

CHAPTER 260—H.F.No. 2656

An act relating to state government; providing certain general criminal and sentencing provisions; regulating controlled substances, DWI, and driving provisions; modifying or establishing various provisions relating to public safety; regulating corrections, the courts, and emergency communications; regulating coroners and medical examiners; providing for electronic notarizations; regulating fraudulent or improper financing statements; regulating computer crimes; providing penalties; amending Minnesota Statutes 2004, sections 13.82, by adding a subdivision; 13.84, subdivisions 1, 2; 13.87, by adding a subdivision; 16D.04, subdivision 2; 43A.08, subdivision 1; 48A.10, subdivision 3; 144.445, subdivision 1; 144.7401, by adding a subdivision; 155A.07, by adding a subdivision; 169.13; 169A.20, subdivision 1; 169A.24, subdivision 1; 169A.28, subdivision 1; 169A.45, subdivision 1; 169A.51, subdivisions 1, 2, 4, 7; 169A.52, subdivision 2; 169A.60, subdivisions 2, 4; 181.973; 219.97, subdivision 13; 237.49; 241.016, subdivision 1; 253B.02, subdivision 2; 299E.01, subdivision 2; 299F.011, subdivision 5; 346.09, subdivision 1; 346.155, subdivisions 1, 4, 5, 10, by adding a subdivision; 347.04; 358.41; 358.42; 358.47; 358.50; 359.01, by adding a subdivision; 359.03, subdivision 3, by adding a subdivision; 359.04; 359.05; 359.085; 375A.13, subdivision 1; 383B.65, subdivision 2; 390.005; 390.01; 390.04; 390.11; 390.111; 390.15; 390.20; 390.21; 390.221; 390.23; 390.25; 390.33, subdivision 2; 403.02, by adding a subdivision; 403.08, subdivision 7; 403.11, subdivisions 3b, 3c; 403.113, subdivision 3; 403.21, subdivisions 2, 7, 9; 403.33; 403.34; 403.36, subdivision 1f; 480.181, subdivisions 1, 2; 480.182; 484.01, subdivision 1; 484.011; 484.012; 484.45; 484.54, subdivision 3; 484.545, subdivision 1; 484.64, subdivision 3; 484.65, subdivision 3; 484.68, subdivision 1; 484.702, subdivision 5; 485.018, subdivision 5; 485.021; 485.11; 517.041; 518.157, subdivision 2; 518B.01, subdivision 14, by adding a subdivision; 525.9214; 546.27, subdivision 2; 609.101, subdivision 4; 609.102, subdivision 2; 609.11, subdivision 7; 609.153, subdivision 1; 609.2231, subdivision 6; 609.224, subdivisions 2, 4; 609.2242, subdivisions 2, 4; 609.495, by adding a subdivision; 609.748, subdivision 6; 609.749, subdivision 4; 609.87, subdivisions 1, 11, by adding subdivisions; 609.891, subdivisions 1, 3; 611A.0315; 617.246, by adding a subdivision; 617.247, by adding a subdivision; 624.22, subdivision 8; 626.77, subdivision 3; 629.74; 631.425, subdivision 3; 641.25; Minnesota Statutes 2005 Supplement, sections 169A.52, subdivision 4; 169A.53, subdivision 3; 171.05, subdivision 2b; 171.055, subdivision 2; 171.18, subdivision 1; 241.06, by adding a subdivision; 243.166, subdivisions 1b, 4, 4b, 6; 244.052, subdivision 4; 244.055, subdivisions 10, 11; 244.10, subdivisions 5, 6, 7; 270C.545; 299C.40, subdivision 1; 299C.405; 299C.65, subdivision 2; 390.05; 403.025, subdivision 7; 403.05, subdivision 3; 403.11, subdivisions 1, 3, 3a; 403.113, subdivision 1; 403.21, subdivision 8; 403.36, subdivision 1; 485.01; 485.03; 485.05; 518B.01, subdivision 22; 609.02, subdivision 16; 609.282; 609.283; 609.3455, subdivisions 4, 8, by adding a subdivision; 609.485, subdivisions 2, 4; Laws 2002, chapter 266, section 1, as amended; Laws 2005, chapter 136, article 1, section 13, subdivision 3; article 16, sections 3; 4; 5; 6; proposing coding for new law in Minnesota Statutes, chapters 4; 241; 299A; 299C; 299F; 340A; 390; 484; 545; 604; 609; repealing Minnesota Statutes 2004, sections 169A.41, subdivision 4; 383A.36; 383B.225, subdivisions 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13; 390.006; 390.06; 390.07; 390.16; 390.17; 390.19; 390.20; 390.24; 390.36; 403.08, subdivision 8; 403.22; 403.23; 403.24; 403.25; 403.26; 403.28; 403.29, subdivisions 1, 2, 3; 403.30,

subdivisions 2, 4; 403.35; 484.013, subdivision 8; 484.545, subdivisions 2, 3; 484.55; 484.68, subdivision 7; 484.75; 485.018, subdivisions 2, 6, 8; 485.12; 487.01; 487.02; 487.03; 487.04; 487.07; 487.10; 487.11; 487.13; 487.14; 487.15; 487.16; 487.17; 487.18; 487.19; 487.191; 487.20; 487.21; 487.23; 487.24; 487.25; 487.26; 487.27; 487.28; 487.29; 487.31; 487.32; 487.33; 487.34; 487.36; 487.37; 487.38; 487.40; 488A.01; 488A.021; 488A.025; 488A.03; 488A.035; 488A.04; 488A.08; 488A.09; 488A.10; 488A.101; 488A.11; 488A.112; 488A.113; 488A.115; 488A.116; 488A.119; 488A.18; 488A.19; 488A.20; 488A.21; 488A.23; 488A.24; 488A.26; 488A.27; 488A.28; 488A.282; 488A.285; 488A.286; 488A.287; 525.011; 525.012; 525.013; 525.014; 525.015; 525.02; 525.03; 525.051; 525.052; 525.053; 525.06; 525.07; 525.08; 525.081; 525.082; 525.09; 609.108, subdivision 5; 609.109, subdivisions 1, 3; 625.09; Minnesota Statutes 2005 Supplement, sections 353.027; 383B.225, subdivision 5; 485.03; 609.108, subdivisions 1, 3, 4, 6, 7; 609.109, subdivisions 2, 4, 5, 6.

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

ARTICLE 1

GENERAL CRIMINAL AND SENTENCING PROVISIONS

Section 1. Minnesota Statutes 2005 Supplement, section 244.10, subdivision 5, is amended 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 or the state's request for an aggravated sentence under any sentencing enhancement statute or the state's request for a mandatory minimum under section 609.11 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, or impanel a resentencing jury, 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.

Sec. 2. Minnesota Statutes 2005 Supplement, section 244.10, subdivision 6, is amended 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 or an aggravated sentence

under any sentencing enhancement statute or a mandatory minimum sentence under section 609.11. 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.

Sec. 3. Minnesota Statutes 2005 Supplement, section 244.10, subdivision 7, is amended 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 or an aggravated sentence under any sentencing enhancement statute or a mandatory minimum sentence under section 609.11 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.

Sec. 4. **[340A.706] ALCOHOL WITHOUT LIQUID DEVICES PROHIBITED.**

Subdivision 1. **Definition.** For purposes of this section, an "alcohol without liquid device" is a device, machine, apparatus, or appliance that mixes an alcoholic beverage with pure or diluted oxygen to produce an alcohol vapor that may be inhaled by an individual. An "alcohol without liquid device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended specifically for medical purposes to dispense prescribed or over-the-counter medications.

Subd. 2. **Prohibition.** Except as provided in subdivision 3, it is unlawful for any person or business establishment to possess, purchase, sell, offer to sell, or use an alcohol without liquid device.

Subd. 3. **Research exemption.** This section does not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research, or a pharmaceutical company or biotechnology company conducting bona fide research.

Subd. 4. **Penalty.** Except as provided in subdivision 3, it is unlawful for any person or business establishment to utilize a nebulizer, inhaler, or atomizer or other device as described in subdivision 1, for the purposes of inhaling alcoholic beverages.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to violations committed on or after that date.

Sec. 5. Minnesota Statutes 2004, section 346.155, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Person" means any natural person, firm, partnership, corporation, or association, however organized.

(c) "Wildlife sanctuary" means a 501(c)(3) nonprofit organization that:

(1) operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wildlife are provided care for their lifetime;

(2) does not conduct any commercial activity with respect to any animal of which the organization is an owner; and

(3) does not buy, sell, trade, auction, lease, loan, or breed any animal of which the organization is an owner, except as an integral part of the species survival plan of the American Zoo and Aquarium Association.

(d) "Possess" means to own, care for, have custody of, or control.

(e) "Regulated animal" means:

(1) all members of the Felidae family including, but not limited to, lions, tigers, cougars, leopards, cheetahs, ocelots, and servals, but not including domestic cats or cats recognized as a domestic breed, registered as a domestic breed, and shown as a domestic breed by a national or international multibreed cat registry association;

(2) bears; and

(3) all nonhuman primates, including, but not limited to, lemurs, monkeys, chimpanzees, gorillas, orangutans, marmosets, lorises, and tamarins.

Regulated animal includes any hybrid or cross between an animal listed in clause (1), (2), or (3) and a domestic animal and offspring from all subsequent generations of those crosses or hybrids.

(f) "Local animal control authority" means an agency of the state, county, municipality, or other governmental subdivision of the state that is responsible for animal control operations in its jurisdiction.

(g) "Bodily harm," "substantial bodily harm," and "great bodily harm" have the meanings given them in section 609.02.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2004, section 346.155, subdivision 4, is amended to read:

Subd. 4. **Requirements.** (a) A person who possesses a regulated animal must maintain health and ownership records on each animal and must maintain the records for the life of the animal. If possession of the regulated animal is transferred to another person, a copy of the health and ownership records must accompany the animal.

