $56 for an amended floor plan filed in accordance with chapter 515~~;~~. Pursuant to clause (1), distribution of this fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3;

(iii) $24 shall be deposited in the county general fund for amendment to a declaration;

(iv) $20 shall be deposited in the county general fund for each multiple entry used; and

(v) $34 shall be deposited in the county general fund for an amended floor plan;

(14) for issuance of a CECT pursuant to section 508.351, $40;

~~(14)~~ (15) for filing an amendment to a common interest community declaration and plat or amendment complying with section 515B.2-110, subsection (c), ~~$10~~ $46 for each certificate upon which the document is registered and ~~$30~~ for multiple certificate entries, $20 thereafter and $56 for the filing of the condominium or common interest community plat or amendment. Pursuant to clause (1), distribution of this fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3;

(iii) $24 shall be deposited in the county general fund for the filing of an amendment complying with section 515B.2-110, subsection (c);

(iv) $20 shall be deposited in the county general fund for each multiple entry used; and

(v) $34 shall be deposited in the county general fund for the filing of a condominium or CIC plat or amendment;

~~(15)~~ (16) for a copy of a condominium floor plan filed in accordance with chapter 515, or a copy of a common interest community plat complying with section 515B.2-110, subsection (c), the fee shall be $1 for each page of the floor plan or common interest community plat with a minimum fee of $10;

~~(16)~~ (17) for the filing of a certified copy of a plat of the survey pursuant to section 508.23 or 508.671, ~~$10~~ $46. Pursuant to clause (1), distribution of this fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and

(iii) $24 shall be deposited in the county general fund;

~~(17)~~ (18) for filing a registered land survey in triplicate in accordance with section 508.47, subdivision 4, ~~$30~~ $56. Pursuant to clause (1), distribution of this fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and

(iii) $34 shall be deposited in the county general fund; and

~~(18)~~ (19) for furnishing a certified copy of a registered land survey in accordance with section 508.47, subdivision 4, ~~$10~~ $15.

Subd. 1a. **FEES FOR RECORDING INSTRUMENTS WITH REGISTRAR OF TITLES' OFFICE.** Notwithstanding the provisions of any general or special law to the contrary, and pursuant to section 357.182, the established fees pursuant to subdivision 1 shall be the fee charged in all counties for the specified service, other than Uniform Commercial Code documents and documents filed or recorded pursuant to sections 270.69, subdivision 2, paragraph (c); 272.481 to 272.488; 277.20; and 386.77.

Subd. 2. **VARIANCE FROM STANDARDS.** A document ~~that does not~~ should conform to the standards in section 507.093, paragraph (a), ~~shall not be filed except upon payment of an additional fee of $10 per document~~ but should not be rejected unless the document is not legible or cannot be archived. This subdivision applies only to documents dated after July 31, 1997, and does not apply to Minnesota uniform conveyancing blanks ~~contained in the book of forms~~ on file in the office of the commissioner of commerce provided for under section 507.09, certified copies, or any other form provided for under Minnesota Statutes.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 10. Minnesota Statutes 2004, section 508A.82, is amended to read:

508A.82 ~~REGISTRAR'S~~ REGISTRAR OF TITLES' FEES.

Subdivision 1. **STANDARD DOCUMENTS.** The fees to be ~~paid to~~ charged by the registrar of titles shall be ~~as follows~~ and not exceed the following:

(1) of the fees provided herein, ~~five percent~~ $1.50 of the fees collected under clauses (3), (5), (11), (13), ~~(14)~~ (15), and ~~(17),~~ (18) for filing or memorializing shall be paid to the ~~commissioner of finance~~ state treasury pursuant to section 508.75 and credited to the general fund; ~~plus a $4.50 surcharge shall be charged and collected in addition to the total fees charged for each transaction under clauses (2), (3), (5), (11), (13), (14), and (17), with 50 cents of this surcharge to be retained by the county to cover its administrative costs, and $4 to be paid to the state treasury and credited to the general fund;~~

(2) for registering a first CPT, including issuing a copy of it, ~~$30;~~ $46. Pursuant to clause (1), distribution of the fee is as follows:

(i) $10.50 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and

(iii) $25.50 shall be deposited in the county general fund;

(3) for registering each instrument transferring the fee simple title for which a new CPT is issued and for the registration of the new CPT, including a copy of it, ~~$30;~~ $46. Pursuant to clause (1), distribution of the fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and

(iii) $24 shall be deposited in the county general fund;

(4) for issuance of a CECT pursuant to section 508A.351, $15;

(5) for the entry of each memorial on a CPT, ~~$15;~~ $46; for multiple certificate entries, $20 thereafter. Pursuant to clause (1), distribution of the fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3;

(iii) $24 shall be deposited in the county general fund; and

(iv) $20 shall be deposited in the county general fund for each multiple entry used;

(6) for issuing each residue CPT, ~~$20~~ $40;

(7) for exchange CPTs or combined certificates of title, ~~$10~~ $20 for each CPT and certificate of title canceled and ~~$10~~ $20 for each new CPT or combined certificate of title issued;

(8) for each CPT showing condition of the register, ~~$10~~ $50;

(9) for any certified copy of any instrument or writing on file or recorded in the ~~registrar's~~ registrar of titles' office, ~~the same fees allowed by law to county recorders for like services~~ $10;

(10) for a noncertified copy of any CPT, other than the copies issued under clauses (2) and (3), any instrument or writing on file or recorded in the office of the registrar of titles, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;

(11) for a noncertified copy of any document submitted for recording, if the original document is accompanied by a copy or duplicate original, $2. Upon receipt of the copy or duplicate original and payment of the fee, a registrar of titles shall return it marked "copy" or "duplicate," showing the recording date and, if available, the document number assigned to the original;

(12) for filing two copies of any plat in the office of the registrar, ~~$30;~~ $56. Pursuant to clause (1), distribution of the fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and

(iii) $34 shall be deposited in the county general fund;

~~(12)~~ (13) for any other service under sections 508A.01 to 508A.85, the fee the court shall determine;

~~(13)~~ (14) for filing an amendment to a declaration in accordance with chapter 515, ~~$10~~ $46 for each certificate upon which the document is registered and ~~$30~~ for multiple certificate entries, $20 thereafter; $56 for an amended floor plan filed in accordance with chapter 515~~;~~. Pursuant to clause (1), distribution of the fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3;

(iii) $24 shall be deposited in the county general fund for amendment to a declaration;

(iv) $20 shall be deposited in the county general fund for each multiple entry used; and

(v) $34 shall be deposited in the county general fund for an amended floor plan;

~~(14)~~ (15) for issuance of a CECT pursuant to section 508.351, $40;

(16) for filing an amendment to a common interest community declaration and plat or amendment complying with section 515B.2-110, subsection (c), and issuing a

CECT if required, ~~$10~~ $46 for each certificate upon which the document is registered and ~~$30~~ for multiple certificate entries, $20 thereafter; $56 for the filing of the condominium or common interest community plat or amendment~~;~~. Pursuant to clause (1), distribution of the fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3;

(iii) $24 shall be deposited in the county general fund for the filing of an amendment complying with section 515B.2-110, subsection (c);

(iv) $20 shall be deposited in the county general fund for each multiple entry used; and

(v) $34 shall be deposited in the county general fund for the filing of a condominium or CIC plat or amendment;

~~(15)~~ (17) for a copy of a condominium floor plan filed in accordance with chapter 515, or a copy of a common interest community plat complying with section 515B.2-110, subsection (c), the fee shall be $1 for each page of the floor plan, or common interest community plat with a minimum fee of $10;

~~(16)~~ (18) in counties in which the compensation of the examiner of titles is paid in the same manner as the compensation of other county employees, for each parcel of land contained in the application for a CPT, as the number of parcels is determined by the examiner, a fee which is reasonable and which reflects the actual cost to the county, established by the board of county commissioners of the county in which the land is located;

~~(17)~~ (19) for filing a registered land survey in triplicate in accordance with section 508A.47, subdivision 4, ~~$30; and~~ $56. Pursuant to clause (1), distribution of the fee is as follows:

(i) $12 shall be paid to the state treasury and credited to the general fund;

(ii) $10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and

(iii) $34 shall be deposited in the county general fund; and

~~(18)~~ (20) for furnishing a certified copy of a registered land survey in accordance with section 508A.47, subdivision 4, ~~$10~~ $15.

Subd. 1a. **FEES TO RECORD INSTRUMENTS WITH REGISTRAR OF TITLES.** Notwithstanding any special law to the contrary, and pursuant to section 357.182, the established fees pursuant to subdivision 1 shall be the fee charged in all counties for the specified service, other than Uniform Commercial Code documents, and documents filed or recorded pursuant to sections 270.69, subdivision 2, paragraph (c); 272.481 to 272.488; 277.20; and 386.77.

Subd. 2. **VARIANCE FROM STANDARDS.** A document ~~that does not~~ should conform to the standards in section 507.093, paragraph (a), ~~shall not be filed except upon payment of an additional fee of $10 per document~~ but should not be rejected unless the document is not legible or cannot be archived. This subdivision applies only to documents dated after July 31, 1997, and does not apply to Minnesota uniform conveyancing blanks ~~contained in the book of forms~~ on file in the office of the commissioner of commerce provided for under section 507.09, certified copies, or any other form provided for under Minnesota Statutes.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 11. Minnesota Statutes 2004, section 515B.1-116, is amended to read:

515B.1-116 **RECORDING.**

(a) A declaration, bylaws, any amendment to a declaration or bylaws, and any other instrument affecting a common interest community shall be entitled to be recorded. In those counties which have a tract index, the county recorder shall enter the declaration in the tract index for each unit affected. The registrar of titles shall file the declaration in accordance with section 508.351 or 508A.351.

(b) The recording officer shall upon request promptly assign a number (CIC number) to a common interest community to be formed or to a common interest community resulting from the merger of two or more common interest communities.

(c) Documents recorded pursuant to this chapter shall in the case of registered land be filed, and references to the recording of documents shall mean filed in the case of registered land.

(d) Subject to any specific requirements of this chapter, if a recorded document relating to a common interest community purports to require a certain vote or signatures approving any restatement or amendment of the document by a certain number or percentage of unit owners or secured parties, and if the amendment or restatement is to be recorded pursuant to this chapter, an affidavit of the president or secretary of the association stating that the required vote or signatures have been obtained shall be attached to the document to be recorded and shall constitute prima facie evidence of the representations contained therein.

(e) If a common interest community is located on registered land, the recording fee for any document affecting two or more units shall be ~~the then-current fee for registering the document on the certificates of title for the first ten affected certificates and one-third of the then-current fee for each additional affected certificate~~ $40 for the first ten affected certificates and $10 for each additional affected certificate. This provision shall not apply to recording fees for deeds of conveyance, with the exception of deeds given pursuant to sections 515B.2-119 and 515B.3-112.

(f) Except as permitted under this subsection, a recording officer shall not file or record a declaration creating a new common interest community, unless the county treasurer has certified that the property taxes payable in the current year for the real estate included in the proposed common interest community have been paid. This

certification is in addition to the certification for delinquent taxes required by section 272.12. In the case of preexisting common interest communities, the recording officer shall accept, file, and record the following instruments, without requiring a certification as to the current or delinquent taxes on any of the units in the common interest community: (i) a declaration subjecting the common interest community to this chapter; (ii) a declaration changing the form of a common interest community pursuant to section 515B.2-123; or (iii) an amendment to or restatement of the declaration, bylaws, or CIC plat. In order for an instrument to be accepted and recorded under the preceding sentence, the instrument must not create or change unit or common area boundaries.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 12. Minnesota Statutes 2004, section 590.01, subdivision 1, is amended to read:

Subdivision 1. **PETITION.** Except at a time when direct appellate relief is available, a person convicted of a crime, who claims that:

(1) the conviction obtained or the sentence or other disposition made violated the person's rights under the Constitution or laws of the United States or of the state; or

(2) scientific evidence not available at trial, obtained pursuant to a motion granted under subdivision 1a, establishes the petitioner's actual innocence;

may commence a proceeding to secure relief by filing a petition in the district court in the county in which the conviction was had to vacate and set aside the judgment and to discharge the petitioner or to resentence the petitioner or grant a new trial or correct the sentence or make other disposition as may be appropriate. A petition for postconviction relief after a direct appeal has been completed may not be based on grounds that could have been raised on direct appeal of the conviction or sentence. Nothing contained herein shall prevent the Supreme Court or the Court of Appeals, upon application by a party, from granting a stay of a case on appeal for the purpose of allowing an appellant to apply to the district court for an evidentiary hearing under the provisions of this chapter. The proceeding shall conform with sections 590.01 to 590.06.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 13. Minnesota Statutes 2004, section 590.01, is amended by adding a subdivision to read:

Subd. 4. **TIME LIMIT.** (a) No petition for postconviction relief may be filed more than two years after the later of:

(1) the entry of judgment of conviction or sentence if no direct appeal is filed; or

(2) an appellate court's disposition of petitioner's direct appeal.

(b) Notwithstanding paragraph (a), a court may hear a petition for postconviction relief if:

(1) the petitioner establishes that a physical disability or mental disease precluded a timely assertion of the claim;

(2) the petitioner alleges the existence of newly discovered evidence, including scientific evidence, that could not have been ascertained by the exercise of due diligence by the petitioner or petitioner's attorney within the two-year time period for filing a postconviction petition, and the evidence is not cumulative to evidence presented at trial, is not for impeachment purposes, and establishes by a clear and convincing standard that the petitioner is innocent of the offense or offenses for which the petitioner was convicted;

(3) the petitioner asserts a new interpretation of federal or state constitutional or statutory law by either the United States Supreme Court or a Minnesota appellate court and the petitioner establishes that this interpretation is retroactively applicable to the petitioner's case;

(4) the petition is brought pursuant to subdivision 3; or

(5) the petitioner establishes to the satisfaction of the court that the petition is not frivolous and is in the interests of justice.

(c) Any petition invoking an exception provided in paragraph (b) must be filed within two years of the date the claim arises.

EFFECTIVE DATE. This section is effective August 1, 2005. Any person whose conviction became final before August 1, 2005, shall have two years after the effective date of this act to file a petition for postconviction relief.

Sec. 14. Minnesota Statutes 2004, section 609.115, is amended by adding a subdivision to read:

Subd. 2a. **SENTENCING WORKSHEET; SENTENCING GUIDELINES COMMISSION.** If the defendant has been convicted of a felony, including a felony for which a mandatory life sentence is required by law, the court shall cause a sentencing worksheet as provided in subdivision 1 to be completed and forwarded to the Sentencing Guidelines Commission.

For the purpose of this section, "mandatory life sentence" means a sentence under section 609.106, subdivision 2; 609.109, subdivision 3; 609.185; 609.3455; or 609.385, subdivision 2, and governed by section 244.05.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 15. Minnesota Statutes 2004, section 611.272, is amended to read:

611.272 **ACCESS TO GOVERNMENT DATA.**

The district public defender, the state public defender, or an attorney working for a public defense corporation under section 611.216 has access to the criminal justice data communications network described in section 299C.46, as provided in this section. Access to data under this section is limited to data ~~regarding the public defender's own client~~ as necessary to prepare criminal cases in which the public

defender has been appointed~~, including~~ as follows:

(1) access to data about witnesses in a criminal case shall be limited to records of criminal convictions; and

(2) access to data regarding the public defender's own client which includes, but is not limited to, criminal history data under section 13.87; juvenile offender data under section 299C.095; warrant information data under section 299C.115; incarceration data under section 299C.14; conditional release data under section 299C.147; and diversion program data under section 299C.46, subdivision 5.

The public defender has access to data under this section, whether accessed via CriMNet or other methods. The public defender does not have access to law enforcement active investigative data under section 13.82, subdivision 7; data protected under section 13.82, subdivision 17; ~~or~~ confidential arrest warrant indices data under section 13.82, subdivision 19; or data systems maintained by a prosecuting attorney. The public defender has access to the data at no charge, except for the monthly network access charge under section 299C.46, subdivision 3, paragraph (b), and a reasonable installation charge for a terminal. Notwithstanding section 13.87, subdivision 3; 299C.46, subdivision 3, paragraph (b); 299C.48, or any other law to the contrary, there shall be no charge to public defenders for Internet access to the criminal justice data communications network.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 16. **[611.273] SURPLUS PROPERTY.**

Notwithstanding the provisions of Minnesota Statutes, sections 15.054 and 16C.23, the Board of Public Defense, in its sole discretion, may provide surplus computers to its part-time employees for their use.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 17. Minnesota Statutes 2004, section 626.04, is amended to read:

626.04 **PROPERTY; SEIZURE, KEEPING, AND DISPOSAL.**

(a) When any officer seizes, with or without warrant, any property or thing, it shall be safely kept by direction of the court as long as necessary for the purpose of being produced as evidence on any trial. If the owner of the property makes a written request to the seizing officer's agency for return of the property, and the property has not been returned within 48 hours of the request, excluding Saturday, Sunday, or legal holidays, the person whose property has been seized may file a petition for the return of the property in the district court in the district in which the property was seized. The court administrator shall provide a form for use as a petition under this section. A filing fee, equal to the civil motion filing fee, shall be required for filing the petition. The district court shall send a copy of the petition to the agency acting as custodian of the property with at least ten days notice of a hearing date. A hearing on the petition shall be held within 30 days of filing unless good cause is shown for an extension of time. The determination of the petition must be without jury trial and by a simple and informal procedure. At the hearing, the court may receive relevant evidence on any issue of fact

necessary to the decision on the petition without regard to whether the evidence would be admissible under the Minnesota Rules of Evidence. The court shall allow if requested, or on its own motion may require, the custodian or the custodian's designee to summarize the status and progress of an ongoing investigation that led to the seizure. Any such summary shall be done ex parte and only the custodian, the custodian's designee, and their attorneys may be present with the court and court staff. The court shall seal the ex parte record. After a hearing, the court shall not order the return if it finds that:

(1) the property is being held in good faith as potential evidence in any matter, charged or uncharged;

(2) the property may be subject to forfeiture proceedings;

(3) the property is contraband or may contain contraband; or

(4) the property is subject to other lawful retention.

(b) The court shall make findings on each of these issues as part of its order. If the property is ordered returned, the petitioner shall not be liable for any storage costs incurred from the date the petition was filed. If the petition is denied, the court may award reasonable costs and attorney fees. After the trial for which the property was being held as potential evidence, and the expiration date for all associated appeals, the property or thing shall, unless otherwise subject to lawful detention, be returned to its owner or any other person entitled to possess it. Any property or thing seized may be destroyed or otherwise disposed of under the direction of the court. Any money found in gambling devices when seized shall be paid into the county treasury. If the gambling devices are seized by a police officer of a municipality, the money shall be paid into the treasury of the municipality.

EFFECTIVE DATE. This section is effective July 1, 2005, and applies to property seized on or after that date.

Sec. 18. **COLLATERAL SANCTIONS CROSS-REFERENCES; CREATION OF A NEW CHAPTER.**

Subdivision 1. **DEFINITIONS.** For purposes of this section:

(1) "automatically" means either by operation of law or by the mandated action of a designated official or agency; and

(2) "collateral sanction" means a legal penalty, disability, or disadvantage, however denominated, that is imposed on a person automatically when that person is convicted of or found to have committed a crime, even if the sanction is not included in the sentence. Collateral sanction does not include:

(i) a direct consequence of the crime such as a criminal fine, restitution, or incarceration; or

(ii) a requirement imposed by the sentencing court or other designated official or agency that the convicted person provide a biological specimen for DNA analysis, provide fingerprints, or submit to any form of assessment or testing.

Subd. 2. **REVISOR INSTRUCTION.** The revisor of statutes shall create a new chapter in Minnesota Statutes that contains cross-references to Minnesota laws imposing collateral sanctions. The revisor shall create a structure within this new chapter that categorizes these laws in a useful way to users and provides them with quick access to the cross-referenced laws. The revisor may consider, but is not limited to, using the following categories in the new chapter:

(1) collateral sanctions relating to employment and occupational licensing;

(2) collateral sanctions relating to driving and motor vehicles;

(3) collateral sanctions relating to public safety;

(4) collateral sanctions relating to eligibility for services and benefits;

(5) collateral sanctions relating to property rights;

(6) collateral sanctions relating to civil rights and remedies; and

(7) collateral sanctions relating to recreational activities.

If possible, the revisor shall locate the new chapter in proximity to Minnesota Statutes, chapter 609, the Minnesota Criminal Code.

Subd. 3. **CAUTIONARY LANGUAGE.** The revisor shall include appropriate cautionary language at the beginning of the new chapter that notifies users of the following types of issues:

(1) that the list of collateral sanctions laws contained in the chapter is intended to be comprehensive but is not necessarily complete;

(2) that the inclusion or exclusion of a collateral sanction in the chapter is not intended to have any substantive legal effect;

(3) that the cross-references used in the chapter are intended solely to indicate the contents of the cross-referenced section or subdivision and are not part of the cross-referenced statute;

(4) that the cross-references are not substantive and may not be used to construe or limit the meaning of any statutory language; and

(5) that users must consult the language of each cross-referenced law to fully understand the scope and effect of the collateral sanction it imposes.

Subd. 4. **CONSULTATION WITH LEGISLATORS AND LEGISLATIVE STAFF.** The revisor shall consult with legislative staff and the chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice matters to identify laws that impose collateral sanctions and develop the appropriate categories and cross-references to use in the new chapter.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 19. **REPORT OF COLLATERAL SANCTIONS LAWS.**

Each state or local governmental agency having responsibility to impose a collateral sanction shall prepare a list that identifies all of the collateral sanctions within the authority's statutory jurisdiction. The agency shall submit the list to the Office of the Revisor of Statutes no later than September 1, 2005. State and local agencies covered by this section include, but are not limited to, state agencies, the judiciary, the state Public Defender's Office, the Attorney General's Office, and county attorneys.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 20. **RAMSEY COUNTY COURT COMMISSIONER.**

The chief justice of the Supreme Court may assign a retired court commissioner to act in Ramsey County as a commissioner of the district court. The commissioner may perform duties assigned by the chief judge of the judicial district with the powers provided by Minnesota Statutes, section 489.02. This section expires December 31, 2025.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 21. **REPEALER.**

Minnesota Statutes 2004, sections 386.30 and 624.04, are repealed.

EFFECTIVE DATE. This section is effective July 1, 2005.

ARTICLE 15

CHILD PROTECTION

Section 1. Minnesota Statutes 2004, section 259.24, subdivision 1, is amended to read:

Subdivision 1. **EXCEPTIONS.** No child shall be adopted without the consent of the child's parents and the child's guardian, if there be one, except in the following instances:

(a) Consent shall not be required of a parent not entitled to notice of the proceedings.

(b) Consent shall not be required of a parent who has abandoned the child, or of a parent who has lost custody of the child through a divorce decree or a decree of dissolution, and upon whom notice has been served as required by section 259.49.

(c) Consent shall not be required of a parent whose parental rights to the child have been terminated by a juvenile court or who has lost custody of a child through a final commitment of the juvenile court or through a decree in a prior adoption proceeding.

(d) If there be no parent or guardian qualified to consent to the adoption, the consent ~~may~~ shall be given by the commissioner. After the court accepts a parent's consent to the adoption under section 260C.201, subdivision 11, consent by the commissioner or commissioner's delegate is also necessary. Agreement to the identified prospective adoptive parent by the responsible social services agency under section 260C.201, subdivision 11, does not constitute the required consent.

(e) The commissioner or agency having authority to place a child for adoption pursuant to section 259.25, subdivision 1, shall have the exclusive right to consent to the adoption of such child. The commissioner or agency shall make every effort to place siblings together for adoption. Notwithstanding any rule to the contrary, the commissioner may delegate the right to consent to the adoption or separation of siblings, if it is in the child's best interest, to a local social services agency.

Sec. 2. Minnesota Statutes 2004, section 259.24, subdivision 2a, is amended to read:

Subd. 2a. **TIME OF CONSENT; NOTICE OF INTENT TO CONSENT TO ADOPTION.** (a) Not sooner than 72 hours after the birth of a child and not later than 60 days after the child's placement in a prospective adoptive home, a person whose consent is required under this section shall execute a consent.

(b) Unless all birth parents from whom consent is required under this section are involved in making the adoptive placement and intend to consent to the adoption, a birth parent who intends to execute a consent to an adoption must give notice to the child's other birth parent of the intent to consent to the adoption prior to or within 72 hours following the placement of the child, if the other birth parent's consent to the adoption is required under subdivision 1. The birth parent who receives notice shall have 60 days after the placement of the child to either consent or refuse to consent to the adoption. If the birth parent who receives notice fails to take either of these actions, that parent shall be deemed to have irrevocably consented to the child's adoption. The notice provisions of chapter 260C and the rules of juvenile protection procedure shall apply to both parents when the consent to adopt is executed under section 260C.201, subdivision 11.

(c) When notice is required under this subdivision, it shall be provided to the other birth parent according to the Rules of Civil Procedure for service of a summons and complaint.

Sec. 3. Minnesota Statutes 2004, section 259.24, subdivision 5, is amended to read:

Subd. 5. **EXECUTION.** All consents to an adoption shall be in writing, executed before two competent witnesses, and acknowledged by the consenting party. In addition, all consents to an adoption, except those by the commissioner, the commissioner's agent, a licensed child-placing agency, an adult adoptee, or the child's parent in a petition for adoption by a stepparent, shall be executed before a representative of the commissioner, the commissioner's agent, or a licensed child-placing agency. All consents by a parent:

(1) shall contain notice to the parent of the substance of subdivision 6a, providing for the right to withdraw consent unless the parent will not have the right to withdraw consent because consent was executed under section 260C.201, subdivision 11, following proper notice that consent given under that provision is irrevocable upon acceptance by the court as provided in subdivision 6a; and

(2) shall contain the following written notice in all capital letters at least one-eighth inch high:

"This agency will submit your consent to adoption to the court. The consent itself does not terminate your parental rights. Parental rights to a child may be terminated only by an adoption decree or by a court order terminating parental rights. Unless the child is adopted or your parental rights are terminated, you may be asked to support the child."

Consents shall be filed in the adoption proceedings at any time before the matter is heard provided, however, that a consent executed and acknowledged outside of this state, either in accordance with the law of this state or in accordance with the law of the place where executed, is valid.

Sec. 4. Minnesota Statutes 2004, section 259.24, subdivision 6a, is amended to read:

Subd. 6a. **WITHDRAWAL OF CONSENT.** Except for consents executed under section 260C.201, subdivision 11, a parent's consent to adoption may be withdrawn for any reason within ten working days after the consent is executed and acknowledged. Written notification of withdrawal of consent must be received by the agency to which the child was surrendered no later than the tenth working day after the consent is executed and acknowledged. On the day following the tenth working day after execution and acknowledgment, the consent shall become irrevocable, except upon order of a court of competent jurisdiction after written findings that consent was obtained by fraud. A consent to adopt executed under section 260C.201, subdivision 11, is irrevocable upon proper notice to both parents of the effect of a consent to adopt and acceptance by the court, except upon order of the same court after written findings that the consent was obtained by fraud. In proceedings to determine the existence of fraud, the adoptive parents and the child shall be made parties. The proceedings shall be conducted to preserve the confidentiality of the adoption process. There shall be no presumption in the proceedings favoring the birth parents over the adoptive parents.

Sec. 5. Minnesota Statutes 2004, section 260C.201, subdivision 11, is amended to read:

Subd. 11. **REVIEW OF COURT-ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION.** (a) This subdivision and subdivision 11a do not apply in cases where the child is in placement due solely to the child's developmental disability or emotional disturbance, where legal custody has not been transferred to the responsible social services agency, and where the court finds compelling reasons under section 260C.007, subdivision 8, to continue the child in foster care past the time periods specified in this subdivision. Foster care placements

of children due solely to their disability are governed by section 260C.141, subdivision 2b. In all other cases where the child is in foster care or in the care of a noncustodial parent under subdivision 1, the court shall conduct a hearing to determine the permanent status of a child not later than 12 months after the child is placed in foster care or in the care of a noncustodial parent.

For purposes of this subdivision, the date of the child's placement in foster care is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed in foster care by the child's parent or guardian. For purposes of this subdivision, time spent by a child under the protective supervision of the responsible social services agency in the home of a noncustodial parent pursuant to an order under subdivision 1 counts towards the requirement of a permanency hearing under this subdivision or subdivision 11a.

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

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

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

(b) Unless the responsible social services agency recommends return of the child to the custodial parent or parents, not later than 30 days prior to this hearing, the responsible social services agency shall file pleadings in juvenile court to establish the basis for the juvenile court to order permanent placement of the child according to paragraph (d). Notice of the hearing and copies of the pleadings must be provided pursuant to section 260C.152. If a termination of parental rights petition is filed before the date required for the permanency planning determination and there is a trial under section 260C.163 scheduled on that petition within 90 days of the filing of the petition, no hearing need be conducted under this subdivision.

(c) At the conclusion of the hearing, the court shall order the child returned to the care of the parent or guardian from whom the child was removed or order a permanent placement in the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated. Transfer of permanent legal and physical custody, termination of parental rights, or guardianship and legal custody to the commissioner through a consent to adopt are preferred permanency options for a child who cannot return home.