(b) A person who possesses a regulated animal must maintain an ongoing program of veterinary care which includes a veterinary visit to the premises at least annually.

(c) A person who possesses a regulated animal must notify the local animal control authority in writing within ten days of a change in address or location where the regulated animal is kept. The notification of change in address or location form must be prepared by the Minnesota Animal Control Association and approved by the Board of Animal Health.

(d) A person with a United States Department of Agriculture license for regulated animals shall forward a copy of the United States Department of Agriculture inspection report to the local animal control authority within 30 days of receipt of the inspection report.

(e) A person who possesses a regulated animal shall prominently display a sign on the structure where the animal is housed indicating that a dangerous regulated animal is on the premises.

(f) A person who possesses a regulated animal must notify, as soon as practicable, local law enforcement officials of any escape of a regulated animal. The person who possesses the regulated animal is liable for any costs incurred by any person, city, county, or state agency resulting from the escape of a regulated animal unless the escape is due to a criminal act by another person or a natural event.

(g) A person who possesses a regulated animal must maintain a written recovery plan in the event of the escape of a regulated animal. The person must maintain live traps, or other equipment necessary to assist in the recovery of the regulated animal.

~~(h) If requested by the local animal control authority;~~ A person may not move a regulated animal from its location unless the person notifies the local animal control authority prior to moving the animal. The notification must include the date and the location where the animal is to be moved. This paragraph does not apply to a regulated animal transported to a licensed veterinarian.

(i) If a person who possesses a regulated animal can no longer care for the animal, the person shall take steps to find long-term placement for the regulated animal.

EFFECTIVE DATE. This section is effective August 1, 2006.

Sec. 7. Minnesota Statutes 2004, section 346.155, subdivision 5, is amended to read:

Subd. 5. **Seizure.** (a) The local animal control authority, upon issuance of a notice of inspection, must be granted access at reasonable times to sites where the local animal control authority has reason to believe a violation of this chapter is occurring or has occurred.

(b) If a person who possesses a regulated animal is not in compliance with the requirements of this section, the local animal control authority shall take possession of the animal for custody and care, provided that the procedures in this subdivision are followed.

(c) Upon request of a person possessing a regulated animal, the local animal control authority may allow the animal to remain in the physical custody of the owner for 30 days, during which time the owner shall take all necessary actions to come in compliance with this section. During the 30-day period, the local animal control authority may inspect, at any reasonable time, the premises where the animal is kept.

(d) If a person who possesses a regulated animal is not in compliance with this section following the 30-day period described in paragraph (c), the local animal control authority shall seize the animal and place it in a holding facility that is appropriate for the species for up to ten days.

~~(e)~~ The authority taking custody of an animal under this section shall provide a notice of the seizure by delivering or mailing it to the owner, by posting a copy of it at the place where the animal is taken into custody, or by delivering it to a person residing on the property. The notice must include:

(1) a description of the animal seized; the authority for and purpose of the seizure; the time, place, and circumstances under which the animal was seized; and a contact person and telephone number;

(2) a statement that a person from whom a regulated animal was seized may post security to prevent disposition of the animal and may request a hearing concerning the seizure and that failure to do so within five business days of the date of the notice will result in disposition of the animal;

(3) a statement that actual costs of the care, keeping, and disposal of the regulated animal are the responsibility of the person from whom the animal was seized, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law; and

(4) a form that can be used by a person from whom a regulated animal was seized for requesting a hearing under this subdivision.

~~(e)~~ (f) If a person from whom the regulated animal was seized makes a request within five business days of the seizure, a hearing must be held within five business days of the request to determine the validity of the seizure and disposition of the animal. The judge or hearing officer may authorize the return of the animal to the person from whom the animal was seized if the judge or hearing officer finds:

(1) that the person can and will provide the care required by law for the regulated animal; and

(2) the regulated animal is physically fit.

~~(f)~~ (g) If a judge or hearing officer orders a permanent disposition of the regulated animal, the local animal control authority may take steps to find long-term placement for the animal with a wildlife sanctuary, persons authorized by the Department of Natural Resources, or an appropriate United States Department of Agriculture licensed facility.

~~(g)~~ (h) A person from whom a regulated animal is seized 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 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 local animal control authority and the person claiming an interest in the animal before return of the animal to the person.

~~(h)~~ (i) A person from whom a regulated animal has been seized under this subdivision may prevent disposition of the animal by posting security in the amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within five business days of the seizure, inclusive of the day of the seizure.

~~(i)~~ (j) If circumstances exist threatening the life of a person or the life of any animal, local law enforcement or the local animal control authority ~~shall~~ may seize a regulated animal without an opportunity for hearing or court order, or destroy the animal.

EFFECTIVE DATE. This section is effective August 1, 2006.

Sec. 8. Minnesota Statutes 2004, section 346.155, is amended by adding a subdivision to read:

Subd. 9a. **Confinement and control.** A person violates this subdivision who possesses a regulated animal and negligently fails to control the animal or keep it properly confined and as a result the animal causes bodily harm, substantial bodily harm, or great bodily harm to another person.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2004, section 346.155, subdivision 10, is amended to read:

Subd. 10. **Penalty.** (a) A person who knowingly violates subdivision 2, 3, paragraph (b) or (c), or 4 is guilty of a misdemeanor.

(b) A person who knowingly violates subdivision 3, paragraph (a), is guilty of a gross misdemeanor.

(c) A person who violates subdivision 9a, resulting in bodily harm 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.

(d) A person who violates subdivision 9a, resulting in substantial bodily harm 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.

(e) A person who violates subdivision 9a, resulting in great bodily harm or death 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 \$5,000, or both, unless a greater penalty is provided elsewhere.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2004, section 518B.01, subdivision 14, is amended to read:

Subd. 14. **Violation of an order for protection.** (a) A person who violates an order for protection issued by a judge or referee is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), whenever an order for protection is granted by a judge or referee or pursuant to a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, and the respondent or person to be restrained knows of the existence of the order, violation of the order for protection is a misdemeanor. Upon a misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of three days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. If the court stays imposition or execution of the jail sentence and the defendant refuses or fails to comply with the court's treatment order, the court must impose and execute the stayed jail sentence. A violation of an order for protection shall also constitute contempt of court and be subject to the penalties provided in chapter 588.

(c) A person is guilty of a gross misdemeanor who knowingly violates this subdivision ~~during the time period between~~ within ten years of a previous qualified domestic violence-related offense conviction and the end of the five years following discharge from sentence for that offense or adjudication of delinquency. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

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

(1) ~~during the time period between~~ within ten years of the first of two or more previous qualified domestic violence-related offense convictions and the end of the five years following discharge from sentence for that offense or adjudications of delinquency; or

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

Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

(e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories restraining the person or excluding the person from the residence or the petitioner's place of employment, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The probable cause required under this paragraph includes probable cause that the person knows of the existence of the order. If the order has not been served, the officer shall immediately serve the order whenever reasonably safe and possible to do so. An order for purposes of this subdivision, includes the short form order described in subdivision 8a. When the order is first served upon the person at a location at which, under the terms of the order, the person's presence constitutes a violation, the person shall not be arrested for violation of the order without first being given a reasonable opportunity to leave the location in the presence of the peace officer. A person arrested under this paragraph shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(f) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed \$10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation, or in the county in which the alleged violation occurred, if the petitioner and respondent do not reside in this state. The court also shall refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).

(h) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year, except when the court determines a longer fixed period is appropriate.

(i) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

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

(j) When a person is convicted under paragraph (b) or (c) of violating an order for protection and the court determines that the person used a firearm in any way during commission of the violation, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(k) Except as otherwise provided in paragraph (j), when a person is convicted under paragraph (b) or (c) of violating an order for protection, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(l) Except as otherwise provided in paragraph (j), a person is not entitled to possess a pistol if the person has been convicted under paragraph (b) or (c) after August 1, 1996, of violating an order for protection, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(m) If the court determines that a person convicted under paragraph (b) or (c) of violating an order for protection owns or possesses a firearm and used it in any way during the commission of the violation, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2005 Supplement, section 518B.01, subdivision 22, is amended to read:

Subd. 22. **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 person is guilty of a gross misdemeanor who knowingly violates this subdivision within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency.

(d) 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, 2006, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2005 Supplement, 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); 518B.01, subdivision 22 (violation of domestic abuse no contact order); 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 609.78, subdivision 2 (interference with an emergency call); 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, 2006, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2004, section 609.11, subdivision 7, is amended to read:

Subd. 7. **Prosecutor shall establish.** ~~Whenever reasonable grounds exist to believe that the defendant or an accomplice used a firearm or other dangerous weapon or had in possession a firearm, at the time of commission of an offense listed in subdivision 9, the prosecutor shall, at the time of trial or at the plea of guilty, present on the record all evidence tending to establish that fact unless it is otherwise admitted on the record.~~ The question of whether the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm shall be determined by the ~~court on the record~~ factfinder at the time of a verdict or finding of guilt at trial or the entry of a plea of guilty based upon the record of the trial or the plea of guilty. The ~~court~~ factfinder shall also ~~determine on the record at the time of sentencing~~ whether the defendant has been convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2004, section 609.153, subdivision 1, is amended to read:

Subdivision 1. **Application.** This section applies to the following misdemeanor-level crimes: sections 152.093 (manufacture or delivery of drug paraphernalia prohibited); 152.095 (advertisement of drug paraphernalia prohibited); 609.324 (prostitution); 609.3243 (loitering with intent to participate in prostitution); 609.546 (motor vehicle tampering); 609.595 (damage to property); and 609.66 (dangerous weapons); misdemeanor-level violations of section 609.605 (trespass); and violations of local ordinances prohibiting the unlawful sale or possession of controlled substances.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2004, section 609.2231, subdivision 6, is amended to read:

Subd. 6. **Public employees with mandated duties.** A person is guilty of a gross misdemeanor who:

(1) assaults an agricultural inspector, occupational safety and health investigator, child protection worker, public health nurse, animal control officer, or probation or parole officer while the employee is engaged in the performance of a duty mandated by law, court order, or ordinance;

(2) knows that the victim is a public employee engaged in the performance of the official public duties of the office; and

(3) inflicts demonstrable bodily harm.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2004, section 609.224, subdivision 2, is amended to read:

Subd. 2. **Gross misdemeanor.** (a) Whoever violates the provisions of subdivision 1 against the same victim ~~during the time period between~~ within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency ~~and the end of the five years following discharge from sentence or disposition for that offense~~, 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.