(d) If the child is not returned to the home, the court must order one of the following dispositions:

(1) permanent legal and physical custody to a relative in the best interests of the child according to the following conditions:

(i) an order for transfer of permanent legal and physical custody to a relative shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian;

(ii) in transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards applicable under this chapter and chapter 260, and the procedures set out in the juvenile court rules;

(iii) an order establishing permanent legal and physical custody under this subdivision must be filed with the family court;

(iv) a transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;

(v) the social services agency may bring a petition or motion naming a fit and willing relative as a proposed permanent legal and physical custodian. The commissioner of human services shall annually prepare for counties information that must be given to proposed custodians about their legal rights and obligations as custodians together with information on financial and medical benefits for which the child is eligible; and

(vi) the juvenile court may maintain jurisdiction over the responsible social services agency, the parents or guardian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian or for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met;

(2) termination of parental rights according to the following conditions:

(i) unless the social services agency has already filed a petition for termination of parental rights under section 260C.307, the court may order such a petition filed and all the requirements of sections 260C.301 to 260C.328 remain applicable; and

(ii) an adoption completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58;

(3) long-term foster care according to the following conditions:

(i) the court may order a child into long-term foster care only if it finds compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests; and

(ii) further, the court may only order long-term foster care for the child under this section if it finds the following:

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

(B) the child is a sibling of a child described in subitem (A) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home;

(4) foster care for a specified period of time according to the following conditions:

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

(A) the sole basis for an adjudication that the child is in need of protection or services is the child's behavior;

(B) the court finds that foster care for a specified period of time is in the best interests of the child; and

(C) the court finds compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests;

(ii) the order does not specify that the child continue in foster care for any period exceeding one year; or

(5) guardianship and legal custody to the commissioner of human services under the following procedures and conditions:

(i) there is an identified prospective adoptive home that has agreed to adopt the child and agreed to by the responsible social services agency having legal custody of the child pursuant to court order under this section and the court accepts the parent's voluntary consent to adopt under section 259.24;

(ii) if the court accepts a consent to adopt in lieu of ordering one of the other enumerated permanency dispositions, the court must review the matter at least every 90 days. The review will address the reasonable efforts of the agency to achieve a finalized adoption;

(iii) a consent to adopt under this clause vests all legal authority regarding the child, including guardianship and legal custody of the child, with the commissioner of human services as if the child were a state ward after termination of parental rights;

(iv) the court must forward a copy of the consent to adopt, together with a certified copy of the order transferring guardianship and legal custody to the commissioner, to the commissioner; ~~and~~

(v) if an adoption is not finalized by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under this clause, the commissioner of human services or the commissioner's delegate shall pursue adoptive placement in another home unless the commissioner certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent; and

(vi) notwithstanding item (v), the commissioner of human services or the commissioner's designee must pursue adoptive placement in another home as soon as the commissioner or commissioner's designee determines that finalization of the adoption with the identified prospective adoptive parent is not possible, that the identified prospective adoptive parent is not willing to adopt the child, that the identified prospective adoptive parent is not cooperative in completing the steps necessary to finalize the adoption, or upon the commissioner's determination to withhold consent to the adoption.

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

(f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews are necessary if:

(1) the placement is long-term foster care or foster care for a specified period of time;

(2) the court orders further hearings because it has retained jurisdiction of a transfer of permanent legal and physical custody matter;

(3) an adoption has not yet been finalized; or

(4) there is a disruption of the permanent or long-term placement.

(g) Court reviews of an order for long-term foster care, whether under this section or section 260C.317, subdivision 3, paragraph (d), or foster care for a specified period of time must be conducted at least yearly and must review the child's out-of-home placement plan and the reasonable efforts of the agency to:

(1) identify a specific long-term foster home for the child or a specific foster home for the time the child is specified to be out of the care of the parent, if one has not already been identified;

(2) support continued placement of the child in the identified home, if one has been identified;

(3) ensure appropriate services are provided to the child during the period of long-term foster care or foster care for a specified period of time;

(4) plan for the child's independence upon the child's leaving long-term foster care living as required under section 260C.212, subdivision 1; and

(5) where placement is for a specified period of time, a plan for the safe return of the child to the care of the parent.

(h) An order under this subdivision must include the following detailed findings:

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

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

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

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

(i) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social services agency is a party to the

proceeding and must receive notice. A parent may only seek modification of an order for long-term foster care upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child.

(j) The court shall issue an order required under this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

Sec. 6. **[260C.209] BACKGROUND CHECKS.**

Subdivision 1. **SUBJECTS.** The responsible social services agency must conduct a background check under this section of the following:

(1) a noncustodial parent or nonadjudicated parent who is being assessed for purposes of providing day-to-day care of a child temporarily or permanently under section 260C.212, subdivision 4, and any member of the parent's household who is over the age of 13 when there is a reasonable cause to believe that the parent or household member over age 13 has a criminal history or a history of maltreatment of a child or vulnerable adult which would endanger the child's health, safety, or welfare;

(2) an individual whose suitability for relative placement under section 260C.212, subdivision 5, is being determined, and any member of the relative's household who is over the age of 13 when: (i) the relative must be licensed for foster care; or (ii) the agency must conduct a background study under section 259.53, subdivision 2; or (iii) the agency has reasonable cause to believe the relative or household member over the age of 13 has a criminal history which would not make transfer of permanent legal and physical custody to the relative under section 260C.201, subdivision 11, in the child's best interest; and

(3) a parent, following an out-of-home placement, when the responsible social service agency has reasonable cause to believe that the parent has been convicted of a crime directly related to the parent's capacity to maintain the child's health, safety, or welfare; or the parent is the subject of an open investigation of, or has been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years.

"Reasonable cause" means that the agency has received information or a report from the subject or a third person that creates an articulable suspicion that the individual has a history that may pose a risk to the health, safety, or welfare of the child. The information or report must be specific to the potential subject of the background check and shall not be based on the race, religion, ethnic background, age, class, or lifestyle of the potential subject.

Subd. 2. **GENERAL PROCEDURES.** (a) When conducting a background check under subdivision 1, the agency may require the individual being assessed to provide sufficient information to ensure an accurate assessment under this section, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;

(2) home address, zip code, city, county, and state of residence for the past ten years;

(3) sex;

(4) date of birth; and

(5) driver's license number or state identification number.

(b) When notified by the responsible social services agency that it is conducting an assessment under this section, the Bureau of Criminal Apprehension, commissioners of health and human services, law enforcement, and county agencies must provide the responsible social services agency or county attorney with the following information on the individual being assessed: criminal history data, reports about the maltreatment of adults substantiated under section 626.557, and reports of maltreatment of minors substantiated under section 626.556.

Subd. 3. **MULTISTATE INFORMATION.** (a) For any assessment completed under this section, if the responsible social services agency has reasonable cause to believe that the individual is a multistate offender, the individual must provide the responsible social services agency or the county attorney with a set of classifiable fingerprints obtained from an authorized law enforcement agency. The responsible social services agency or county attorney may obtain criminal history data from the National Criminal Records Repository by submitting the fingerprints to the Bureau of Criminal Apprehension.

(b) For purposes of this subdivision, the responsible social services agency has reasonable cause when, but not limited to:

(1) information from the Bureau of Criminal Apprehension indicates that the individual is a multistate offender;

(2) information from the Bureau of Criminal Apprehension indicates that multistate offender status is undetermined;

(3) the social services agency has received a report from the individual or a third party indicating that the individual has a criminal history in a jurisdiction other than Minnesota; or

(4) the individual is or has been a resident of a state other than Minnesota at any time during the prior ten years.

Subd. 4. **NOTICE UPON RECEIPT.** The responsible social services agency must provide the subject of the background study with the results of the study under this section within 15 business days of receipt or at least 15 days prior to the hearing at which the results will be presented, whichever comes first. The subject may provide written information to the agency that the results are incorrect and may provide additional or clarifying information to the agency and to the court through a party to

the proceeding. This provision does not apply to any background study conducted under chapters 245A and 245C.

Sec. 7. Minnesota Statutes 2004, section 260C.212, subdivision 4, is amended to read:

Subd. 4. **RESPONSIBLE SOCIAL SERVICE AGENCY'S DUTIES FOR CHILDREN IN PLACEMENT.** (a) When a child is in placement, the responsible social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

(1) ~~If~~ The responsible social services agency shall assess whether a noncustodial or nonadjudicated parent is willing and capable of providing for the day-to-day care of the child temporarily or permanently. An assessment under this clause may include, but is not limited to, obtaining information under section 260C.209. If after assessment, the responsible social services agency determines that a noncustodial or nonadjudicated parent is willing and capable of providing day-to-day care of the child, the responsible social services agency may seek authority from the custodial parent or the court to have that parent assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.

(2) If, after assessment, the responsible social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall:

(i) prepare an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care; and

(ii) provide a parent who is the subject of a background study under section 260C.209 15 days' notice that it intends to use the study to recommend against putting the child with that parent, as well as the notice provided in section 260C.209, subdivision 4, and the court shall afford the parent an opportunity to be heard concerning the study.

The results of a background study of a noncustodial parent shall not be used by the agency to determine that the parent is incapable of providing day-to-day care of the child unless the agency reasonably believes that placement of the child into the home of that parent would endanger the child's health, safety, or welfare.

(3) If, after the provision of services following an out-of-home placement plan under this section, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260C.201, subdivision 11. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under chapter 257.

(4) The responsible social services agency may be relieved of the requirement to locate and offer services to both parents by the juvenile court upon a finding of good cause after the filing of a petition under section 260C.141.

(b) The responsible social services agency shall give notice to the parent or parents or guardian of each child in a residential facility, other than a child in placement due solely to that child's developmental disability or emotional disturbance, of the following information:

(1) that residential care of the child may result in termination of parental rights or an order permanently placing the child out of the custody of the parent, but only after notice and a hearing as required under chapter 260C and the juvenile court rules;

(2) time limits on the length of placement and of reunification services, including the date on which the child is expected to be returned to and safely maintained in the home of the parent or parents or placed for adoption or otherwise permanently removed from the care of the parent by court order;

(3) the nature of the services available to the parent;

(4) the consequences to the parent and the child if the parent fails or is unable to use services to correct the circumstances that led to the child's placement;

(5) the first consideration for placement with relatives;

(6) the benefit to the child in getting the child out of residential care as soon as possible, preferably by returning the child home, but if that is not possible, through a permanent legal placement of the child away from the parent;

(7) when safe for the child, the benefits to the child and the parent of maintaining visitation with the child as soon as possible in the course of the case and, in any event, according to the visitation plan under this section; and

(8) the financial responsibilities and obligations, if any, of the parent or parents for the support of the child during the period the child is in the residential facility.

(c) The responsible social services agency shall inform a parent considering voluntary placement of a child who is not developmentally disabled or emotionally disturbed of the following information:

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

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

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

(4) if the responsible social services agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental

rights or other permanent placement of the child away from the parent, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

(5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260C.201, subdivision 11.

(d) When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has an examination within 30 days of coming into the agency's care and once a year in subsequent years.

ARTICLE 16

CRIMINAL SENTENCING POLICY

Section 1. Minnesota Statutes 2004, section 244.09, subdivision 5, is amended to read:

Subd. 5. **PROMULGATION OF SENTENCING GUIDELINES.** The commission shall promulgate Sentencing Guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:

(1) The circumstances under which imprisonment of an offender is proper; and

(2) A presumptive, fixed sentence for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. The guidelines ~~may~~ shall provide for an increase ~~or~~ of 20 percent and a decrease of ~~up~~ ~~to~~ 15 percent in the presumptive, fixed sentence.

The Sentencing Guidelines promulgated by the commission may also establish appropriate sanctions for offenders for whom imprisonment is not proper. Any guidelines promulgated by the commission establishing sanctions for offenders for whom imprisonment is not proper shall make specific reference to noninstitutional

sanctions, including but not limited to the following: payment of fines, day fines, restitution, community work orders, work release programs in local facilities, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation and the conditions thereof.

Although the Sentencing Guidelines are advisory to the district court, the court shall follow the procedures of the guidelines when it pronounces sentence in a proceeding to which the guidelines apply by operation of statute. Sentencing pursuant to the Sentencing Guidelines is not a right that accrues to a person convicted of a felony; it is a procedure based on state public policy to maintain uniformity, proportionality, rationality, and predictability in sentencing.

In establishing and modifying the Sentencing Guidelines, the primary consideration of the commission shall be public safety. The commission shall also consider current sentencing and release practices; correctional resources, including but not limited to the capacities of local and state correctional facilities; and the long-term negative impact of the crime on the community.

The provisions of sections 14.001 to 14.69 do not apply to the promulgation of the Sentencing Guidelines, and the Sentencing Guidelines, including severity levels and criminal history scores, are not subject to review by the legislative commission to review administrative rules. However, the commission shall adopt rules pursuant to sections 14.001 to 14.69 which establish procedures for the promulgation of the Sentencing Guidelines, including procedures for the promulgation of severity levels and criminal history scores, and these rules shall be subject to review by the legislative coordinating commission.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2004, section 244.09, subdivision 11, is amended to read:

Subd. 11. **MODIFICATION.** The commission shall meet as necessary for the purpose of modifying and improving the guidelines. Any modification which amends the Sentencing Guidelines grid, including severity levels and criminal history scores, or which would result in the reduction of any sentence or in the early release of any inmate, with the exception of a modification mandated or authorized by the legislature or relating to a crime created or amended by the legislature in the preceding session, shall be submitted to the legislature by January ~~1~~ 15 of any year in which the commission wishes to make the change and shall be effective on August 1 of that year, unless the legislature by law provides otherwise. All other modifications shall take effect according to the procedural rules of the commission. On or before January ~~1~~ 15 of each year, the commission shall submit a written report to the committees of the senate and the house of representatives with jurisdiction over criminal justice policy that identifies and explains all modifications made during the preceding 12 months and all proposed modifications that are being submitted to the legislature that year.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to reports submitted on or after that date.

Sec. 3. Minnesota Statutes 2004, section 244.10, is amended by adding a subdivision to read:

Subd. 4. **AGGRAVATED DEPARTURES.** In bringing a motion for an aggravated sentence, the state is not limited to factors specified in the Sentencing Guidelines provided the state provides reasonable notice to the defendant and the district court prior to sentencing of the factors on which the state intends to rely.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to sentencing hearings, resentencing hearings, and sentencing departures sought on or after that date. This section expires February 1, 2007.

Sec. 4. Minnesota Statutes 2004, section 244.10, is amended by adding a subdivision to read:

Subd. 5. **PROCEDURES IN CASES WHERE STATE INTENDS TO SEEK AN AGGRAVATED DEPARTURE.** (a) When the prosecutor provides reasonable notice under subdivision 4, the district court shall allow the state to prove beyond a reasonable doubt to a jury of 12 members the factors in support of the state's request for an aggravated departure from the Sentencing Guidelines as provided in paragraph (b) or (c).

(b) The district court shall allow a unitary trial and final argument to a jury regarding both evidence in support of the elements of the offense and evidence in support of aggravating factors when the evidence in support of the aggravating factors:

(1) would be admissible as part of the trial on the elements of the offense; or

(2) would not result in unfair prejudice to the defendant.

The existence of each aggravating factor shall be determined by use of a special verdict form.

Upon the request of the prosecutor, the court shall allow bifurcated argument and jury deliberations.

(c) The district court shall bifurcate the proceedings to allow for the production of evidence, argument, and deliberations on the existence of factors in support of an aggravated departure after the return of a guilty verdict when the evidence in support of an aggravated departure:

(1) includes evidence that is otherwise inadmissible at a trial on the elements of the offense; and

(2) would result in unfair prejudice to the defendant.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to sentencing hearings, resentencing hearings, and sentencing departures sought on or after that date. This section expires February 1, 2007.

Sec. 5. Minnesota Statutes 2004, section 244.10, is amended by adding a subdivision to read:

Subd. 6. **DEFENDANTS TO PRESENT EVIDENCE AND ARGUMENT.** In either a unitary or bifurcated trial under subdivision 5, a defendant shall be allowed to present evidence and argument to the jury or factfinder regarding whether facts exist that would justify an aggravated durational departure. A defendant is not allowed to present evidence or argument to the jury or factfinder regarding facts in support of a mitigated departure during the trial, but may present evidence and argument in support of a mitigated departure to the judge as factfinder during a sentencing hearing.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to sentencing hearings, resentencing hearings, and sentencing departures sought on or after that date. This section expires February 1, 2007.

Sec. 6. Minnesota Statutes 2004, section 244.10, is amended by adding a subdivision to read:

Subd. 7. **WAIVER OF JURY DETERMINATION.** The defendant may waive the right to a jury determination of whether facts exist that would justify an aggravated sentence. Upon receipt of a waiver of a jury trial on this issue, the district court shall determine beyond a reasonable doubt whether the factors in support of the state's motion for aggravated departure exist.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to sentencing hearings, resentencing hearings, and sentencing departures sought on or after that date. This section expires February 1, 2007.

Sec. 7. Minnesota Statutes 2004, section 244.10, is amended by adding a subdivision to read:

Subd. 8. **NOTICE OF INFORMATION REGARDING PREDATORY OFFENDERS.** (a) Subject to paragraph (b), in any case in which a person is convicted of an offense and the presumptive sentence under the Sentencing Guidelines is commitment to the custody of the commissioner of corrections, if the court grants a dispositional departure and stays imposition or execution of sentence, the probation or court services officer who is assigned to supervise the offender shall provide in writing to the following the fact that the offender is on probation and the terms and conditions of probation:

(1) a victim of and any witnesses to the offense committed by the offender, if the victim or the witness has requested notice; and

(2) the chief law enforcement officer in the area where the offender resides or intends to reside.

The law enforcement officer, in consultation with the offender's probation officer, may provide all or part of this information to any of the following agencies or groups the offender is likely to encounter: public and private educational institutions, day care establishments, and establishments or organizations that primarily serve individuals likely to be victimized by the offender.

The probation officer is not required under this subdivision to provide any notice while the offender is placed or resides in a residential facility that is licensed under

section 241.021 or 245A.02, subdivision 14, if the facility staff is trained in the supervision of sex offenders.

(b) Paragraph (a) applies only to offenders required to register under section 243.166, as a result of the conviction.

(c) The notice authorized by paragraph (a) shall be limited to data classified as public under section 13.84, subdivision 6, unless the offender provides informed consent to authorize the release of nonpublic data or unless a court order authorizes the release of nonpublic data.

(d) Nothing in this subdivision shall be interpreted to impose a duty on any person to use any information regarding an offender about whom notification is made under this subdivision.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2004, section 244.10, is amended by adding a subdivision to read:

Subd. 9. **COMPUTATION OF CRIMINAL HISTORY SCORE.** If the defendant contests the existence of or factual basis for a prior conviction in the calculation of the defendant's criminal history score, proof of it is established by competent and reliable evidence, including a certified court record of the conviction.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2004, section 609.109, subdivision 4, is amended to read:

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~~ factfinder 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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2004, section 609.109, subdivision 6, is amended to read:

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~~ factfinder 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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2004, section 609.1095, subdivision 2, is amended to read:

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~~ factfinder determines that the offender is a danger to public safety ~~and specifies on the record the basis for the finding, which may include:~~. The factfinder may base its determination that the offender is a danger to public safety on the following factors:

(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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2004, section 609.1095, subdivision 4, is amended to read:

Subd. 4. **INCREASED SENTENCE FOR OFFENDER WHO COMMITS A SIXTH FELONY.** Whenever a person is convicted of 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 sentence up to the statutory maximum sentence if the ~~judge finds and specifies on the record~~ factfinder determines 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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 13. **REVISOR INSTRUCTION.**

The revisor of statutes is instructed to include a reference next to the repealer of Minnesota Statutes, section 244.10, subdivisions 2a and 3, to inform the reader that the subdivisions have been renumbered and to include the new subdivision numbers.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 14. **CERTAIN MINNESOTA SENTENCING GUIDELINES COMMISSION RECOMMENDATIONS ADOPTED; OTHERS REJECTED.**

The following modifications proposed by the Minnesota Sentencing Guidelines Commission in its January 2005 report to the legislature are adopted and take effect on August 1, 2005:

(1) those described as A. and B. in "I. Modifications Related to Blakely Decision" on pages 11 to 17 of the report; and

(2) those described as "II. Other Adopted Modifications" on page 19 of the report.

The following modifications are rejected and do not go into effect:

(1) those described as C. in "I. Modifications Related to Blakely Decision" on pages 17 and 18 of the report; and

(2) those described as "III. Adopted Modifications Related to Sex Offenses" on pages 20 to 42 of the report.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 15. **INSTRUCTION TO SENTENCING GUIDELINES COMMISSION.**

The Sentencing Guidelines Commission shall make changes to the sentencing range within individual cells in the sentencing grid consistent with the changes made in section 1.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 16. **REPEALER.**

Minnesota Statutes 2004, section 244.10, subdivisions 2a and 3, are repealed.

EFFECTIVE DATE. This section is effective August 1, 2005.

ARTICLE 17

GENERAL CRIMINAL PROVISIONS

Section 1. Minnesota Statutes 2004, section 152.02, subdivision 4, is amended to read:

Subd. 4. **SCHEDULE III.** The following items are listed in Schedule III:

(1) Any material, compound, mixture, or preparation which contains any quantity of Amphetamine, its salts, optical isomers, and salts of its optical isomers; Phenmetrazine and its salts; Methamphetamine, its salts, isomers, and salts of isomers; Methylphenidate; and which is required by federal law to be labeled with the symbol prescribed by 21 Code of Federal Regulations Section 1302.03 and in effect on February 1, 1976 designating that the drug is listed as a Schedule III controlled substance under federal law.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(a) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(b) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository.

(c) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules: Chlorhexadol; Glutethimide; Lysergic acid; Lysergic acid amide; Methyprylon; Sulfondiethylmethane; Sulfonethylmethane; Sulfonmethane.

(d) Gamma hydroxybutyrate, any salt, compound, derivative, or preparation of gamma hydroxybutyrate, including any isomers, esters, and ethers and salts of isomers, esters, and ethers of gamma hydroxybutyrate whenever the existence of such isomers, esters, and salts is possible within the specific chemical designation.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Benzphetamine

(b) Chlorphentermine

(c) Clortermine

(d) Mazindol

(e) Phendimetrazine.

(4) Nalorphine.

(5) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(a) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(b) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(c) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(d) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(h) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Anabolic steroids, which, for purposes of this subdivision, means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone, and includes: androstanediol; androstanedione; androstenediol; androstenedione; bolasterone; boldenone; calusterone; chlorotestosterone; chorionic gonadotropin; clostebol; dehydrochloromethyltestosterone; (triangle)1-dihydrotestosterone; 4-dihydrotestosterone; drostanolone; ethylestrenol; fluoxymesterone; formebolone; furazabol; human growth hormones; 13b-ethyl-17a-hydroxygon-4-en-3-one; 4-hydroxytestosterone; 4-hydroxy-19-nortestosterone; mestanolone; mesterolone; methandienone; methandranone; methandriol; methandrostenolone; methenolone; 17a-methyl-3b, 17b-dihydroxy-5a-androstane; 17a-methyl-3a, 17b-dihydroxy-5a-androstane; 17a-methyl-3b,17b-dihydroxyandrost-4-ene; 17a-methyl-4-hydroxynandrolone; methyldienolone; methyltrienolone; methyltestosterone; mibolerone; 17a-methyl-(triangle)1-dihydrotestosterone;

nandrolone; nandrolone phenpropionate; norandrostenediol; norandrostenedione; norbolethone; norclostebol; norethandrolone; normethandrolone; oxandrolone; oxymesterone; oxymetholone; stanolone; stanozolol; stenbolone; testolactone; testosterone; testosterone propionate; tetrahydrogestrinone; trenbolone; and any salt, ester, or ether of a drug or substance described in this paragraph. Anabolic steroids are not included if they are: (i) expressly intended for administration through implants to cattle or other nonhuman species; and (ii) approved by the United States Food and Drug Administration for that use.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2004, section 152.02, subdivision 5, is amended to read:

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

~~(b) For purposes of this subdivision, "anabolic substances" means the naturally occurring androgens or derivatives of androstane (androsterone and testosterone); testosterone and its esters, including, but not limited to, testosterone propionate, and its derivatives, including, but not limited to, methyltestosterone and growth hormones, except that anabolic substances are not included if they are: (1) expressly intended for administration through implants to cattle or other nonhuman species; and (2) approved by the United States Food and Drug Administration for that use.~~

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 3. **[171.175] SUSPENSION; THEFT OF GASOLINE OFFENSE.**

Subdivision 1. **THEFT OF GASOLINE.** The commissioner of public safety shall suspend for 30 days the license of any person convicted or juvenile adjudicated delinquent for theft of gasoline under section 609.52, subdivision 2, clause (1).

Subd. 2. **DEFINITION.** For the purposes of this section, "gasoline" has the meaning given it in section 296A.01, subdivision 23.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2004, section 343.31, is amended to read:

343.31 **ANIMAL FIGHTS ~~PROHIBITED~~ AND POSSESSION OF FIGHTING ANIMALS.**

Subdivision 1. **PENALTY FOR ANIMAL FIGHTING; ATTENDING ANIMAL FIGHT.** ~~Any~~ A person who:

(1) promotes ~~or~~, engages in, or is employed ~~at~~ in the activity of cockfighting, dogfighting, or violent pitting of one domestic animal against another of the same or a different kind; ~~or~~

(2) receives money for the admission of ~~any~~ a person to ~~any~~ a place used, or about to be used, for that activity; ~~or~~

(3) willfully permits ~~any~~ a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or

(4) uses, trains, or possesses a dog or other animal for the purpose of participating in, engaging in, or promoting that activity

is guilty of a felony. ~~Any~~ A person who purchases a ticket of admission or otherwise gains admission to that activity is guilty of a misdemeanor.

Subd. 2. **PRESUMPTION OF TRAINING A FIGHTING DOG.** There is a rebuttable presumption that a dog has been trained or is being trained to fight if:

(1) the dog exhibits fresh wounds, scarring, or other indications that the dog has been or will be used for fighting; and

(2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare dogs to be fought.

This presumption may be rebutted by a preponderance of the evidence.

Subd. 3. **PRESUMPTION OF TRAINING FIGHTING BIRDS.** There is a rebuttable presumption that a bird has been trained or is being trained to fight if:

(1) the bird exhibits fresh wounds, scarring, or other indications that the bird has been or will be used for fighting; or

(2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare birds to be fought.

This presumption may be rebutted by a preponderance of the evidence.

Subd. 4. **PEACE OFFICER DUTIES.** Animals described in subdivisions 2 and 3 are dangerous weapons and constitute an immediate danger to the safety of humans. A peace officer or animal control authority may remove, shelter, and care for an animal found in the circumstances described in subdivision 2 or 3. If necessary, a peace officer or animal control authority may deliver the animal to another person to be sheltered and cared for. In all cases, the peace officer or animal control authority must immediately notify the owner, if known, as provided in subdivision 5. The peace officer, animal control authority, or other person assuming care of the animal shall have a lien on it for the actual cost of care and keeping of the animal. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in subdivision 5.

Subd. 5. **DISPOSITION.** (a) An animal taken into custody under subdivision 4 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, if the procedures in paragraph (c) are followed.

(b) The owner of an animal taken into custody under subdivision 4 may prevent disposition of the animal by posting security in an amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within ten days of the seizure inclusive of the date of the seizure. If, however, a hearing is scheduled within ten days of the seizure, the security amount must be posted prior to the hearing.

(c)(1) The authority taking custody of an animal under subdivision 4 must give notice of this section by delivering or mailing it to the owner of the animal, posting a copy of it at the place where the animal is taken into custody, or delivering it to a person residing on the property and telephoning, if possible. The notice must include:

(i) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, and telephone number of a contact person who knows where the animal is kept;

(ii) a statement that the owner of the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure and impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(iii) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the owner of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing.

(2) The owner may request a hearing within ten days of the date of the seizure. If requested, a hearing must be held within five business days of the request to determine the validity of the impoundment. The municipality taking custody of the animal or the municipality from which the animal was seized may either (i) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party, or (ii) use the services of a hearing officer to conduct the hearing. An owner may appeal the hearing officer's decision to the district court within five days of the notice of the decision.

(3) The judge or hearing officer may authorize the return of the animal if the judge or hearing officer finds that (i) the animal is physically fit; (ii) the person claiming an interest in the animal can and will provide the care required by law for the animal; and (iii) the animal has not been used for violent pitting or fighting.

(4) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before the return of the animal to the person.

Subd. 6. **PHOTOGRAPHS.** (a) Photographs of animals seized during an investigation are competent evidence if the photographs are admissible into evidence under all the rules of law governing the admissibility of photographs into evidence. A satisfactorily identified photographic record is as admissible in evidence as the animal itself.

(b) A photograph must be accompanied by a written description of the animals seized, the name of the owner of the animals seized, the date of the photograph, and the name, address, organization, and signature of the photographer.

Subd. 7. **VETERINARY INVESTIGATIVE REPORT.** (a) A report completed by a Minnesota licensed veterinarian following an examination of an animal seized during an investigation is competent evidence. A satisfactorily identified veterinary investigative report is as admissible in evidence as the animal itself.

(b) The veterinary investigative report may contain a written description of the animal seized, the medical evaluation of the physical findings, the prognosis for recovery, and the date of the examination and must contain the name, address, veterinary clinic, and signature of the veterinarian performing the examination.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2004, section 518B.01, subdivision 22, is amended to read:

Subd. 22. ~~**VIOLATION OF A**~~ **DOMESTIC ABUSE NO CONTACT ORDER.** (a) A domestic abuse no contact order is an order issued by a court against a defendant in a criminal proceeding for:

(1) domestic abuse;

(2) harassment or stalking charged under section 609.749 and committed against a family or household member;

(3) violation of an order for protection charged under subdivision 14; or

(4) violation of a prior domestic abuse no contact order charged under this subdivision.

It includes pretrial orders before final disposition of the case and probationary orders after sentencing.

(b) A person who knows of the existence of a domestic abuse no contact order issued against the person and violates the order is guilty of a misdemeanor.

(c) 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 a domestic abuse no contact order, 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.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 6. Minnesota Statutes 2004, section 604.15, subdivision 2, is amended to read:

Subd. 2. **ACTS CONSTITUTING.** (a) The owner of a vehicle that receives motor fuel that was not paid for is liable to the retailer for the price of the motor fuel received and a service charge of ~~up to $20, or the actual costs of collection not to exceed~~ $30. This charge may be imposed immediately upon the mailing of the notice under subdivision 3, if notice of the service charge was conspicuously displayed on the premises from which the motor fuel was received. The notice must include a statement that additional civil penalties will be imposed if payment is not received within 30 days. Only one service charge may be imposed under this paragraph for each incident. If a law enforcement agency obtains payment for the motor fuel on behalf of the retailer, the service charge may be retained by the law enforcement agency for its expenses.