(b) Whoever violates the provisions of subdivision 1 within ~~two~~ three years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency 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.

(c) A caregiver, as defined in section 609.232, who is an individual and who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, 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, 2006, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2004, section 609.224, subdivision 4, is amended to read:

Subd. 4. **Felony.** (a) Whoever violates the provisions of subdivision 1 against the same victim ~~during the time period between~~ within ten years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency ~~and the end of the five years following discharge from sentence or disposition for that offense~~ is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

(b) Whoever violates the provisions of subdivision 1 within three years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency 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.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 18. Minnesota Statutes 2004, section 609.2242, subdivision 2, is amended to read:

Subd. 2. **Gross misdemeanor.** Whoever violates subdivision 1 ~~during the time period between~~ within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency against a family or household member as defined in section 518B.01, subdivision 2, ~~and the end of the five years following discharge from sentence or disposition for that offense~~ 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, 2006, and applies to crimes committed on or after that date.

Sec. 19. Minnesota Statutes 2004, section 609.2242, subdivision 4, is amended to read:

Subd. 4. **Felony.** Whoever violates the provisions of this section or section 609.224, subdivision 1, ~~against the same victim during the time period between~~ within ten years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency

~~and the end of the five years following discharge from sentence or disposition for that offense is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.~~

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 20. Minnesota Statutes 2005 Supplement, section 609.282, is amended to read:

609.282 LABOR TRAFFICKING.

Subdivision 1. **Individuals under age 18.** Whoever knowingly engages in the labor trafficking of an individual who is under the age of 18 is guilty of a crime and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$40,000, or both.

Subd. 2. **Other offenses.** 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.

Subd. 3. **Consent or age of victim not a defense.** 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, 2006, and applies to crimes committed on or after that date.

Sec. 21. Minnesota Statutes 2005 Supplement, section 609.283, is amended to read:

609.283 UNLAWFUL CONDUCT WITH RESPECT TO DOCUMENTS IN FURTHERANCE OF LABOR OR SEX TRAFFICKING.

Subdivision 1. **Crime defined.** 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 as provided in subdivision 2.

Subd. 2. **Penalties.** A person who violates subdivision 1 may be sentenced as follows:

(1) if the crime involves a victim under the age of 18, to imprisonment for not more than ten years or to payment of a fine of \$20,000, or both; or

(2) in other cases, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 3. **Consent or age of victim not a defense.** 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, 2006, and applies to crimes committed on or after that date.

Sec. 22. Minnesota Statutes 2005 Supplement, section 609.3455, is amended by adding a subdivision to read:

Subd. 3a. Mandatory sentence for certain engrained offenders. (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 on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453;

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

(3) the factfinder determines that the 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.

(b) The 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.

(c) 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, 2006, and applies to crimes committed on or after that date.

Sec. 23. Minnesota Statutes 2005 Supplement, section 609.3455, subdivision 4, is amended to read:

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 factfinder determines that 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 this section or section 609.108 for the previous sex offense conviction; or

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

(i) the factfinder determines that 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 this section or 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.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 24. Minnesota Statutes 2005 Supplement, 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;

(5) escapes while in or under the supervision of a facility designated under section 253B.18, subdivision 1, pursuant to a court hold or 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, 2006, and applies to crimes committed on or after that date.

Sec. 25. Minnesota Statutes 2005 Supplement, 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;

(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~~ section 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; ~~or~~

(5) if the person who escapes is under a court hold, civil commitment, or supervision under section 253B.185 or Minnesota Statutes 1992, section 526.10, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, 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, 2006, and applies to crimes committed on or after that date.

Sec. 26. Minnesota Statutes 2004, section 609.495, is amended by adding a subdivision to read:

Subd. 5. **Venue.** An offense committed under subdivision 1 or 3 may be prosecuted in:

(1) the county where the aiding or obstructing behavior occurred; or

(2) the county where the underlying criminal act occurred.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 27. **[609.632] COUNTERFEITING OF CURRENCY.**

Subdivision 1. **Manufacturing; printing.** Whoever, with the intent to defraud, falsely makes, alters, prints, scans, images, or copies any United States postal money order, United States currency, Federal Reserve note, or other obligation or security of the United States so that it purports to be genuine or has different terms or provisions than that of the United States Postal Service or United States Treasury is guilty of counterfeiting and may be sentenced as provided in subdivision 4.

Subd. 2. **Means for false reproduction.** Whoever, with intent to defraud, makes, engraves, possesses, or transfers a plate or instrument, computer, printer, camera, software, paper, cloth, fabric, ink, or other material for the false reproduction of any United States postal money order, United States currency, Federal Reserve note, or other obligation or security of the United States is guilty of counterfeiting and may be sentenced as provided in subdivision 4.

Subd. 3. **Uttering or possessing.** Whoever, with intent to defraud, utters or possesses with intent to utter any counterfeit United States postal money order, United States currency, Federal Reserve note, or other obligation or security of the United States, having reason to know that the money order, currency, note, or obligation or security is forged, counterfeited, falsely made, altered, or printed, is guilty of offering counterfeited currency and may be sentenced as provided in subdivision 4.

Subd. 4. **Penalty.** (a) A person who is convicted of violating subdivision 1 or 2 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both.

(b) A person who is convicted of violating subdivision 3 may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both, if the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of more than \$35,000, or the aggregate face value of the counterfeited item is more than \$35,000;

(2) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of more than \$5,000, or the aggregate face value of the counterfeited item is more than \$5,000;

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

(i) the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of more than \$1,000 or the aggregate face value of the counterfeited item is more than \$1,000; or

(ii) the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of no more than \$1,000, or the aggregate face value of the counterfeited item is no more than \$1,000, and the person has been convicted within the preceding five years for an offense under this section, section 609.24; 609.245; 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or 609.821, or a statute from another state or the United States in conformity with any of those sections, and the person received a

felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow the imposition of a felony or gross misdemeanor sentence; or

(4) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of no more than \$1,000, or the aggregate face value of the counterfeited item is no more than \$1,000.

Subd. 5. **Aggregation; venue.** In any prosecution under this section, the value of the counterfeited United States postal money orders, United States currency, Federal Reserve notes, or other obligations or securities of the United States, offered by the defendant in violation of this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the counterfeited items was forged, offered, or possessed, for all of the offenses aggregated under this subdivision.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 28. Minnesota Statutes 2004, section 609.748, subdivision 6, is amended to read:

Subd. 6. **Violation of restraining order.** (a) A person who violates a restraining order issued under this section is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), when a temporary restraining order or a restraining order is granted under this section and the respondent knows of the order, violation of the order is a misdemeanor.

(c) A person is guilty of a gross misdemeanor who knowingly violates the order ~~during the time period between~~ within ten years of a previous qualified domestic violence-related offense conviction and the end of the five years following discharge from sentence for that offense or adjudication of delinquency.

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

(1) ~~during the time period between~~ within ten years of the first of two or more previous qualified domestic violence-related offense convictions and the end of the five years following discharge from sentence for that offense or adjudications of delinquency;

(2) because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin;

(3) by falsely impersonating another;

(4) while possessing a dangerous weapon;

(5) with an intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(6) against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

(e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under subdivision 4 or 5 if the existence of the order can be verified by the officer.

(f) A violation of a temporary restraining order or restraining order shall also constitute contempt of court.

(g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated an order issued under subdivision 4 or 5, the court may issue an order to the respondent requiring the respondent to appear within 14 days and show cause why the respondent should not be held in contempt of court. The court also shall refer the violation of the order to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 29. Minnesota Statutes 2004, section 609.749, subdivision 4, is amended to read:

Subd. 4. **Second or subsequent violations; felony.** (a) A person is guilty of a felony who violates any provision of subdivision 2 ~~during the time period between~~ within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency and the end of the ten years following discharge from sentence or disposition for that offense, and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) A person is guilty of a felony who violates any provision of subdivision 2 ~~during the time period between~~ within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency ~~and the end of ten years following discharge from sentence or disposition for that offense,~~ and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 30. Minnesota Statutes 2004, section 609.87, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** For purposes of sections 609.87 to ~~609.89~~, 609.891 and ~~section 609.891~~ 609.8912 to 609.8913, the terms defined in this section have the meanings given them.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 31. Minnesota Statutes 2004, section 609.87, subdivision 11, is amended to read:

Subd. 11. **Computer security system.** "Computer security system" means a software program or computer device that:

(1) is intended to protect the confidentiality and secrecy of data and information stored in or accessible through the computer system; ~~and~~

~~(2) displays a conspicuous warning to a user that the user is entering a secure system or requires a person seeking access to knowingly respond by use of an authorized code to the program or device in order to gain access.~~

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 32. Minnesota Statutes 2004, section 609.87, is amended by adding a subdivision to read:

Subd. 13. **Encryption.** "Encryption" means any protective or disruptive measure, including but not limited to, cryptography, enciphering, or encoding that:

(1) causes or makes any data, information, image, program, signal, or sound unintelligible or unusable; or

(2) prevents, impedes, delays, or disrupts access to any data, information, image, program, signal, or sound.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 33. Minnesota Statutes 2004, section 609.87, is amended by adding a subdivision to read:

Subd. 14. **Personal data.** "Personal data" means any computer property or computer program which contains records of the employment, salary, credit, or other financial or personal information relating to another person.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 34. Minnesota Statutes 2004, section 609.891, subdivision 1, is amended to read:

Subdivision 1. **Crime.** A person is guilty of unauthorized computer access if the person intentionally and without ~~authority~~ authorization attempts to or does penetrate a computer security system.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 35. Minnesota Statutes 2004, section 609.891, subdivision 3, is amended to read:

Subd. 3. **Gross misdemeanor.** (a) A person who violates subdivision 1 in a manner that creates a risk to public health and safety is guilty of a gross misdemeanor and may be sentenced to imprisonment for a term of not more than one year or to payment of a fine of not more than \$3,000, or both.