(b) If the price of the motor fuel received is not paid within 30 days after the retailer has mailed notice under subdivision 3, the owner is liable to the retailer for the price of the motor fuel received, the service charge as provided in paragraph (a), plus a civil penalty not to exceed $100 or the price of the motor fuel, whichever is greater. In determining the amount of the penalty, the court shall consider the amount of the fuel taken and the reason for the nonpayment. The retailer shall also be entitled to:

(1) interest at the legal rate for judgments under section 549.09 from the date of nonpayment; and

(2) reasonable attorney fees, but not to exceed $500.

The civil penalty may not be imposed until 30 days after the mailing of the notice under subdivision 3.

EFFECTIVE DATE. This section is effective July 1, 2005, and applies to acts committed on or after that date.

Sec. 7. Minnesota Statutes 2004, section 604.15, is amended by adding a subdivision to read:

Subd. 5. **NOT A BAR TO CRIMINAL LIABILITY.** Civil liability under this section does not preclude criminal liability under applicable law.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 8. Minnesota Statutes 2004, section 609.02, subdivision 16, is amended to read:

Subd. 16. **QUALIFIED DOMESTIC VIOLENCE-RELATED OFFENSE.** "Qualified domestic violence-related offense" includes the following offenses: sections 518B.01, subdivision 14 (violation of domestic abuse order for protection); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.2247 (domestic assault by strangulation); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.377 (malicious punishment of a child); 609.713 (terroristic threats); 609.748, subdivision 6 (violation of harassment restraining order); and 609.749 (harassment/stalking); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2004, section 609.106, 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, paragraph (a), clause (1), (2), (4), or (7);

(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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2004, section 609.185, is amended to read:

609.185 **MURDER IN THE FIRST DEGREE.**

(a) 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~~ a child and the death occurs under circumstances manifesting an extreme indifference to human life;

(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 or upon another family or household member and the death occurs under circumstances manifesting an extreme indifference to human life; or

(7) causes the death of a human being while committing, conspiring to commit, or attempting to commit a felony crime to further terrorism and the death occurs under circumstances manifesting an extreme indifference to human life.

(b) For purposes of paragraph (a), 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.

(c) For purposes of paragraph (a), 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

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

(d) For purposes of paragraph (a), clause (7), "further terrorism" has the meaning given in section 609.714, subdivision 1.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2004, section 609.2231, is amended by adding a subdivision to read:

Subd. 3a. **SECURE TREATMENT FACILITY PERSONNEL.** (a) As used in this subdivision, "secure treatment facility" has the meaning given in section 253B.02, subdivision 18a.

(b) Whoever, while committed under section 253B.185 or Minnesota Statutes 1992, section 526.10, commits either of the following acts against an employee or other individual who provides care or treatment at a secure treatment facility while the person is engaged in the performance of a duty imposed by law, policy, or rule 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:

(1) assaults the person and inflicts demonstrable bodily harm; or

(2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the person.

(c) The court shall commit a person convicted of violating paragraph (b) to the custody of the commissioner of corrections for not less than a year and a day. The court may not, on its own motion or the prosecutor's motion, sentence a person without regard to this paragraph. A person convicted and sentenced as required by this paragraph is not eligible for probation, parole, discharge, work release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

(d) Notwithstanding the statutory maximum sentence provided in paragraph (b), when a court sentences a person to the custody of the commissioner of corrections for a violation of paragraph (b), the court shall provide that after the person has completed the sentence imposed, the commissioner shall place the person on conditional release for five years. The terms of conditional release are governed by sections 244.05 and 609.109.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2004, section 609.2242, subdivision 3, is amended to read:

Subd. 3. **DOMESTIC ASSAULTS; FIREARMS.** (a) When a person is convicted of a violation of this section or section 609.221, 609.222, 609.223, ~~or~~ 609.224, or 609.2247, the court shall determine and make written findings on the record as to whether:

(1) the assault was committed against a family or household member, as defined in section 518B.01, subdivision 2;

(2) the defendant owns or possesses a firearm; and

(3) the firearm was used in any way during the commission of the assault.

(b) If the court determines that the assault was of a family or household member, and that the offender owns or possesses a firearm and used it in any way during the commission of the assault, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

(c) When a person is convicted of assaulting a family or household member and is determined by the court to have used a firearm in any way during commission of the assault, 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.

(d) Except as otherwise provided in paragraph (c), when a person is convicted of a violation of this section or section 609.224 and the court determines that the victim was a family or household member, 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.

(e) Except as otherwise provided in paragraph (c), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1992, of domestic assault under this section or assault in the fifth degree under section 609.224 and the assault victim was a family or household member as defined in section 518B.01, subdivision 2, 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 or section 609.224. 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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 13. **[609.2247] DOMESTIC ASSAULT BY STRANGULATION.**

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

(b) "Family or household members" has the meaning given in section 518B.01, subdivision 2.

(c) "Strangulation" means intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person.

Subd. 2. **CRIME.** Unless a greater penalty is provided elsewhere, whoever assaults a family or household member by strangulation 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 $5,000, or both.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2004, 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 five years longer than the statutory maximum for the underlying crime. If the crime committed in violation of subdivision 2 is a felony, and the victim of the crime is a child under the age of 18 years, the statutory maximum for the crime is ten 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 three years or to payment of a fine of not more than $15,000, or both.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 15. **[609.281] DEFINITIONS.**

Subdivision 1. **GENERALLY.** As used in sections 609.281 to 609.284, the following terms have the meanings given.

Subd. 2. **BLACKMAIL.** "Blackmail" means a threat to expose any fact or alleged fact tending to cause shame or to subject any person to hatred, contempt, or ridicule.

Subd. 3. **DEBT BONDAGE.** "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of the debtor's personal services or those of a person under the debtor's control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Subd. 4. **FORCED LABOR OR SERVICES.** "Forced labor or services" means labor or services that are performed or provided by another person and are obtained or maintained through an actor's:

(1) threat, either implicit or explicit, scheme, plan, or pattern, or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services, that person or another person would suffer bodily harm or physical restraint;

(2) physically restraining or threatening to physically restrain a person;

(3) abuse or threatened abuse of the legal process;

(4) knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person; or

(5) use of blackmail.

Subd. 5. **LABOR TRAFFICKING.** "Labor trafficking" means the recruitment, transportation, transfer, harboring, enticement, provision, obtaining, or receipt of a

person by any means, whether a United States citizen or foreign national, for the purpose of:

(1) debt bondage or forced labor or services;

(2) slavery or practices similar to slavery; or

(3) the removal of organs through the use of coercion or intimidation.

Subd. 6. **LABOR TRAFFICKING VICTIM.** "Labor trafficking victim" means a person subjected to the practices in subdivision 5.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 16. **[609.282] LABOR TRAFFICKING.**

Whoever knowingly engages in the labor trafficking of another is guilty of a crime and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both. In a prosecution under this section the consent or age of the victim is not a defense.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 17. **[609.283] UNLAWFUL CONDUCT WITH RESPECT TO DOCUMENTS IN FURTHERANCE OF LABOR OR SEX TRAFFICKING.**

Unless the person's conduct constitutes a violation of section 609.282, a person who knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person:

(1) in the course of a violation of section 609.282 or 609.322;

(2) with intent to violate section 609.282 or 609.322; or

(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, a person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a violation of section 609.282 or 609.322;

is guilty of a crime 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. In a prosecution under this section the consent or age of the victim is not a defense.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 18. **[609.284] LABOR OR SEX TRAFFICKING CRIMES; DEFENSES; CIVIL LIABILITY; CORPORATE LIABILITY.**

Subdivision 1. **CONSENT OR AGE OF VICTIM NOT A DEFENSE.** In an action under this section the consent or age of the victim is not a defense.

Subd. 2. **CIVIL LIABILITY.** A labor trafficking victim may bring a cause of action against a person who violates section 609.282 or 609.283. The court may award damages, including punitive damages, reasonable attorney fees, and other litigation costs reasonably incurred by the victim. This remedy is in addition to potential criminal liability.

Subd. 3. **CORPORATE LIABILITY.** If a corporation or other business enterprise is convicted of violating section 609.282, 609.283, or 609.322, in addition to the criminal penalties described in those sections and other remedies provided elsewhere in law, the court may, when appropriate:

(1) order its dissolution or reorganization;

(2) order the suspension or revocation of any license, permit, or prior approval granted to it by a state agency; or

(3) order the surrender of its charter if it is organized under Minnesota law or the revocation of its certificate to conduct business in Minnesota if it is not organized under Minnesota law.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 19. Minnesota Statutes 2004, section 609.321, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** For the purposes of sections 609.321 to ~~609.324~~ 609.325, the following terms have the meanings given.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 20. Minnesota Statutes 2004, section 609.321, subdivision 7, is amended to read:

Subd. 7. **PROMOTES THE PROSTITUTION OF AN INDIVIDUAL.** "Promotes the prostitution of an individual" means any of the following wherein the person knowingly:

(1) solicits or procures patrons for a prostitute; or

(2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual; or

(3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual; or

(4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual; or

(5) admits a patron to a place of prostitution to aid the prostitution of an individual; ~~or~~

(6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual; or

(7) engages in the sex trafficking of an individual.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 21. Minnesota Statutes 2004, section 609.321, is amended by adding a subdivision to read:

Subd. 7a. **SEX TRAFFICKING.** "Sex trafficking" means receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 22. Minnesota Statutes 2004, section 609.321, is amended by adding a subdivision to read:

Subd. 7b. **SEX TRAFFICKING VICTIM.** "Sex trafficking victim" means a person subjected to the practices in subdivision 7a.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 23. Minnesota Statutes 2004, section 609.321, subdivision 12, is amended to read:

Subd. 12. **PUBLIC PLACE.** A "public place" means a public street or sidewalk, a pedestrian skyway system as defined in section 469.125, subdivision 4, a hotel, motel, or other place of public accommodation, ~~or~~ a place licensed to sell intoxicating liquor, wine, nonintoxicating malt beverages, or food, or a motor vehicle located on a public street, alley, or parking lot ordinarily used by or available to the public though not used as a matter of right and a driveway connecting such a parking lot with a street or highway.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to crimes committed on or after that date.

Sec. 24. **[609.3243] LOITERING WITH INTENT TO PARTICIPATE IN PROSTITUTION.**

A person who loiters in a public place with intent to participate in prostitution is guilty of a misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 25. Minnesota Statutes 2004, section 609.325, is amended by adding a subdivision to read:

Subd. 4. **AFFIRMATIVE DEFENSE.** It is an affirmative defense to a charge under section 609.324 if the defendant proves by a preponderance of the evidence that the defendant is a labor trafficking victim, as defined in section 609.281, or a sex trafficking victim, as defined in section 609.321, and that the defendant committed the act only under compulsion by another who by explicit or implicit threats created a reasonable apprehension in the mind of the defendant that if the defendant did not commit the act, the person would inflict bodily harm upon the defendant.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 26. Minnesota Statutes 2004, section 609.485, subdivision 2, is amended to read:

Subd. 2. **ACTS PROHIBITED.** Whoever does any of the following may be sentenced as provided in subdivision 4:

(1) escapes while held pursuant to a lawful arrest, in lawful custody on a charge or conviction of a crime, or while held in lawful custody on an allegation or adjudication of a delinquent act;

(2) transfers to another, who is in lawful custody on a charge or conviction of a crime, or introduces into an institution in which the latter is confined, anything usable in making such escape, with intent that it shall be so used;

(3) having another in lawful custody on a charge or conviction of a crime, intentionally permits the other to escape;

(4) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a. Notwithstanding section 609.17, no person may be charged with or convicted of an attempt to commit a violation of this clause; ~~or~~

(5) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10; or

(6) escapes while on pass status or provisional discharge according to section 253B.18.

For purposes of clause (1), "escapes while held in lawful custody" includes absconding from electronic monitoring or absconding after removing an electronic monitoring device from the person's body.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 27. Minnesota Statutes 2004, section 609.485, subdivision 4, is amended to read:

Subd. 4. **SENTENCE.** (a) Except as otherwise provided in subdivision 3a, whoever violates this section may be sentenced as follows:

(1) if the person who escapes is in lawful custody for a felony, 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 person who escapes is in lawful custody after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a, or pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both; ~~or~~

(3) if the person who escapes is in lawful custody for a gross misdemeanor or misdemeanor, or if the person who escapes is in lawful custody on an allegation or adjudication of a delinquent act, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; or

(4) if the person who escapes is under civil commitment under sections 253B.18 and 253B.185, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both.

(b) If the escape was a violation of subdivision 2, clause (1), (2), or (3), and was effected by violence or threat of violence against a person, the sentence may be increased to not more than twice those permitted in paragraph (a), clauses (1) and (3).

(c) Unless a concurrent term is specified by the court, a sentence under this section shall be consecutive to any sentence previously imposed or which may be imposed for any crime or offense for which the person was in custody when the person escaped.

(d) Notwithstanding paragraph (c), if a person who was committed to the commissioner of corrections under section 260B.198 escapes from the custody of the commissioner while 18 years of age, the person's sentence under this section shall commence on the person's 19th birthday or on the person's date of discharge by the commissioner of corrections, whichever occurs first. However, if the person described in this clause is convicted under this section after becoming 19 years old and after having been discharged by the commissioner, the person's sentence shall commence upon imposition by the sentencing court.

(e) Notwithstanding paragraph (c), if a person who is in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age escapes from a local juvenile correctional facility, the person's sentence under this section begins on the person's 19th birthday or on the person's date of discharge from the jurisdiction of the juvenile court, whichever occurs first. However, if the person described in this paragraph is convicted after becoming 19 years old and after discharge from the jurisdiction of the juvenile court, the person's sentence begins upon imposition by the sentencing court.

(f) Notwithstanding paragraph (a), any person who escapes or absconds from electronic monitoring or removes an electric monitoring device from the person's body is guilty of a crime and shall be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than $3,000, or both. A person in lawful custody

Subd. 4. **AFFIRMATIVE DEFENSE.** It is an affirmative defense to a charge under section 609.324 if the defendant proves by a preponderance of the evidence that the defendant is a labor trafficking victim, as defined in section 609.281, or a sex trafficking victim, as defined in section 609.321, and that the defendant committed the act only under compulsion by another who by explicit or implicit threats created a reasonable apprehension in the mind of the defendant that if the defendant did not commit the act, the person would inflict bodily harm upon the defendant.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 26. Minnesota Statutes 2004, section 609.485, subdivision 2, is amended to read:

Subd. 2. **ACTS PROHIBITED.** Whoever does any of the following may be sentenced as provided in subdivision 4:

(1) escapes while held pursuant to a lawful arrest, in lawful custody on a charge or conviction of a crime, or while held in lawful custody on an allegation or adjudication of a delinquent act;

(2) transfers to another, who is in lawful custody on a charge or conviction of a crime, or introduces into an institution in which the latter is confined, anything usable in making such escape, with intent that it shall be so used;

(3) having another in lawful custody on a charge or conviction of a crime, intentionally permits the other to escape;

(4) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a. Notwithstanding section 609.17, no person may be charged with or convicted of an attempt to commit a violation of this clause; ~~or~~

(5) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10; or

(6) escapes while on pass status or provisional discharge according to section 253B.18.

For purposes of clause (1), "escapes while held in lawful custody" includes absconding from electronic monitoring or absconding after removing an electronic monitoring device from the person's body.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 27. Minnesota Statutes 2004, section 609.485, subdivision 4, is amended to read:

Subd. 4. **SENTENCE.** (a) Except as otherwise provided in subdivision 3a, whoever violates this section may be sentenced as follows:

(1) if the person who escapes is in lawful custody for a felony, 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 person who escapes is in lawful custody after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a, or pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both; ~~or~~

(3) if the person who escapes is in lawful custody for a gross misdemeanor or misdemeanor, or if the person who escapes is in lawful custody on an allegation or adjudication of a delinquent act, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; or

(4) if the person who escapes is under civil commitment under sections 253B.18 and 253B.185, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both.

(b) If the escape was a violation of subdivision 2, clause (1), (2), or (3), and was effected by violence or threat of violence against a person, the sentence may be increased to not more than twice those permitted in paragraph (a), clauses (1) and (3).

(c) Unless a concurrent term is specified by the court, a sentence under this section shall be consecutive to any sentence previously imposed or which may be imposed for any crime or offense for which the person was in custody when the person escaped.

(d) Notwithstanding paragraph (c), if a person who was committed to the commissioner of corrections under section 260B.198 escapes from the custody of the commissioner while 18 years of age, the person's sentence under this section shall commence on the person's 19th birthday or on the person's date of discharge by the commissioner of corrections, whichever occurs first. However, if the person described in this clause is convicted under this section after becoming 19 years old and after having been discharged by the commissioner, the person's sentence shall commence upon imposition by the sentencing court.

(e) Notwithstanding paragraph (c), if a person who is in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age escapes from a local juvenile correctional facility, the person's sentence under this section begins on the person's 19th birthday or on the person's date of discharge from the jurisdiction of the juvenile court, whichever occurs first. However, if the person described in this paragraph is convicted after becoming 19 years old and after discharge from the jurisdiction of the juvenile court, the person's sentence begins upon imposition by the sentencing court.

(f) Notwithstanding paragraph (a), any person who escapes or absconds from electronic monitoring or removes an electric monitoring device from the person's body is guilty of a crime and shall be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than $3,000, or both. A person in lawful custody

for a violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, 609.221, 609.222, 609.223, 609.2231, 609.342, 609.343, 609.344, 609.345, or 609.3451 who escapes or absconds from electronic monitoring or removes an electronic monitoring device while under sentence may be sentenced to imprisonment for not more than five years or to a payment of a fine of not more than $10,000, or both.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 28. Minnesota Statutes 2004, section 609.487, is amended by adding a subdivision to read:

Subd. 6. **FLEEING, OTHER THAN VEHICLE.** Whoever, for the purpose of avoiding arrest, detention, or investigation, or in order to conceal or destroy potential evidence related to the commission of a crime, attempts to evade or elude a peace officer, who is acting in the lawful discharge of an official duty, by means of running, hiding, or by any other means except fleeing in a motor vehicle, is guilty of a misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 29. Minnesota Statutes 2004, section 609.50, subdivision 1, is amended to read:

Subdivision 1. **CRIME.** Whoever intentionally does any of the following may be sentenced as provided in subdivision 2:

(1) obstructs, hinders, or prevents the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge or conviction of a criminal offense;

(2) obstructs, resists, or interferes with a peace officer while the officer is engaged in the performance of official duties;

(3) interferes with or obstructs ~~the prevention or extinguishing of a fire, or disobeys the lawful order of~~ a firefighter ~~present at the fire~~ while the firefighter is engaged in the performance of official duties; ~~or~~

(4) interferes with or obstructs a member of an ambulance service personnel crew, as defined in section 144E.001, subdivision 3a, who is providing, or attempting to provide, emergency care; or

(5) by force or threat of force endeavors to obstruct any employee of the Department of Revenue while the employee is lawfully engaged in the performance of official duties for the purpose of deterring or interfering with the performance of those duties.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 30. Minnesota Statutes 2004, section 609.505, is amended to read:

609.505 **FALSELY REPORTING CRIME.**

Subdivision 1. **FALSE REPORTING.** Whoever informs a law enforcement officer that a crime has been committed or otherwise provides information to an on-duty peace officer, knowing that the person is a peace officer, regarding the conduct of others, knowing that it is false and intending that the officer shall act in reliance upon it, is guilty of a misdemeanor. A person who is convicted a second or subsequent time under this section is guilty of a gross misdemeanor.

Subd. 2. **REPORTING POLICE MISCONDUCT.** (a) Whoever informs, or causes information to be communicated to, a peace officer, whose responsibilities include investigating or reporting police misconduct, that a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), has committed an act of police misconduct, knowing that the information is false, is guilty of a crime and may be sentenced as follows:

(1) up to the maximum provided for a misdemeanor if the false information does not allege a criminal act; or

(2) up to the maximum provided for a gross misdemeanor if the false information alleges a criminal act.

(b) The court shall order any person convicted of a violation of this subdivision to make full restitution of all reasonable expenses incurred in the investigation of the false allegation unless the court makes a specific written finding that restitution would be inappropriate under the circumstances. A restitution award may not exceed $3,000.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 31. Minnesota Statutes 2004, section 609.52, subdivision 2, is amended to read:

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

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) with or without having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody, or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(i) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that

the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(ii) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(iii) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

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

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

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

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

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

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

(iii) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who:

(i) with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof; or

(ii) sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease or rental contract with intent to deprive the lessor of possession thereof; or

(iii) does not return the property to the lessor at the end of the lease or rental term, plus agreed upon extensions, with intent to wrongfully deprive the lessor of possession of the property; or

(iv) returns the property to the lessor at the end of the lease or rental term, plus agreed upon extensions, but does not pay the lease or rental charges agreed upon in the written instrument, with intent to wrongfully deprive the lessor of the agreed upon charges.

For the purposes of items (iii) and (iv), the value of the property must be at least $100. Evidence that a lessee used a false, fictitious, or not current name, address, or place of employment in obtaining the property or fails or refuses to return the property or pay the rental contract charges to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property knowing or having reason to know that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by:

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection; or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio, or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(i) made or was aware of the connection; and

(ii) was aware that the connection was unauthorized; or

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it; or

(17) takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner, knowing or having reason to know that the owner or an authorized agent of the owner did not give consent.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 32. Minnesota Statutes 2004, section 609.527, subdivision 1, is amended to read:

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

(b) "Direct victim" means any person or entity described in section 611A.01, paragraph (b), whose identity has been transferred, used, or possessed in violation of this section.

(c) "False pretense" means any false, fictitious, misleading, or fraudulent information or pretense or pretext depicting or including or deceptively similar to the name, logo, Web site address, e-mail address, postal address, telephone number, or any other identifying information of a for-profit or not-for-profit business or organization or of a government agency, to which the user has no legitimate claim of right.

(d) "Identity" means any name, number, or data transmission that may be used, alone or in conjunction with any other information, to identify a specific individual or entity, including any of the following:

(1) a name, Social Security number, date of birth, official government-issued driver's license or identification number, government passport number, or employer or taxpayer identification number;

(2) unique electronic identification number, address, account number, or routing code; or

(3) telecommunication identification information or access device.

~~(d)~~ (e) "Indirect victim" means any person or entity described in section 611A.01, paragraph (b), other than a direct victim.

~~(e)~~ (f) "Loss" means value obtained, as defined in section 609.52, subdivision 1, clause (3), and expenses incurred by a direct or indirect victim as a result of a violation of this section.

~~(f)~~ (g) "Unlawful activity" means:

(1) any felony violation of the laws of this state or any felony violation of a similar law of another state or the United States; and

(2) any nonfelony violation of the laws of this state involving theft, theft by swindle, forgery, fraud, or giving false information to a public official, or any nonfelony violation of a similar law of another state or the United States.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 33. Minnesota Statutes 2004, section 609.527, subdivision 3, is amended to read:

Subd. 3. **PENALTIES.** A person who violates subdivision 2 may be sentenced as follows:

(1) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is $250 or less, the person may be sentenced as provided in section 609.52, subdivision 3, clause (5);

(2) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is more than $250 but not more than $500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (4);

(3) if the offense involves two or three direct victims or the total, combined loss to the direct and indirect victims is more than $500 but not more than $2,500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (3);

(4) if the offense involves more than three but not more than seven direct victims, or if the total combined loss to the direct and indirect victims is more than $2,500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (2); and

(5) if the offense involves eight or more direct victims~~,~~; or if the total, combined loss to the direct and indirect victims is more than $35,000~~,~~; or if the offense is related to possession or distribution of pornographic work in violation of section 617.246 or 617.247; the person may be sentenced as provided in section 609.52, subdivision 3, clause (1).

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 34. Minnesota Statutes 2004, section 609.527, subdivision 4, is amended to read:

Subd. 4. **RESTITUTION; ITEMS PROVIDED TO VICTIM.** (a) A direct or indirect victim of an identity theft crime shall be considered a victim for all purposes, including any rights that accrue under chapter 611A and rights to court-ordered restitution.

(b) The court shall order a person convicted of violating subdivision 2 to pay restitution of not less than $1,000 to each direct victim of the offense.

(c) Upon the written request of a direct victim or the prosecutor setting forth with specificity the facts and circumstances of the offense in a proposed order, the court shall provide to the victim, without cost, a certified copy of the complaint filed in the matter, the judgment of conviction, and an order setting forth the facts and circumstances of the offense.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 35. Minnesota Statutes 2004, section 609.527, is amended by adding a subdivision to read:

Subd. 5a. **CRIME OF ELECTRONIC USE OF FALSE PRETENSE TO OBTAIN IDENTITY.** (a) A person who, with intent to obtain the identity of another, uses a false pretense in an e-mail to another person or in a Web page, electronic communication, advertisement, or any other communication on the Internet, is guilty of a crime.

(b) Whoever commits such offense 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.

(c) In a prosecution under this subdivision, it is not a defense that:

(1) the person committing the offense did not obtain the identity of another;

(2) the person committing the offense did not use the identity; or

(3) the offense did not result in financial loss or any other loss to any person.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 36. Minnesota Statutes 2004, section 609.527, subdivision 6, is amended to read:

Subd. 6. **VENUE.** Notwithstanding anything to the contrary in section 627.01, an offense committed under subdivision 2 or 5a may be prosecuted in:

(1) the county where the offense occurred; ~~or~~

(2) the county of residence or place of business of the direct victim or indirect victim; or

(3) in the case of a violation of subdivision 5a, the county of residence of the person whose identity was obtained or sought.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 37. Minnesota Statutes 2004, section 609.531, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purpose of sections 609.531 to 609.5318, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a dangerous weapon as defined under section 609.02, subdivision 6, that the actor used or had in possession in furtherance of a crime.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Minnesota Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's department, the Suburban Hennepin Regional Park District park rangers, the Department of Natural Resources Division of Enforcement, the University of Minnesota Police Department, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;

(2) for driver's license or identification card transactions: any violation of section 171.22; and

(3) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.282; 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.352; 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.66, subdivision 1e; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation of section 609.891 or 624.7181; or any violation of section 609.324.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 38. Minnesota Statutes 2004, section 609.5312, is amended by adding a subdivision to read:

Subd. 1a. **COMPUTERS AND RELATED PROPERTY SUBJECT TO FORFEITURE.** (a) As used in this subdivision, "property" has the meaning given in section 609.87, subdivision 6.

(b) When a computer or a component part of a computer is used or intended for use to commit or facilitate the commission of a designated offense, the computer and all software, data, and other property contained in the computer are subject to forfeiture unless prohibited by the Privacy Protection Act, United States Code, title 42, sections 2000aa to 2000aa-12, or other state or federal law.

(c) Regardless of whether a forfeiture action is initiated following the lawful seizure of a computer and related property, if the appropriate agency returns hardware, software, data, or other property to the owner, the agency may charge the owner for the cost of separating contraband from the computer or other property returned, including salary and contract costs. The agency may not charge these costs to an owner of a computer or related property who was not privy to the act or omission upon which the seizure was based, or who did not have knowledge of or consent to the act or omission, if the owner:

(1) requests from the agency copies of specified legitimate data files and provides sufficient storage media; or

(2) requests the return of a computer or other property less data storage devices on which contraband resides.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 39. Minnesota Statutes 2004, section 609.5315, subdivision 1, is amended to read:

Subdivision 1. **DISPOSITION.** (a) Subject to paragraph (b), if the court finds under section 609.5313, 609.5314, or 609.5318 that the property is subject to forfeiture, it shall order the appropriate agency to do one of the following:

(1) unless a different disposition is provided under clause (3) or (4), either destroy firearms, ammunition, and firearm accessories that the agency decides not to use for law enforcement purposes under clause (8), or sell them to federally licensed firearms dealers, as defined in section 624.7161, subdivision 1, and distribute the proceeds under subdivision 5 or 5b;

(2) sell property that is not required to be destroyed by law and is not harmful to the public and distribute the proceeds under subdivision 5 or 5b;

(3) sell antique firearms, as defined in section 624.712, subdivision 3, to the public and distribute the proceeds under subdivision 5 or 5b;

(4) destroy or use for law enforcement purposes semiautomatic military-style assault weapons, as defined in section 624.712, subdivision 7;

(5) take custody of the property and remove it for disposition in accordance with law;

(6) forward the property to the federal drug enforcement administration;

(7) disburse money as provided under subdivision 5 or 5b; or

(8) keep property other than money for official use by the agency and the prosecuting agency.

(b) Notwithstanding paragraph (a), the Hennepin or Ramsey county sheriff may not sell firearms, ammunition, or firearms accessories if the policy is disapproved by the applicable county board.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 40. Minnesota Statutes 2004, section 609.5315, is amended by adding a subdivision to read:

Subd. 5b. **DISPOSITION OF CERTAIN FORFEITED PROCEEDS; TRAFFICKING OF PERSONS; REPORT REQUIRED.** (a) For forfeitures resulting from violations of section 609.282, 609.283, or 609.322, the money or proceeds from the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be distributed as follows:

(1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;

(2) 20 percent of the proceeds must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining 40 percent of the proceeds must be forwarded to the commissioner of public safety and are appropriated to the commissioner for distribution to crime victims services organizations that provide services to victims of trafficking offenses.

(b) By February 15 of each year, the commissioner of public safety shall report to the chairs and ranking minority members of the senate and house committees or divisions having jurisdiction over criminal justice funding on the money collected under paragraph (a), clause (3). The report must indicate the following relating to the preceding calendar year:

(1) the amount of money appropriated to the commissioner;

(2) how the money was distributed by the commissioner; and

(3) what the organizations that received the money did with it.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 41. Minnesota Statutes 2004, section 609.605, subdivision 1, is amended to read:

Subdivision 1. **MISDEMEANOR.** (a) The following terms have the meanings given them for purposes of this section.