(b) A person who violates subdivision 1 in a manner that compromises the security of data that are protected under section 609.52, subdivision 2, clause (8), or are not public data as defined in section 13.02, subdivision 8a, is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

(c) A person who violates subdivision 1 and gains access to personal data is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

(d) A person who is convicted of a second or subsequent misdemeanor violation of subdivision 1 within five years is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 36. **[609.8912] CRIMINAL USE OF ENCRYPTION.**

Subdivision 1. **Crime.** Whoever intentionally uses or attempts to use encryption to do any of the following is guilty of criminal use of encryption and may be sentenced as provided in subdivision 2:

(1) to commit, further, or facilitate conduct constituting a crime;

(2) to conceal the commission of any crime;

(3) to conceal or protect the identity of a person who has committed any crime; or

(4) to prevent, impede, delay, or disrupt the normal operation or use of another's computer, computer program, or computer system.

Subd. 2. **Penalties.** (a) A person who violates subdivision 1 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(1) the crime referenced in subdivision 1, clause (1), (2), or (3), is a felony; or

(2) the person has two or more prior convictions for an offense under this section, section 609.88, 609.89, 609.891, or 609.8913, or similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

(b) A person who violates subdivision 1, under circumstances not described in paragraph (a), 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, 2006, and applies to crimes committed on or after that date.

Sec. 37. [609.8913] FACILITATING ACCESS TO A COMPUTER SECURITY SYSTEM.

A person is guilty of a gross misdemeanor if the person knows or has reason to know that by facilitating access to a computer security system the person is aiding another who intends to commit a crime and in fact commits a crime. For purposes of this section, "facilitating access" includes the intentional disclosure of a computer password, identifying code, personal information number, or other confidential information about a computer security system which provides a person with the means or opportunity for the commission of a crime.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 38. Minnesota Statutes 2004, section 617.246, is amended by adding a subdivision to read:

Subd. 7. **Conditional release term.** 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 this section, 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, minus the time the offender served on supervised release. If the person has previously been convicted of a violation of this section, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 617.247, or any similar statute of the United States, this state, or any state, the commissioner shall place the person on conditional release for ten years, minus the time the offender served on supervised release. The terms of conditional release are governed by section 609.3455, subdivision 8.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 39. Minnesota Statutes 2004, section 617.247, is amended by adding a subdivision to read:

Subd. 9. **Conditional release term.** 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 this section, 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, minus the time the offender served on supervised release. If the person has previously been convicted of a violation of this section, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 617.246, or any similar statute of the United States, this state, or any state, the commissioner shall place the person on conditional release for ten years, minus the time the offender served on supervised release. The terms of conditional release are governed by section 609.3455, subdivision 8.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 40. Minnesota Statutes 2004, section 626.77, subdivision 3, is amended to read:

Subd. 3. **Definition.** As used in this section, "federal law enforcement officer" means an officer or employee whether employed inside or outside the state of the Federal Bureau of Investigation, the Drug Enforcement Administration, the United States Marshal Service, the Secret Service, the Bureau of Alcohol, Tobacco, and Firearms, ~~or the Immigration and Naturalization Service,~~ the Department of Homeland Security, or the United States Postal Inspection Service, or their successor agencies, who is responsible for the prevention or detection of crimes or for the enforcement of the United States Code and who is authorized to arrest, with or without a warrant, any individual for a violation of the United States Code.

EFFECTIVE DATE. This section is effective August 1, 2006.

Sec. 41. Laws 2005, chapter 136, article 16, section 3, the effective date, is amended to read:

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.~~

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

Sec. 42. Laws 2005, chapter 136, article 16, section 4, the effective date, is amended to read:

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.~~

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

Sec. 43. Laws 2005, chapter 136, article 16, section 5, the effective date, is amended to read:

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.~~

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

Sec. 44. Laws 2005, chapter 136, article 16, section 6, the effective date, is amended to read:

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.~~

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

Sec. 45. COLLATERAL CONSEQUENCES COMMITTEE.

Subdivision 1. **Establishment; duties.** A collateral consequences committee is established to study collateral consequences of adult convictions and juvenile adjudications. The committee shall identify the uses of collateral consequences of convictions and adjudications and recommend any proposed changes to the legislature on collateral consequences.

Subd. 2. **Resources.** The Department of Corrections shall provide technical assistance to the committee on request, with the assistance of the commissioner of public safety and the Sentencing Guidelines Commission.

Subd. 3. **Membership.** The committee consists of:

(1) one representative from each of the following groups:

(i) crime victim advocates, appointed by the commissioner of public safety;

(ii) county attorneys, appointed by the Minnesota County Attorneys Association;

(iii) city attorneys, appointed by the League of Minnesota Cities;

(iv) district court judges, appointed by the Judicial Council;

(v) private criminal defense attorneys, appointed by the Minnesota Association of Criminal Defense Lawyers;

(vi) probation officers, appointed by the Minnesota Association of County Probation Officers; and

(vii) the state public defender or a designee; and

(2) the commissioner of public safety, or a designee, who shall chair the group.

Subd. 4. **Report and recommendations.** The committee shall present the legislature with its report and recommendations no later than January 15, 2007. The report must be presented to the chairs of the senate Crime Prevention and Public Safety Committee and the house Public Safety and Finance Committee.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 46. SENTENCING GUIDELINES MODIFICATIONS.

(a) Except as provided in paragraph (b), the modifications related to sex offenses proposed by the Minnesota Sentencing Guidelines Commission and described in the January 2006 Report to the Legislature, pages 31 to 45, are adopted and take effect on August 1, 2006.

(b) The proposed rankings of Minnesota Statutes, sections 609.344, subdivision 1, clauses (h), (i), and (l); and 609.345, subdivision 1, clauses (h), (i), and (l), are rejected and do not take effect.

(c) The commission is requested to rank violations of:

(1) Minnesota Statutes, section 609.344, subdivision 1, clauses (h), (i), and (l), at severity level C;

(2) Minnesota Statutes, section 609.344, subdivision 1, clause (a), at severity level D;

(3) Minnesota Statutes, section 609.345, subdivision 1, clauses (h), (i), and (l), at severity level E; and

(4) Minnesota Statutes, section 609.345, subdivision 1, clause (a), at severity level F.

(d) If the commission decides to make the changes requested in paragraph (c), it shall ensure that the changes are effective on August 1, 2006, and publish an updated version of the sentencing guidelines that include the changes by that date.

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

Sec. 47. **REVISOR'S INSTRUCTION.**

When appropriate, the revisor of statutes shall replace statutory references to Minnesota Statutes, section 609.108, with references to section 609.3455, subdivision 3a.

EFFECTIVE DATE. This section is effective August 1, 2006.

Sec. 48. **REPEALER.**

Minnesota Statutes 2004, sections 609.108, subdivision 5; and 609.109, subdivisions 1 and 3, and Minnesota Statutes 2005 Supplement, sections 609.108, subdivisions 1, 3, 4, 6, and 7; and 609.109, subdivisions 2, 4, 5, and 6, are repealed.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

ARTICLE 2

CONTROLLED SUBSTANCES, DWI, AND TRAFFIC SAFETY PROVISIONS

Section 1. Minnesota Statutes 2004, section 169.13, is amended to read:

169.13 RECKLESS OR CARELESS DRIVING.

Subdivision 1. **Reckless driving.** (a) Any person who drives any vehicle in such a manner as to indicate either a willful or a wanton disregard for the safety of persons or property is guilty of reckless driving and such reckless driving is a misdemeanor.

(b) A person shall not race any vehicle upon any street or highway of this state. Any person who willfully compares or contests relative speeds by operating one or more vehicles is guilty of racing, which constitutes reckless driving, whether or not the speed contested or compared is in excess of the maximum speed prescribed by law.

Subd. 2. **Careless driving.** Any person who operates or halts any vehicle upon any street or highway carelessly or heedlessly in disregard of the rights of others, or in a manner that endangers or is likely to endanger any property or any person, including the driver or passengers of the vehicle, is guilty of a misdemeanor.

Subd. 3. **Application.** (a) The provisions of this section apply, but are not limited in application, to any person who drives any vehicle in the manner prohibited by this section:

(1) upon the ice of any lake, stream, or river, including but not limited to the ice of any boundary water; or

(2) in a parking lot ordinarily used by or available to the public though not as a matter of right, and a driveway connecting ~~such a~~ the parking lot with a street or highway.

(b) This section does not apply to:

(1) an authorized emergency vehicle, when responding to an emergency call or when in pursuit of an actual or suspected violator;

(2) the emergency operation of any vehicle when avoiding imminent danger; or

(3) any raceway, racing facility, or other public event sanctioned by the appropriate governmental authority.

EFFECTIVE DATE. This section is effective August 1, 2006, for violations committed on or after that date.

Sec. 2. Minnesota Statutes 2004, section 169A.20, subdivision 1, is amended to read:

Subdivision 1. **Driving while impaired crime.** It is a crime for any person to drive, operate, or be in physical control of any motor vehicle within this state or on any boundary water of this state:

(1) when the person is under the influence of alcohol;

(2) when the person is under the influence of a controlled substance;

(3) when the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle;

(4) when the person is under the influence of a combination of any two or more of the elements named in clauses (1), (2), and (3);

(5) when the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motor vehicle is 0.08 or more;

(6) when the vehicle is a commercial motor vehicle and the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the commercial motor vehicle is 0.04 or more; or

(7) when the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 3. Minnesota Statutes 2004, section 169A.24, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** A person who violates section 169A.20 (driving while impaired) is guilty of first-degree driving while impaired if the person:

(1) commits the violation within ten years of the first of three or more qualified prior impaired driving incidents; ~~or~~

(2) has previously been convicted of a felony under this section; or

(3) has previously been convicted of a felony under section 609.21, subdivision 1, clause (2), (3), (4), (5), or (6); subdivision 2, clause (2), (3), (4), (5), or (6); subdivision 2a, clause (2), (3), (4), (5), or (6); subdivision 3, clause (2), (3), (4), (5), or (6); or subdivision 4, clause (2), (3), (4), (5), or (6).

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2004, section 169A.28, subdivision 1, is amended to read:

Subdivision 1. **Mandatory consecutive sentences.** (a) The court shall impose consecutive sentences when it sentences a person for:

- (1) violations of section 169A.20 (driving while impaired) arising out of separate courses of conduct;
- (2) a violation of section 169A.20 when the person, at the time of sentencing, is on probation for, or serving, an executed sentence for a violation of section 169A.20 or Minnesota Statutes 1998, section 169.121 (driver under the influence of alcohol or controlled substance) or 169.129 (aggravated DWI-related violations; penalty), and the prior sentence involved a separate course of conduct; or
- (3) a violation of section 169A.20 and another offense arising out of a single course of conduct that is listed in subdivision 2, paragraph (e), when the person has five or more qualified prior impaired driving incidents within the past ten years.

(b) The requirement for consecutive sentencing in paragraph (a) does not apply if the person is being sentenced to an executed prison term for a violation of section 169A.20 (driving while impaired) under circumstances described in section 169A.24 (first-degree driving while impaired).

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

Sec. 5. Minnesota Statutes 2004, section 169A.45, subdivision 1, is amended to read:

Subdivision 1. **Alcohol concentration evidence.** Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for violating section 169A.20 (driving while impaired) or 169A.31 (alcohol-related school bus or Head Start bus driving), the court may admit evidence of the presence or amount of alcohol in the person's blood, breath, or urine as shown by an analysis of those items. In addition, in a prosecution for a violation of section 169A.20, the court may admit evidence of the presence or amount in the person's blood, breath, or urine, as shown by an analysis of those items, of:

- (1) a controlled ~~substances~~ substance or its metabolite; or
- (2) a hazardous ~~substances in the person's blood, breath, or urine as shown by an analysis of those items~~ substance.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 6. Minnesota Statutes 2004, section 169A.51, subdivision 1, is amended to read:

Subdivision 1. **Implied consent; conditions; election of test.** (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state or on any boundary water of this state consents, subject to the provisions of sections 169A.50 to 169A.53 (implied consent law), and section 169A.20 (driving while impaired), to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence of alcohol, a controlled substances substance or its metabolite, or a hazardous substances substance. The test must be administered at the direction of a peace officer.

(b) The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired), and one of the following conditions exist:

- (1) the person has been lawfully placed under arrest for violation of section 169A.20 or an ordinance in conformity with it;
- (2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death;
- (3) the person has refused to take the screening test provided for by section 169A.41 (preliminary screening test); or

(4) the screening test was administered and indicated an alcohol concentration of 0.08 or more.

(c) The test may also be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 7. Minnesota Statutes 2004, section 169A.51, subdivision 2, is amended to read:

Subd. 2. **Implied consent advisory.** At the time a test is requested, the person must be informed:

(1) that Minnesota law requires the person to take a test:

(i) to determine if the person is under the influence of alcohol, controlled substances, or hazardous substances;

(ii) to determine the presence of a controlled substance listed in schedule I or II or metabolite, other than marijuana or tetrahydrocannabinols; and

(iii) if the motor vehicle was a commercial motor vehicle, to determine the presence of alcohol;

(2) that refusal to take a test is a crime;

(3) if the peace officer has probable cause to believe the person has violated the criminal vehicular homicide and injury laws, that a test will be taken with or without the person's consent; and

(4) that the person has the right to consult with an attorney, but that this right is limited to the extent that it cannot unreasonably delay administration of the test.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 8. Minnesota Statutes 2004, section 169A.51, subdivision 4, is amended to read:

Subd. 4. **Requirement of urine or blood test.** Notwithstanding subdivision 3, a blood or urine test may be required even after a breath test has been administered if there is probable cause to believe that:

(1) there is impairment by a controlled substance or a hazardous substance that is not subject to testing by a breath test; or

(2) a controlled substance listed in schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body.

Action may be taken against a person who refuses to take a blood test under this subdivision only if a urine test was offered and action may be taken against a person who refuses to take a urine test only if a blood test was offered.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 9. Minnesota Statutes 2004, section 169A.51, subdivision 7, is amended to read:

Subd. 7. **Requirements for conducting tests; liability.** (a) Only a physician, medical technician, emergency medical technician-paramedic, registered nurse, medical technologist, medical laboratory technician, or laboratory assistant acting at the request of a peace officer may withdraw blood for the

purpose of determining the presence of alcohol, a controlled ~~substances~~ substance or its metabolite, or a hazardous ~~substances~~ substance. This limitation does not apply to the taking of a breath or urine sample.

(b) The person tested has the right to have someone of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of a peace officer; provided, that the additional test sample on behalf of the person is obtained at the place where the person is in custody, after the test administered at the direction of a peace officer, and at no expense to the state. The failure or inability to obtain an additional test or tests by a person does not preclude the admission in evidence of the test taken at the direction of a peace officer unless the additional test was prevented or denied by the peace officer.

(c) The physician, medical technician, emergency medical technician-paramedic, medical technologist, medical laboratory technician, laboratory assistant, or registered nurse drawing blood at the request of a peace officer for the purpose of determining the concentration of alcohol, a controlled ~~substances~~ substance or its metabolite, or a hazardous ~~substances~~ substance is in no manner liable in any civil or criminal action except for negligence in drawing the blood. The person administering a breath test must be fully trained in the administration of breath tests pursuant to training given by the commissioner of public safety.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 10. Minnesota Statutes 2004, section 169A.52, subdivision 2, is amended to read:

Subd. 2. **Reporting test failure.** (a) If a person submits to a test, the results of that test must be reported to the commissioner and to the authority having responsibility for prosecution of impaired driving offenses for the jurisdiction in which the acts occurred, if the test results indicate:

- (1) an alcohol concentration of 0.08 or more;
- (2) an alcohol concentration of 0.04 or more, if the person was driving, operating, or in physical control of a commercial motor vehicle at the time of the violation; or
- (3) the presence of a controlled substance listed in schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols.

(b) If a person submits to a test and the test results indicate the presence of a hazardous substance, the results of that test must be reported to the authority having responsibility for prosecution of impaired driving offenses for the jurisdiction in which the acts occurred.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 11. Minnesota Statutes 2005 Supplement, 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 or its metabolite, 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 impaired driving incidents occurring on or after that date.

Sec. 12. Minnesota Statutes 2005 Supplement, 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 or its metabolite, 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 August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 13. Minnesota Statutes 2004, section 169A.60, subdivision 2, is amended to read:

Subd. 2. **Plate impoundment violation; impoundment order.** (a) The commissioner shall issue a registration plate impoundment order when:

(1) a person's driver's license or driving privileges are revoked for a plate impoundment violation; or

(2) a person is arrested for or charged with a plate impoundment violation described in subdivision 1, paragraph ~~(c)~~ (d), clause (5).

(b) The order must require the impoundment of the registration plates of the motor vehicle involved in the plate impoundment violation and all motor vehicles owned by, registered, or leased in the name of the violator, including motor vehicles registered jointly or leased in the name of the violator and another. The commissioner shall not issue an impoundment order for the registration plates of a rental vehicle, as defined in section 168.041, subdivision 10, or a vehicle registered in another state.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 14. Minnesota Statutes 2004, section 169A.60, subdivision 4, is amended to read:

Subd. 4. **Peace officer as agent for notice of impoundment.** On behalf of the commissioner, a peace officer issuing a notice of intent to revoke and of revocation for a plate impoundment violation shall also serve a notice of intent to impound and an order of impoundment. On behalf of the commissioner, a peace officer who is arresting a person for or charging a person with a plate impoundment violation described in subdivision 1, paragraph ~~(c)~~ (d), clause (5), shall also serve a notice of intent to impound and an order of impoundment. If the vehicle involved in the plate impoundment violation is accessible to the officer at the time the impoundment order is issued, the officer shall seize the registration plates subject to the impoundment order. The officer shall destroy all plates seized or impounded under this section. The officer shall send to the commissioner copies of the notice of intent to impound and the order of impoundment and a notice that registration plates impounded and seized under this section have been destroyed.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 15. Minnesota Statutes 2005 Supplement, section 171.05, subdivision 2b, is amended to read:

Subd. 2b. **Instruction permit use by person under age 18.** (a) This subdivision applies to persons who have applied for and received an instruction permit under subdivision 2.

(b) The permit holder may, with the permit in possession, operate a motor vehicle, but must be accompanied by and be under the supervision of a certified driver education instructor, the permit holder's parent or guardian, or another licensed driver age 21 or older. The supervisor must occupy the seat beside the permit holder.