(i) "Premises" means real property and any appurtenant building or structure.

(ii) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a full-time or a part-time basis. A dwelling may be part of a multidwelling or multipurpose building, or a manufactured home as defined in section 168.011, subdivision 8.

(iii) "Construction site" means the site of the construction, alteration, painting, or repair of a building or structure.

(iv) "Owner or lawful possessor," as used in paragraph (b), clause (9), means the person on whose behalf a building or dwelling is being constructed, altered, painted, or repaired and the general contractor or subcontractor engaged in that work.

(v) "Posted," as used:

(A) in clause (9), means the placement of a sign at least 11 inches square in a conspicuous place on the exterior of the building that is under construction, alteration, or repair, and additional signs in at least two conspicuous places for each ten acres being protected. The sign must carry an appropriate notice and the name of the person giving the notice, followed by the word "owner" if the person giving the notice is the holder of legal title to the land on which the construction site is located or by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land; and

(B) in clause (10), means the placement of signs that:

(I) state "no trespassing" or similar terms;

(II) display letters at least two inches high;

(III) state that Minnesota law prohibits trespassing on the property; and

(IV) are posted in a conspicuous place and at intervals of 500 feet or less.

(vi) "Business licensee," as used in paragraph (b), clause (9), includes a representative of a building trades labor or management organization.

(vii) "Building" has the meaning given in section 609.581, subdivision 2.

(b) A person is guilty of a misdemeanor if the person intentionally:

(1) permits domestic animals or fowls under the actor's control to go on the land of another within a city;

(2) interferes unlawfully with a monument, sign, or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or of a tract of land;

(3) trespasses on the premises of another and, without claim of right, refuses to depart from the premises on demand of the lawful possessor;

(4) occupies or enters the dwelling or locked or posted building of another, without claim of right or consent of the owner or the consent of one who has the right to give consent, except in an emergency situation;

(5) enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing on the premises, without the permission of the owner or occupant;

(6) enters or is found on the premises of a public or private cemetery without authorization during hours the cemetery is posted as closed to the public;

(7) returns to the property of another with the intent to abuse, disturb, or cause distress in or threaten another, after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(8) returns to the property of another within ~~30 days~~ one year after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent; ~~or~~

(9) enters the locked or posted construction site of another without the consent of the owner or lawful possessor, unless the person is a business licensee; or

(10) enters the locked or posted aggregate mining site of another without the consent of the owner or lawful possessor, unless the person is a business licensee.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 42. Minnesota Statutes 2004, section 609.605, subdivision 4, is amended to read:

Subd. 4. **TRESPASSES ON SCHOOL PROPERTY.** (a) It is a misdemeanor for a person to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless the person:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(b) It is a misdemeanor for a person to be on the roof of a public or nonpublic elementary, middle, or secondary school building unless the person has permission from a school official to be on the roof of the building.

(c) It is a gross misdemeanor for a group of three or more persons to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless one of the persons:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

~~(c)~~ (d) It is a misdemeanor for a person to enter or be found on school property within ~~six months~~ one year after being told by the school principal or the principal's designee to leave the property and not to return, unless the principal or the principal's designee has given the person permission to return to the property. As used in this paragraph, "school property" has the meaning given in section 152.01, subdivision 14a, clauses (1) and (3).

~~(d)~~ (e) A school principal or a school employee designated by the school principal to maintain order on school property, who has reasonable cause to believe that a person is violating this subdivision may detain the person in a reasonable manner for a reasonable period of time pending the arrival of a peace officer. A school principal or designated school employee is not civilly or criminally liable for any action authorized under this paragraph if the person's action is based on reasonable cause.

~~(e)~~ (f) A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this subdivision within the preceding four hours. The arrest may be made even though the violation did not occur in the peace officer's presence.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 43. Minnesota Statutes 2004, section 609.746, subdivision 1, is amended to read:

Subdivision 1. **SURREPTITIOUS INTRUSION; OBSERVATION DEVICE.** (a) A person is guilty of a gross misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

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

(1) enters upon another's property;

(2) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

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

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

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

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

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

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(e) A person is guilty of a ~~gross misdemeanor~~ felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both, if the person:

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

(2) violates this subdivision against a minor under the age of ~~16~~ 18, knowing or having reason to know that the minor is present.

(f) Paragraphs (b) and (d) do not apply to law enforcement officers or corrections investigators, or to those acting under their direction, while engaged in the performance of their lawful duties. Paragraphs (c) and (d) do not apply to conduct in: (1) a medical facility; or (2) a commercial establishment if the owner of the establishment has posted conspicuous signs warning that the premises are under surveillance by the owner or the owner's employees.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 44. Minnesota Statutes 2004, section 609.748, subdivision 2, is amended to read:

Subd. 2. **RESTRAINING ORDER; JURISDICTION.** A person who is a victim of harassment may seek a restraining order from the district court in the manner provided in this section. The parent ~~or~~, guardian, or stepparent of a minor who is a victim of harassment may seek a restraining order from the district court on behalf of the minor.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 45. Minnesota Statutes 2004, section 609.748, subdivision 3a, is amended to read:

Subd. 3a. **FILING FEE; COST OF SERVICE.** The filing fees for a restraining order under this section are waived for the petitioner if the petition alleges acts that would constitute a violation of section 609.749, subdivision 2 or 3, or sections 609.342 to 609.3451. The court administrator and the sheriff of any county in this state shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff is unavailable or if service is made by publication. 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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 46. Minnesota Statutes 2004, 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, monitors, or pursues another, whether in person or through technological or other means;

(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 by any means, including electronically, of letters, telegrams, messages, packages, or other objects; or

(7) 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 or, additionally in the case of wireless or electronic communication, where the actor or victim resides. The conduct described in paragraph (a), clause (2), may be prosecuted where the actor or victim resides. 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 or, additionally in the case of wireless or electronic communication, where the actor or victim resides.

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

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 47. Minnesota Statutes 2004, section 609.763, subdivision 3, is amended to read:

Subd. 3. **AGGREGATION; JURISDICTION.** In a prosecution under this section, the dollar amounts ~~obtained~~ involved in violation of subdivision 1 within any 12-month period may be aggregated and the defendant charged accordingly. When two or more offenses are committed by the same person in two or more counties, the defendant may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 48. Minnesota Statutes 2004, section 609.79, subdivision 2, is amended to read:

Subd. 2. **VENUE.** The offense may be prosecuted either at the place where the call is made or where it is received or, additionally in the case of wireless or electronic communication, where the sender or receiver resides.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 49. Minnesota Statutes 2004, section 609.795, is amended by adding a subdivision to read:

Subd. 3. **VENUE.** The offense may be prosecuted either at the place where the letter, telegram, or package is sent or received or, alternatively in the case of wireless electronic communication, where the sender or receiver resides.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 50. **[609.849] RAILROAD THAT OBSTRUCTS TREATMENT OF AN INJURED WORKER.**

(a) It shall be unlawful for a railroad or person employed by a railroad negligently or intentionally to:

(1) deny, delay, or interfere with medical treatment or first aid treatment to an employee of a railroad who has been injured during employment; or

(2) discipline, harass, or intimidate an employee to discourage the employee from receiving medical attention or threaten to discipline an employee who has been injured during employment for requesting medical treatment or first aid treatment.

(b) Nothing in this section shall deny a railroad company or railroad employee from making a reasonable inquiry of an injured employee about the circumstance of an injury in order to gather information necessary to identify a safety hazard.

(c) It is not a violation under this section for a railroad company or railroad employee to enforce safety regulations.

(d) A railroad or a person convicted of a violation of paragraph (a), clause (1) or (2), 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.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 51. **[609.896] CRIMINAL USE OF REAL PROPERTY.**

Subdivision 1. **DEFINITIONS.** For the purposes of this section, the following terms have the meanings given them.

(a) "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part of a motion picture by means of any technology now known or later developed.

(b) "Convicted" includes a conviction for a similar offense under the law of another state or the federal government.

(c) "Motion picture theater" means a movie theater, screening room, or other venue when used primarily for the exhibition of a motion picture.

Subd. 2. **CRIME.** (a) Any person in a motion picture theater while a motion picture is being exhibited who knowingly operates an audiovisual recording function of a device without the consent of the owner or lessee of the motion picture theater is guilty of criminal use of real property.

(b) If a person is convicted of a first offense, it is a misdemeanor.

(c) If a person is convicted of a second offense, it is a gross misdemeanor.

(d) If a person is convicted of a third or subsequent offense, it is a felony and the person 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.

Subd. 3. **DETAINING SUSPECTS.** An owner or lessee of a motion picture theater is a merchant for purposes of section 629.366.

Subd. 4. **EXCEPTION.** This section does not prevent any lawfully authorized investigative, law enforcement protective, or intelligence gathering employee or agent of the state or federal government from operating any audiovisual recording device in a motion picture theater where a motion picture is being exhibited, as part of lawfully authorized investigative, law enforcement protective, or intelligence gathering activities.

Subd. 5. **NOT PRECLUDE ALTERNATIVE PROSECUTION.** Nothing in this section prevents prosecution under any other provision of law.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 52. Minnesota Statutes 2004, section 628.26, is amended to read:

628.26 **LIMITATIONS.**

(a) Indictments or complaints for any crime resulting in the death of the victim may be found or made at any time after the death of the person killed.

(b) Indictments or complaints for a violation of section 609.25 may be found or made at any time after the commission of the offense.

(c) Indictments or complaints for violation of section 609.282 may be found or made at any time after the commission of the offense if the victim was under the age of 18 at the time of the offense.

(d) Indictments or complaints for violation of section 609.282 where the victim was 18 years of age or older at the time of the offense, or 609.42, subdivision 1, clause (1) or (2), shall be found or made and filed in the proper court within six years after the commission of the offense.

~~(d)~~ (e) Indictments or complaints for violation of sections 609.342 to 609.345 if the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within nine years after the commission of the offense or, if the victim failed to report the offense within this limitation period, within three years after the offense was reported to law enforcement authorities.

~~(e)~~ (f) Notwithstanding the limitations in paragraph ~~(d)~~ (e), indictments or complaints for violation of sections 609.342 to 609.344 may be found or made and filed in the proper court at any time after commission of the offense, if physical evidence is collected and preserved that is capable of being tested for its DNA characteristics. If this evidence is not collected and preserved and the victim was 18 years old or older at the time of the offense, the prosecution must be commenced within nine years after the commission of the offense.

~~(f)~~ (g) Indictments or complaints for violation of sections 609.466 and 609.52, subdivision 2, clause (3), item (iii), shall be found or made and filed in the proper court within six years after the commission of the offense.

~~(g)~~ (h) Indictments or complaints for violation of section 609.52, subdivision 2, clause (3), items (i) and (ii), (4), (15), or (16), 609.631, or 609.821, where the value of the property or services stolen is more than $35,000, shall be found or made and filed in the proper court within five years after the commission of the offense.

~~(h)~~ (i) Except for violations relating to false material statements, representations or omissions, indictments or complaints for violations of section 609.671 shall be found or made and filed in the proper court within five years after the commission of the offense.

~~(i)~~ (j) Indictments or complaints for violation of sections 609.561 to 609.563, shall be found or made and filed in the proper court within five years after the commission of the offense.

~~(j)~~ (k) In all other cases, indictments or complaints shall be found or made and filed in the proper court within three years after the commission of the offense.

~~(k)~~ (l) The limitations periods contained in this section shall exclude any period of time during which the defendant was not an inhabitant of or usually resident within this state.

~~(l)~~ (m) The limitations periods contained in this section for an offense shall not include any period during which the alleged offender participated under a written agreement in a pretrial diversion program relating to that offense.

~~(m)~~ (n) The limitations periods contained in this section shall not include any period of time during which physical evidence relating to the offense was undergoing DNA analysis, as defined in section 299C.155, unless the defendant demonstrates that the prosecuting or law enforcement agency purposefully delayed the DNA analysis process in order to gain an unfair advantage.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 53. **REPEALER.**

Minnesota Statutes 2004, section 609.725, is repealed.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

ARTICLE 18

DWI AND TRAFFIC SAFETY POLICY

Section 1. Minnesota Statutes 2004, section 169.06, is amended by adding a subdivision to read:

Subd. 5b. **POSSESSION OF OVERRIDE DEVICE.** (a) For purposes of this subdivision, "traffic signal-override device" means a device located in a motor vehicle that permits activation of a traffic signal-override system described in subdivision 5a.

(b) No person may operate a motor vehicle that contains a traffic signal-override device, other than:

(1) an authorized emergency vehicle described in section 169.01, subdivision 5, clause (1), (2), or (3);

(2) a vehicle, including a rail vehicle, engaged in providing bus rapid transit service or light rail transit service;

(3) a signal maintenance vehicle of a road authority; or

(4) a vehicle authorized to contain such a device by order of the commissioner of public safety.

(c) No person may possess a traffic signal-override device, other than:

(1) a person authorized to operate a vehicle described in paragraph (b), clauses (1) and (2), but only for use in that vehicle;

(2) a person authorized by a road authority to perform signal maintenance, while engaged in such maintenance; or

(3) a person authorized by order of the commissioner of public safety to possess a traffic signal-override device, but only to the extent authorized in the order.

(d) A violation of this subdivision is a misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2004, section 169A.275, subdivision 1, is amended to read:

Subdivision 1. **SECOND OFFENSE.** (a) The court shall sentence a person who is convicted of a violation of section 169A.20 (driving while impaired) within ten years of a qualified prior impaired driving incident to either:

(1) a minimum of 30 days of incarceration, at least 48 hours of which must be served ~~consecutively~~ in a local correctional facility; or

(2) eight hours of community work service for each day less than 30 days that the person is ordered to serve in a local correctional facility.

Notwithstanding section 609.135 (stay of imposition or execution of sentence), the penalties in this paragraph must be executed, unless the court departs from the mandatory minimum sentence under paragraph (b) or (c).

(b) Prior to sentencing, the prosecutor may file a motion to have a defendant described in paragraph (a) sentenced without regard to the mandatory minimum sentence established by that paragraph. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the prosecutor's motion and if it finds that substantial mitigating factors exist, the court shall sentence the defendant without regard to the mandatory minimum sentence established by paragraph (a).

(c) The court may, on its own motion, sentence a defendant described in paragraph (a) without regard to the mandatory minimum sentence established by that paragraph if it finds that substantial mitigating factors exist and if its sentencing departure is accompanied by a statement on the record of the reasons for it. The court also may sentence the defendant without regard to the mandatory minimum sentence established by paragraph (a) if the defendant is sentenced to probation and ordered to participate in a program established under section 169A.74 (pilot programs of intensive probation for repeat DWI offenders).