(c) The permit holder may operate a motor vehicle only when every occupant under the age of 18 has a seat belt or child passenger restraint system properly fastened. A person who violates this paragraph is subject to a fine of \$25. A peace officer may not issue a citation for a violation of this paragraph unless the officer lawfully stopped or detained the driver of the motor vehicle for a moving violation as defined in section 171.04, subdivision 1. The commissioner shall not record a violation of this paragraph on a person's driving record.

(d) The permit holder may not operate a vehicle while communicating over, or otherwise operating, a cellular or wireless telephone, whether handheld or hands free, when the vehicle is in motion. The permit holder may assert as an affirmative defense that the violation was made for the sole purpose of obtaining emergency assistance to prevent a crime about to be committed, or in the reasonable belief that a person's life or safety was in danger. Violation of this paragraph is a petty misdemeanor subject to section 169.89, subdivision 2.

(e) The permit holder must maintain a driving record free of convictions for moving violations, as defined in section 171.04, subdivision 1, and free of convictions for violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50 to 169A.53. If the permit holder drives a motor vehicle in violation of the law, the commissioner shall suspend, cancel, or revoke the permit in accordance with the statutory section violated.

EFFECTIVE DATE. This section is effective June 1, 2006, and applies to violations committed on and after that date.

Sec. 16. Minnesota Statutes 2005 Supplement, section 171.055, subdivision 2, is amended to read:

Subd. 2. **Use of provisional license.** (a) A provisional license holder may operate a motor vehicle only when every occupant under the age of 18 has a seat belt or child passenger restraint system properly fastened. A person who violates this paragraph is subject to a fine of \$25. A peace officer may not issue a citation for a violation of this paragraph unless the officer lawfully stopped or detained the driver of the

motor vehicle for a moving violation as defined in section 171.04. The commissioner shall not record a violation of this paragraph on a person's driving record.

(b) A provisional license holder may not operate a vehicle while communicating over, or otherwise operating, a cellular or wireless telephone, whether handheld or hands free, when the vehicle is in motion. The provisional license holder may assert as an affirmative defense that the violation was made for the sole purpose of obtaining emergency assistance to prevent a crime about to be committed, or in the reasonable belief that a person's life or safety was in danger. Violation of this paragraph is a petty misdemeanor subject to section 169.89, subdivision 2.

(c) If the holder of a provisional license during the period of provisional licensing incurs (1) a conviction for a violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50 to 169A.53, (2) a conviction for a crash-related moving violation, or (3) more than one conviction for a moving violation that is not crash related, the person may not be issued a driver's license until 12 consecutive months have expired since the date of the conviction or until the person reaches the age of 18 years, whichever occurs first.

EFFECTIVE DATE. This section is effective June 1, 2006, and applies to violations committed on and after that date.

Sec. 17. Minnesota Statutes 2005 Supplement, section 171.18, subdivision 1, is amended to read:

Subdivision 1. **Offenses.** (a) The commissioner may suspend the license of a driver without preliminary hearing upon a showing by department records or other sufficient evidence that the licensee:

- (1) has committed an offense for which mandatory revocation of license is required upon conviction;
- (2) has been convicted by a court for violating a provision of chapter 169 or an ordinance regulating traffic, other than a conviction for a petty misdemeanor, and department records show that the violation contributed in causing an accident resulting in the death or personal injury of another, or serious property damage;
- (3) is an habitually reckless or negligent driver of a motor vehicle;
- (4) is an habitual violator of the traffic laws;
- (5) is incompetent to drive a motor vehicle as determined in a judicial proceeding;
- (6) has permitted an unlawful or fraudulent use of the license;
- (7) has committed an offense in another state that, if committed in this state, would be grounds for suspension;
- (8) has committed a violation of section 169.444, subdivision 2, paragraph (a), within five years of a prior conviction under that section;
- (9) has committed a violation of section 171.22, except that the commissioner may not suspend a person's driver's license based solely on the fact that the person possessed a fictitious or fraudulently altered Minnesota identification card;
- (10) has failed to appear in court as provided in section 169.92, subdivision 4;
- (11) has failed to report a medical condition that, if reported, would have resulted in cancellation of driving privileges;
- (12) has been found to have committed an offense under section 169A.33; or

(13) has paid or attempted to pay a fee required under this chapter for a license or permit by means of a dishonored check issued to the state or a driver's license agent, which must be continued until the registrar determines or is informed by the agent that the dishonored check has been paid in full.

However, an action taken by the commissioner under clause (2) or (5) must conform to the recommendation of the court when made in connection with the prosecution of the licensee.

(b) The commissioner may not suspend the driver's license of an individual under paragraph (a) who was convicted of a violation of section 171.24, subdivision 1, whose license was under suspension at the time solely because of the individual's failure to appear in court or failure to pay a fine.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 18. Minnesota Statutes 2004, section 253B.02, subdivision 2, is amended to read:

Subd. 2. **Chemically dependent person.** "Chemically dependent person" means any person (a) determined as being incapable of self-management or management of personal affairs by reason of the habitual and excessive use of alcohol, drugs, or other mind-altering substances; and (b) whose recent conduct as a result of habitual and excessive use of alcohol, drugs, or other mind-altering substances poses a substantial likelihood of physical harm to self or others as demonstrated by (i) a recent attempt or threat to physically harm self or others, (ii) evidence of recent serious physical problems, or (iii) a failure to obtain necessary food, clothing, shelter, or medical care. "Chemically dependent person" also means a pregnant woman who has engaged during the pregnancy in habitual or excessive use, for a nonmedical purpose, of any of the following controlled substances or their derivatives: opium, cocaine, heroin, phencyclidine, methamphetamine, or amphetamine.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 19. **REMEDICATION OF HARM CAUSED BY MISDEMEANOR CONVICTIONS FOR MINORS DRIVING WITH MOBILE PHONES.**

Subdivision 1. Remediation by commissioner. For infractions that occurred between July 1, 2005, and June 30, 2006, the commissioner of public safety shall expunge from a licensee's driving record a misdemeanor conviction for violating Minnesota Statutes, section 171.05, subdivision 2b, paragraph (d), or 171.055, subdivision 2, paragraph (b). The commissioner is not obligated to expunge petty misdemeanor violations of the statutes referenced in this subdivision.

Subd. 2. Remediation by courts. (a) A court in which a person was convicted for a misdemeanor violation of Minnesota Statutes, section 171.05, subdivision 2b, paragraph (d), or 171.055, subdivision 2, paragraph (b), that occurred between July 1, 2005, and June 30, 2006, must vacate the conviction, on its own motion, without cost to the person convicted, and must immediately notify the person that the conviction has been vacated. A court shall not vacate petty misdemeanor violations of the statutes referenced in this subdivision.

(b) The commissioner of finance, in consultation with the state court administrator, shall develop and implement a procedure to refund defendants for any fine in excess of \$300 for a conviction vacated under paragraph (a), without requiring that the defendant request a refund. The procedure may require recovery of portions of the fines that have been allocated by law to local governmental units.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 20. **REPEALER.**

Minnesota Statutes 2004, section 169A.41, subdivision 4, is repealed.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to impaired driving violations that occur on or after that date.

ARTICLE 3 PUBLIC SAFETY POLICY

Section 1. **[4.055] GOVERNOR'S RESIDENCE EMPLOYEES AND GOVERNOR APPOINTEE BACKGROUND CHECKS.**

The governor's office may request a check of:

(1) systems accessible through the criminal justice data communications network, including, but not limited to, criminal history, predatory offender registration, warrants, and driver license record information from the Department of Public Safety;

(2) the statewide supervision system maintained by the Department of Corrections; and

(3) national criminal history information maintained by the Federal Bureau of Investigation;

on candidates for positions within the governor's residence or appointment by the governor. The candidate shall provide the governor's office with a written authorization to conduct the check of these systems. For a check of the national criminal history information, the request must also include a set of fingerprints which shall be sent to the Bureau of Criminal Apprehension. The bureau has the authority to exchange the fingerprints with the FBI to facilitate the national background check. The superintendent may recover fees associated with the background checks from the governor's office.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 2. Minnesota Statutes 2004, section 13.82, is amended by adding a subdivision to read:

Subd. 29. **Juvenile offender photographs.** Notwithstanding section 260B.171, chapter 609A, or other law to the contrary, photographs or electronically produced images of children adjudicated delinquent under chapter 260B shall not be expunged from law enforcement records or databases.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 13.87, is amended by adding a subdivision to read:

Subd. 4. **Name and index service; data classification.** (a) For purposes of this section, "name and event index service" means the data held by the Bureau of Criminal Apprehension that link data about an individual that are stored in one or more databases maintained in criminal justice agencies, as defined in section 299C.46, subdivision 2, and in the judiciary.

(b) Data collected, created, or maintained by the name and event index service are classified as private data, pursuant to section 13.02, subdivision 12, and become confidential data, pursuant to section 13.02, subdivision 3, when the data links private or public data about a specific individual to any confidential data about that individual. The data in the name and event index service revert to the private data classification when no confidential data about a specific individual are maintained in the databases. The classification of data in the name and event index service does not change the classification of the data held in the databases linked by the service.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 4. Minnesota Statutes 2004, section 144.7401, is amended by adding a subdivision to read:

Subd. 8. **Peace officer; applicability.** An individual licensed as a peace officer under section 626.84, subdivision 1, is considered an emergency medical services person for purposes of sections 144.7401 to 144.7415 regardless of whether the officer is engaged in performing emergency services.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 5. Minnesota Statutes 2004, section 155A.07, is amended by adding a subdivision to read:

Subd 2a. **Licensing; felons.** The board shall adopt rules to establish a uniform process and criteria by which an applicant who has been convicted of a felony shall be considered for licensing.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 6. Minnesota Statutes 2004, section 181.973, is amended to read:

181.973 EMPLOYEE PUBLIC SAFETY PEER COUNSELING AND DEBRIEFING.

A person engaged in a public safety peer counseling or a public safety peer debriefing shall not, without the permission of the person being debriefed or counseled, be allowed to disclose any information or opinion which the peer group member or peer counselor has acquired during the ~~debriefing~~ process. However, this does not prohibit a peer counselor from disclosing information the peer counselor reasonably believes indicates that the person may be a danger to self or others, if the information is used only for the purpose of eliminating the danger to the person or others. Any information or opinion disclosed in violation of this paragraph is not admissible as evidence in any personnel or occupational licensing matter involving the person being debriefed or counseled.