(d) When any portion of the sentence required by paragraph (a) is not executed, the court should impose a sentence that is proportional to the extent of the offender's prior criminal and moving traffic violation record. Any sentence required under paragraph (a) must include a mandatory sentence that is not subject to suspension or a stay of imposition or execution, and that includes incarceration for not less than 48 ~~consecutive~~ hours or at least 80 hours of community work service.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2004, section 169A.52, subdivision 4, is amended to read:

Subd. 4. **TEST FAILURE; LICENSE REVOCATION.** (a) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired) and that the person submitted to a test and the test results indicate an alcohol concentration of 0.08 or more or the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, then

the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege:

(1) for a period of 90 days;

(2) if the person is under the age of 21 years, for a period of six months;

(3) for a person with a qualified prior impaired driving incident within the past ten years, for a period of 180 days; or

(4) if the test results indicate an alcohol concentration of 0.20 or more, for twice the applicable period in clauses (1) to (3).

(b) On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner shall disqualify the person from operating a commercial motor vehicle under section 171.165 (commercial driver's license disqualification).

(c) If the test is of a person's blood or urine by a laboratory operated by the Bureau of Criminal Apprehension, or authorized by the bureau to conduct the analysis of a blood or urine sample, the laboratory may directly certify to the commissioner the test results, and the peace officer shall certify to the commissioner that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 and that the person submitted to a test. Upon receipt of both certifications, the commissioner shall undertake the license actions described in paragraphs (a) and (b).

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to blood and urine test samples analyzed on or after that date.

Sec. 4. Minnesota Statutes 2004, section 169A.53, subdivision 3, is amended to read:

Subd. 3. **JUDICIAL HEARING; ISSUES, ORDER, APPEAL.** (a) A judicial review hearing under this section must be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing is to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169A.20 (driving while impaired), if any. The hearing must be recorded. The commissioner shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the locations within the judicial district where terms of district court are held.

(b) The scope of the hearing is limited to the issues in clauses (1) to (10):

(1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of a motor vehicle or commercial motor vehicle in violation of section 169A.20 (driving while impaired)?

(2) Was the person lawfully placed under arrest for violation of section 169A.20?

(3) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?

(4) Did the person refuse to take a screening test provided for by section 169A.41 (preliminary screening test)?

(5) If the screening test was administered, did the test indicate an alcohol concentration of 0.08 or more?

(6) At the time of the request for the test, did the peace officer inform the person of the person's rights and the consequences of taking or refusing the test as required by section 169A.51, subdivision 2?

(7) Did the person refuse to permit the test?

(8) If a test was taken by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

(i) an alcohol concentration of 0.08 or more; or

(ii) the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols?

(9) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

(10) Was the testing method used valid and reliable and were the test results accurately evaluated?

(c) It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates are admissible as substantive evidence.

(e) The court shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner. The court shall file its order within 14 days following the hearing. If the revocation or disqualification is sustained, the court shall also forward the person's driver's license or permit to the commissioner for further action by the commissioner if the license or permit is not already in the commissioner's possession.

(f) Any party aggrieved by the decision of the reviewing court may appeal the decision as provided in the Rules of Appellate Procedure.

(g) The civil hearing under this section shall not give rise to an estoppel on any issues arising from the same set of circumstances in any criminal prosecution.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2004, section 169A.60, subdivision 10, is amended to read:

Subd. 10. **PETITION FOR JUDICIAL REVIEW.** (a) Within 30 days following receipt of a notice and order of impoundment under this section, a person may petition the court for review. The petition must include proof of service of a copy of the petition on the commissioner. The petition must include the petitioner's date of birth, driver's license number, and date of the plate impoundment violation, as well as the name of the violator and the law enforcement agency that issued the plate impoundment order. The petition must state with specificity the grounds upon which the petitioner seeks rescission of the order for impoundment. The petition may be combined with any petition filed under section 169A.53 (administrative and judicial review of license revocation).

(b) Except as otherwise provided in this section, the judicial review and hearing are governed by section 169A.53 and must take place at the same time as any judicial review of the person's license revocation under section 169A.53. The filing of the petition does not stay the impoundment order. The reviewing court may order a stay of the balance of the impoundment period if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper. The court shall order either that the impoundment be rescinded or sustained, and forward the order to the commissioner. The court shall file its order within 14 days following the hearing.

(c) In addition to the issues described in section 169A.53, subdivision 3 (judicial review of license revocation), the scope of a hearing under this subdivision is limited to:

(1) ~~whether the violator owns, is the registered owner of, possesses, or has access to the vehicle used in the plate impoundment violation;~~

~~(2) whether a member of the violator's household has a valid driver's license, the violator or registered owner has a limited license issued under section 171.30, the registered owner is not the violator, and the registered owner has a valid or limited driver's license, or a member of the registered owner's household has a valid driver's license; and~~

~~(3)~~ if the impoundment is based on a plate impoundment violation described in subdivision 1, paragraph ~~(c)~~ (d), clause (3) or (4), whether the peace officer had probable cause to believe the violator committed the plate impoundment violation and whether the evidence demonstrates that the plate impoundment violation occurred; and

(2) for all other cases, whether the peace officer had probable cause to believe the violator committed the plate impoundment violation.

(d) In a hearing under this subdivision, the following records are admissible in evidence:

(1) certified copies of the violator's driving record; and

(2) certified copies of vehicle registration records bearing the violator's name.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 6. Minnesota Statutes 2004, section 169A.60, subdivision 11, is amended to read:

Subd. 11. **RESCISSION OF REVOCATION; AND DISMISSAL OR ACQUITTAL; NEW PLATES.** If:

(1) the driver's license revocation that is the basis for an impoundment order is rescinded; and

(2) the charges for the plate impoundment violation have been dismissed with prejudice; or

~~(3)~~ the violator has been acquitted of the plate impoundment violation;

then the registrar of motor vehicles shall issue new registration plates for the vehicle at no cost, when the registrar receives an application that includes a copy of the order rescinding the driver's license revocation, and either the order dismissing the charges, or the judgment of acquittal.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 7. Minnesota Statutes 2004, section 169A.63, subdivision 8, is amended to read:

Subd. 8. **ADMINISTRATIVE FORFEITURE PROCEDURE.** (a) A motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation is subject to administrative forfeiture under this subdivision.

(b) When a motor vehicle is seized under subdivision 2, or within a reasonable time after seizure, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when a motor vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168 and the interest is listed on the vehicle's title. Notice mailed by certified mail to the address shown in Department of Public Safety records is sufficient notice to the registered owner of the vehicle. For motor vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

(c) The notice must be in writing and contain:

(1) a description of the vehicle seized;

(2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English, Hmong, and Spanish. Substantially the following language must appear conspicuously: "IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES, SECTION 169A.63, SUBDIVISION 8, YOU LOSE THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE-DESCRIBED PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. IF THE PROPERTY IS WORTH $7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS WORTH LESS THAN $500."

(d) Within 30 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture, and the appropriate agency that initiated the forfeiture, including the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is $7,500 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture, as well as on the appropriate agency that initiated the forfeiture, within 30 days following service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than $500, the claimant does not have to pay the conciliation court filing fee.

No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. The prosecuting authority may appear for the appropriate agency. Pleadings, filings, and methods of service are governed by the Rules of Civil Procedure.

(e) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant, and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized, the claimant's interest in the vehicle seized, and any affirmative defenses the claimant may have. Notwithstanding any law to the contrary, an action for the return of a vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(f) If the claimant makes a timely demand for a judicial determination under this subdivision, the forfeiture proceedings must be conducted as provided under subdivision 9.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to forfeiture actions initiated on or after that date.

Sec. 8. Minnesota Statutes 2004, section 169A.70, subdivision 3, is amended to read:

Subd. 3. **ASSESSMENT REPORT.** (a) The assessment report must be on a form prescribed by the commissioner and shall contain an evaluation of the convicted defendant concerning the defendant's prior traffic and criminal record, characteristics and history of alcohol and chemical use problems, and amenability to rehabilitation through the alcohol safety program. The report is classified as private data on individuals as defined in section 13.02, subdivision 12.

(b) The assessment report must include:

(1) a diagnosis of the nature of the offender's chemical and alcohol involvement;

(2) an assessment of the severity level of the involvement;

(3) a recommended level of care for the offender in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3 (chemical dependency treatment rules);

(4) an assessment of the offender's placement needs;

~~(2)~~ (5) recommendations for other appropriate remedial action or care, including aftercare services in section 254B.01, subdivision 3, that may consist of educational programs, one-on-one counseling, a program or type of treatment that addresses mental health concerns, or a combination of them; ~~or~~ and

~~(3)~~ (6) a specific explanation why no level of care or action was recommended, if applicable.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to chemical use assessments made on or after that date.

Sec. 9. Minnesota Statutes 2004, section 169A.70, is amended by adding a subdivision to read:

Subd. 6. **METHOD OF ASSESSMENT.** (a) As used in this subdivision, "collateral contact" means an oral or written communication initiated by an assessor for the purpose of gathering information from an individual or agency, other than the offender, to verify or supplement information provided by the offender during an assessment under this section. The term includes contacts with family members and criminal justice agencies.

(b) An assessment conducted under this section must include at least one personal interview with the offender designed to make a determination about the extent of the offender's past and present chemical and alcohol use or abuse. It must also include collateral contacts and a review of relevant records or reports regarding the offender including, but not limited to, police reports, arrest reports, driving records, chemical testing records, and test refusal records. If the offender has a probation officer, the

officer must be the subject of a collateral contact under this subdivision. If an assessor is unable to make collateral contacts, the assessor shall specify why collateral contacts were not made.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to chemical use assessments made on or after that date.

Sec. 10. Minnesota Statutes 2004, section 169A.70, is amended by adding a subdivision to read:

Subd. 7. **PRECONVICTION ASSESSMENT.** (a) The court may not accept a chemical use assessment conducted before conviction as a substitute for the assessment required by this section unless the court ensures that the preconviction assessment meets the standards described in this section.

(b) If the commissioner of public safety is making a decision regarding reinstating a person's driver's license based on a chemical use assessment, the commissioner shall ensure that the assessment meets the standards described in this section.

EFFECTIVE DATE. This section is effective August 1, 2005, and applies to chemical use assessments made on or after that date.

Sec. 11. Minnesota Statutes 2004, section 171.09, is amended to read:

171.09 **DRIVING RESTRICTIONS; AUTHORITY, VIOLATIONS.**

Subdivision 1. **AUTHORITY; VIOLATIONS.** (a) The commissioner shall have the authority, when good cause appears, to impose restrictions suitable to the licensee's driving ability or such other restrictions applicable to the licensee as the commissioner may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee. The commissioner may, upon receiving satisfactory evidence of any violation of the restrictions of the license, suspend or revoke the license. A license suspension under this section is subject to section 171.18, subdivisions 2 and 3.

(b) A person who drives, operates, or is in physical control of a motor vehicle while in violation of the restrictions imposed in a restricted driver's license issued to that person under paragraph (a) is guilty of a crime as follows:

(1) if the restriction relates to the possession or consumption of alcohol or controlled substances, the person is guilty of a gross misdemeanor; or

(2) if the restriction relates to another matter, the person is guilty of a misdemeanor.

Subd. 2. **NO-ALCOHOL RESTRICTION.** (a) Upon proper application by a person having a valid driver's license containing the restriction that the person must consume no alcohol and whose driving record contains no impaired driving incident within the past ten years, the commissioner must issue to the person a duplicate driver's license that does not show that restriction. Such issuance of a duplicate license does not rescind the no-alcohol restriction on the recipient's driving record. "Impaired driving incident" has the meaning given in section 169A.03, subdivision 22.

(b) Upon the issuance of a duplicate license to a person under paragraph (a), the no-alcohol restriction on the person's driving record is classified as private data on individuals, as defined in section 13.02, subdivision 12, but may be provided to requesting law enforcement agencies, probation and parole agencies, and courts.

EFFECTIVE DATE. This section is effective July 1, 2005, and expires on July 1, 2006.

Sec. 12. Minnesota Statutes 2004, section 171.20, subdivision 4, is amended to read:

Subd. 4. **REINSTATEMENT FEE.** (a) Before the license is reinstated, (1) a person whose driver's license has been suspended under section 171.16, ~~subdivision~~ subdivisions 2 and 3; 171.18~~, except subdivision 1, clause (10)~~; or 171.182, or who has been disqualified from holding a commercial driver's license under section 171.165, and (2) a person whose driver's license has been suspended under section 171.186 and who is not exempt from such a fee, must pay a fee of $20.

(b) Before the license is reinstated, a person whose license has been suspended under sections 169.791 to 169.798 must pay a $20 reinstatement fee.

(c) When fees are collected by a licensing agent appointed under section 171.061, a handling charge is imposed in the amount specified under section 171.061, subdivision 4. The reinstatement fee and surcharge must be deposited in an approved state depository as directed under section 171.061, subdivision 4.

(d) Reinstatement fees collected under paragraph (a) for suspensions under sections 171.16, subdivision 3, and 171.18, subdivision 1, clause (10), shall be deposited in the special revenue fund and are appropriated to the Peace Officer Standards and Training Board for peace officer training reimbursement to local units of government.

(e) A suspension may be rescinded without fee for good cause.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 13. Minnesota Statutes 2004, section 171.26, is amended to read:

171.26 **MONEY CREDITED TO FUNDS.**

All money received under this chapter must be paid into the state treasury and credited to the trunk highway fund, except as provided in sections 171.06, subdivision 2a; 171.07, subdivision 11, paragraph (g); 171.12, subdivision 8; 171.20, subdivision 4, paragraph (d); and 171.29, subdivision 2, paragraph (b).

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 14. Minnesota Statutes 2004, section 171.30, subdivision 2a, is amended to read:

Subd. 2a. **OTHER WAITING PERIODS.** Notwithstanding subdivision 2, a limited license shall not be issued for a period of:

(1) 15 days, to a person whose license or privilege has been revoked or suspended for a violation of section 169A.20, sections 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections;

(2) 90 days, to a person who submitted to testing under sections 169A.50 to 169A.53 if the person's license or privilege has been revoked or suspended for a second violation within ten years or a third or subsequent violation of section 169A.20, sections 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections;

(3) 180 days, to a person who refused testing under sections 169A.50 to 169A.53 if the person's license or privilege has been revoked or suspended for a second violation within ten years or a third or subsequent violation of sections 169A.20, 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections; or

(4) one year, to a person whose license or privilege has been revoked or suspended for committing manslaughter resulting from the operation of a motor vehicle, committing criminal vehicular homicide or injury under section 609.21, or violating a statute or ordinance from another state in conformity with either of those offenses.

Sec. 15. **STATEWIDE DWI TASK FORCE STUDY; DRIVER'S LICENSE SANCTIONS.**

The Statewide DWI Task Force is requested to review and make recommendations on issues related to the "no-alcohol" restriction on a driver's license, commonly known as the "B-Card" license, including whether the restriction should be removed after a ten-year or greater period of compliance, whether the restrictions should remain on the driver's record but not on the actual driver's license, and any other related issues. The task force may consult with knowledgeable parties when conducting the review. If the DWI Task Force completes the review, it is requested to submit its recommendations to the chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice policy by January 15, 2006.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 16. **REPEALER.**

Laws 2004, chapter 283, section 14, is repealed.

EFFECTIVE DATE. This section is effective the day following final enactment.

Presented to the governor May 31, 2005

Signed by the governor June 2, 2005, 3:20 p.m.