For purposes of this ~~paragraph~~ section, "public safety peer counseling or debriefing" means a group process oriented debriefing session, or one-to-one contact with a peer counselor, held for peace officers, firefighters, medical emergency persons, dispatchers, or other persons involved with public safety emergency services, that is established by any agency providing public safety emergency services and is designed to help a person who has suffered an occupation-related ~~traumatic event~~ trauma, illness, or stress begin the process of healing and effectively dealing with ~~posttraumatic stress~~ the person's problems or the use of the peer counselor for direction with referrals to better service these occupation-related issues. A "peer counselor" means someone so designated by that agency.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 7. Minnesota Statutes 2005 Supplement, section 243.166, subdivision 1b, is amended to read:

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 a longer registration period under the laws of another state in which the person has been convicted or adjudicated, or is subject to lifetime registration, in which case.

If a person described in this paragraph is subject to a longer registration period in another state or is subject to lifetime registration, the person shall register for ~~life~~ that time period 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.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to offenders residing in Minnesota on or after that date.

Sec. 8. Minnesota Statutes 2005 Supplement, section 243.166, subdivision 4, is amended to read:

Subd. 4. **Contents of registration.** (a) The registration provided to the corrections agent or law enforcement authority, must consist of a statement in writing signed by the person, giving information required by the bureau, 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 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 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. The bureau shall ascertain whether the person has registered with the law enforcement authority 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.

(1) Except as provided in clause (2), 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.

(2) The requirements of this paragraph shall not apply during any period where the person to be photographed is: (i) committed to the commissioner of corrections and incarcerated, (ii) incarcerated in a regional jail or county jail, or (iii) committed to the commissioner of human services and receiving treatment in a secure treatment facility.

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

(1) Except for persons registering under subdivision 3a, the bureau shall mail a verification form to the person's last reported primary address. This verification form 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 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 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 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 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 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 shall send a written consent form to the person along with the verification form. A person who receives this written consent form shall sign and return it to the bureau at the same time as the verification form.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 9. Minnesota Statutes 2005 Supplement, section 243.166, subdivision 4b, is amended to read:

Subd. 4b. **Health care facility; notice of status.** (a) For the purposes of this subdivision, "health care facility" means a facility licensed by:

(1) the commissioner of health as a hospital, boarding care home or supervised living facility under sections 144.50 to 144.58, or a nursing home under chapter 144A; or

(2) the commissioner of human services as a residential facility under chapter 245A to provide adult foster care, adult mental health treatment, chemical dependency treatment to adults, or residential services to persons with developmental disabilities.

(b) ~~Upon admittance~~ Prior to admission 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~~ will occur.

(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 is planning to be admitted and receive, or has been admitted and is receiving health care at a health care facility shall notify the administrator of the facility and deliver a fact sheet to the administrator containing the following information: (1) name and physical description of the offender; (2) the offender's conviction history, including the dates of conviction; (3) the risk level classification assigned to the offender under section 244.052, if any; and (4) the profile of likely victims.

(d) Except for a hospital licensed under sections 144.50 to 144.58, ~~if a health care facility that receives notice under this subdivision that a predatory offender has been admitted to the facility a fact sheet under paragraph (c) that includes a risk level classification for the offender, and if the facility admits the offender, the facility shall notify other~~ distribute the fact sheet to all residents at the facility of this fact. If the facility determines that ~~notice~~ distribution to a resident is not appropriate given the resident's medical, emotional, or mental status, the facility shall ~~notify~~ distribute the fact sheet to the patient's next of kin or emergency contact.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 10. Minnesota Statutes 2005 Supplement, section 243.166, subdivision 6, is amended to read:

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 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 any 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 1b, or any offense from another state or any federal offense similar to the offenses described in subdivision 1b, and the person has a prior conviction or adjudication for an offense for which registration was or would have been required under subdivision 1b, or an offense from another state or a federal offense similar to an offense described in subdivision 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 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.

(e) A person described in subdivision 1b, paragraph (b), who is required to register under the laws of a state in which the person has been previously convicted or adjudicated delinquent, shall register under this section for the time period required by the state of conviction or adjudication unless a longer time period is required elsewhere in this section.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to offenders residing in Minnesota on or after that date.

Sec. 11. Minnesota Statutes 2005 Supplement, section 244.052, subdivision 4, is amended to read:

Subd. 4. **Law enforcement agency; disclosure of information to public.** (a) The law enforcement agency in the area where the 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.

(j) When a school, day care facility, or other entity or program that primarily educates or serves children receives notice under paragraph (b), clause (3), that a level III predatory offender resides or works in the surrounding community, notice to parents must be made as provided in this paragraph. If the predatory offender identified in the notice is participating in programs offered by the facility that require or allow the person to interact with children other than the person's children, the principal or head of the entity must

notify parents with children at the facility of the contents of the notice received pursuant to this section. The immunity provisions of subdivision 7 apply to persons disclosing information under this paragraph.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 12. **[299A.81] DEATH SCENE INVESTIGATIONS.**

(a) The Department of Public Safety shall provide information to local law enforcement agencies about best practices for handling death scene investigations.

(b) The Department of Public Safety shall identify any publications or training opportunities that may be available to local law enforcement agencies or law enforcement officers concerning the handling of death scene investigations.

EFFECTIVE DATE. This section is effective August 1, 2006.

Sec. 13. **[299C.156] FORENSIC LABORATORY ADVISORY BOARD.**

Subdivision 1. **Membership.** (a) The Forensic Laboratory Advisory Board consists of the following:

- (1) the superintendent of the Bureau of Criminal Apprehension or the superintendent's designee;
- (2) the commissioner of public safety or the commissioner's designee;
- (3) the commissioner of corrections or the commissioner's designee;
- (4) an individual with expertise in the field of forensic science, selected by the governor;
- (5) an individual with expertise in the field of forensic science, selected by the attorney general;
- (6) a faculty member of the University of Minnesota, selected by the president of the university;
- (7) the state public defender or a designee;
- (8) a prosecutor, selected by the Minnesota County Attorneys Association;
- (9) a sheriff, selected by the Minnesota Sheriffs Association;
- (10) a police chief, selected by the Minnesota Chiefs of Police Association;
- (11) a judge or court administrator, selected by the chief justice of the Supreme Court; and
- (12) a criminal defense attorney, selected by the Minnesota State Bar Association.

(b) The board shall select a chair from among its members.

(c) Board members serve four-year terms and may be reappointed.

(d) The board may employ staff necessary to carry out its duties.

Subd. 2. **Duties.** The board may:

(1) develop and implement a reporting system through which laboratories, facilities, or entities that conduct forensic analyses report professional negligence or misconduct that substantially affects the integrity of the forensic results committed by employees or contractors;

(2) encourage all laboratories, facilities, or entities that conduct forensic analyses to report professional negligence or misconduct that substantially affects the integrity of the forensic results committed by employees or contractors to the board;

(3) investigate, in a timely manner, any allegation of professional negligence or misconduct that would substantially affect the integrity of the results of a forensic analysis conducted by a laboratory, facility, or entity; and

(4) encourage laboratories, facilities, and entities that conduct forensic analyses to become accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ALCLD/LAB) or other appropriate accrediting body and develop and implement a process for those entities to report their accreditation status to the board.

Subd. 3. Investigations. (a) An investigation under subdivision 2, clause (3):

(1) may include the preparation of a written report that identifies and describes the methods and procedures used to identify:

(i) the alleged negligence or misconduct;

(ii) whether negligence or misconduct occurred; and

(iii) any corrective action required of the laboratory, facility, or entity; and

(2) may include one or more:

(i) retrospective reexaminations of other forensic analyses conducted by the laboratory, facility, or entity that may involve the same kind of negligence or misconduct; and

(ii) follow-up evaluations of the laboratory, facility, or entity to review:

(A) the implementation of any corrective action required under clause (1), item (iii); or

(B) the conclusion of any retrospective reexamination under this clause, item (i).

(b) The costs of an investigation under this section must be borne by the laboratory, facility, or entity being investigated.

Subd. 4. Delegation of duties. The board by contract may delegate the duties described in subdivision 2, clauses (1) and (3), to any person or entity that the board determines to be qualified to assume those duties.

Subd. 5. Reviews and reports are public. The board shall make all investigation reports completed under subdivision 3, clause (1), available to the public. A report completed under subdivision 3, clause (1), in a subsequent civil or criminal proceeding is not prima facie evidence of the information or findings contained in the report.

Subd. 6. Reports to legislature. By January 15 of each year, the board shall submit any report prepared under subdivision 3, clause (1), during the preceding calendar year to the governor and the legislature.

Subd. 7. Forensic analysis processing time period guidelines. (a) By July 1, 2007, the board shall recommend forensic analysis processing time period guidelines applicable to the Bureau of Criminal Apprehension and other laboratories, facilities, and entities that conduct forensic analyses. When adopting and recommending these guidelines and when making other related decisions, the board shall consider the goals and priorities identified by the presidential DNA initiative. The board shall consider the feasibility of the Bureau of Criminal Apprehension completing the processing of forensic evidence submitted to it by sheriffs, chiefs of police, or state or local corrections authorities.

(b) The bureau shall provide information to the board in the time, form, and manner determined by the board and keep it informed of the most up-to-date data on the actual forensic analysis processing turn around time periods. By January 15 of each year, the board shall report to the legislature on these issues, including the recommendations made by the board to improve turnaround times.

Subd. 8. **Forensic evidence processing deadline.** The board may recommend reasonable standards and deadlines for the Bureau of Criminal Apprehension to test and catalog forensic evidence samples relating to alleged crimes committed, including DNA analysis, in their control and possession.

Subd. 9. **Office space.** The commissioner of public safety may provide adequate office space and administrative services to the board.

Subd. 10. **Expenses.** Section 15.059 applies to the board.

Subd. 11. **Definition.** As used in this section, "forensic analysis" means a medical, chemical, toxicologic, ballistic, or other expert examination or test performed on physical evidence, including DNA evidence, for the purpose of determining the connection of the evidence to a criminal action.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2005 Supplement, section 299C.40, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "CIBRS" means the Comprehensive Incident-Based Reporting System, located in the Department of Public Safety and managed by the Bureau of Criminal Apprehension, Criminal Justice Information Systems Section. A reference in this section to "CIBRS" includes the Bureau of Criminal Apprehension.

(c) "Law enforcement agency" means a Minnesota municipal police department, the Metropolitan Transit Police, the Metropolitan Airports Police, the University of Minnesota Police Department, the Department of Corrections' Fugitive Apprehension Unit, a Minnesota county sheriff's department, the Bureau of Criminal Apprehension, or the Minnesota State Patrol.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 15. Minnesota Statutes 2005 Supplement, section 299C.405, is amended to read:

299C.405 SUBSCRIPTION SERVICE.

(a) For the purposes of this section "subscription service" means a process by which law enforcement agency personnel may obtain ongoing, automatic electronic notice of any contacts an individual has with any criminal justice agency.

(b) The Department of Public Safety must not establish a subscription service without prior legislative authorization; except that, the Bureau of Criminal Apprehension may employ under section 299C.40 a secure subscription service designed to promote and enhance officer safety during tactical operations by and between federal, state, and local law enforcement agencies by notifying law enforcement agencies of conflicts where multiple law enforcement operations may be occurring on the same subject or vehicle or on or near the same location. The notification may include warrant executions, surveillance activities, SWAT activities, undercover operations, and other investigative operations.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 16. **[299C.565] MISSING PERSON REPORT.**

The local law enforcement agency having jurisdiction over the location where a person has been missing or was last seen has the responsibility to take a missing person report from an interested party. If this location cannot be clearly and easily established, the local law enforcement agency having jurisdiction over the last verified location where the missing person last resided has the responsibility to take the report.

EFFECTIVE DATE. This section is effective August 1, 2006.

Sec. 17. Minnesota Statutes 2005 Supplement, section 299C.65, subdivision 2, is amended to read:

Subd. 2. **Task force.** The policy group shall appoint a task force 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 the following members:

- (1) two sheriffs recommended by the Minnesota Sheriffs Association;
- (2) two police chiefs recommended by the Minnesota Chiefs of Police Association;
- (3) two county attorneys recommended by the Minnesota County Attorneys Association;
- (4) two city attorneys recommended by the Minnesota League of Cities;
- (5) two public defenders appointed by the Board of Public Defense;
- (6) two district judges appointed by the ~~Conference of Chief Judges~~ Judicial Council, one of whom is currently assigned to the juvenile court;
- (7) two community corrections administrators recommended by the Minnesota Association of Counties, one of whom represents a community corrections act county;
- (8) two probation officers;
- (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 and who for the purpose of meetings of the full task force may be compensated pursuant to section 15.059;
- (10) two court administrators;
- (11) one member of the house of representatives appointed by the speaker of the house;
- (12) one member of the senate appointed by the majority leader;
- (13) the attorney general or a designee;
- (14) 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;
- (15) 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 state chief information officer;
- ~~(17)~~ (18) one member appointed by the commissioner of public safety;
- ~~(18)~~ (19) one member appointed by the commissioner of corrections;
- ~~(19)~~ (20) one member appointed by the commissioner of administration; and
- ~~(20)~~ (21) 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.

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, 2006.

Sec. 18. Minnesota Statutes 2004, section 299E.01, subdivision 2, is amended to read:

Subd. 2. **Responsibilities.** The division shall be responsible and shall utilize state employees for security and public information services in ~~the Capitol complex of~~ state-owned buildings and state leased to own buildings in the Capitol area, as described in section 15B.02; it shall provide such personnel as are required by the circumstances to insure the orderly conduct of state business and the convenience of the public.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 19. Minnesota Statutes 2004, section 299F.011, subdivision 5, is amended to read:

Subd. 5. **Appeal policy; variance.** Upon application, the state fire marshal may grant variances from the minimum requirements specified in the code if there is substantial compliance with the provisions of the code, the safety of the public and occupants of such building will not be jeopardized, and undue hardship will result to the applicant unless such variance is granted. No appeal to the state fire marshal for a variance from orders issued by a local fire official from the Uniform Fire Code shall be accepted until the applicant has first made application to the local governing body and the local unit has acted on the application. The state fire marshal shall consider ~~the decision~~ any decisions or recommendations of the local governing body. Any person aggrieved by a decision made by the fire marshal under this subdivision may proceed before the fire marshal as with a contested case in accordance with the Administrative Procedure Act.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 20. **[299F.50] DEFINITIONS.**

Subdivision 1. **Scope.** As used in sections 299F.50 to 299F.52, the terms defined in this section have the meanings given them.

Subd. 2. **Installed.** "Installed" means that an approved carbon monoxide alarm is hard-wired into the electrical wiring, directly plugged into an electrical outlet without a switch, or, if the alarm is battery-powered, attached to the wall of the dwelling.

Subd. 3. **Single and multifamily dwelling.** "Single and multifamily dwelling" means any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants.

Subd. 4. **Dwelling unit.** "Dwelling unit" means an area meant for living or sleeping by human occupants.

Subd. 5. **Approved carbon monoxide alarm.** "Approved carbon monoxide alarm" means a device meant for the purpose of detecting carbon monoxide that is certified by a nationally recognized testing laboratory to conform to the latest Underwriters Laboratories Standards (known as UL2034 standards).

Subd. 6. **Operational.** "Operational" means working and in service.

EFFECTIVE DATE. This section is effective January 1, 2007, for all newly constructed single family and multifamily dwelling units for which building permits were issued on or after January 1, 2007; August 1, 2008, for all existing single family dwelling units; and August 1, 2009, for all multifamily dwelling units.

Sec. 21. **[299F.51] REQUIREMENTS FOR CARBON MONOXIDE ALARMS.**

Subdivision 1. **Generally.** Every single family dwelling and every dwelling unit in a multifamily dwelling must have an approved and operational carbon monoxide alarm installed within ten feet of each room lawfully used for sleeping purposes.

Subd. 2. **Owner's duties.** The owner of a multifamily dwelling unit which is required to be equipped with one or more approved carbon monoxide alarms must:

(1) provide and install one approved and operational carbon monoxide alarm within ten feet of each room lawfully used for sleeping; and

(2) replace any required carbon monoxide alarm that has been stolen, removed, found missing, or rendered inoperable during a prior occupancy of the dwelling unit and which has not been replaced by the prior occupant prior to the commencement of a new occupancy of a dwelling unit.

Subd. 3. **Occupant's duties.** The occupant of each dwelling unit in a multifamily dwelling in which an approved and operational carbon monoxide alarm has been provided and installed by the owner must:

(1) keep and maintain the device in good repair; and

(2) replace any device that is stolen, removed, missing, or rendered inoperable during the occupancy of the dwelling unit.

Subd. 4. **Battery removal prohibited.** No person shall remove batteries from, or in any way render inoperable, a required carbon monoxide alarm.

Subd. 5. **Exceptions; certain multifamily dwellings and state-operated facilities.** (a) In lieu of requirements of subdivision 1, multifamily dwellings may have approved and operational carbon monoxide alarms installed between 15 and 25 feet of carbon monoxide producing central fixtures and equipment provided there is a centralized alarm system or other mechanism for responsible parties to hear the alarm at all times.

(b) An owner of a multifamily dwelling that contains minimal or no sources of carbon monoxide may be exempted from the requirements of subdivision 1, provided that such owner certifies to the commissioner of public safety that such multifamily dwelling poses no foreseeable carbon monoxide risk to the health and safety to the dwelling units.

(c) The requirements of this section do not apply to facilities owned or operated by the state of Minnesota.

EFFECTIVE DATE. This section is effective January 1, 2007, for all newly constructed single family and multifamily dwelling units for which building permits were issued on or after January 1, 2007; August 1, 2008, for all existing single family dwelling units; and August 1, 2009, for all multifamily dwelling units.

Sec. 22. Minnesota Statutes 2004, section 525.9214, is amended to read:

525.9214 ROUTINE INQUIRY AND REQUIRED REQUEST; SEARCH AND NOTIFICATION.

(a) If, at or near the time of death of a patient, there is no documentation in the medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a representative designated by the administrator shall discuss with the patient or a relative of the patient the option to make or refuse to make an anatomical gift and may request the making of an anatomical gift pursuant to section 525.9211 or 525.9212. The request must be made with reasonable discretion and sensitivity to the circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in section 525.9215. An entry must be made in the medical

record of the patient, stating the name of the individual making the request, and the name, response, and relationship to the patient of the person to whom the request was made.

(b) The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(1) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding an individual who the searcher believes is dead or near death;

(2) a hospital or emergency care facility, upon the admission or presentation of an individual at or near the time of death, if there is not immediately available any other source of that information; and

(3) a medical examiner or coroner upon receipt of a body.

(c) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by paragraph (b), clause (1), and the individual or body to whom it relates is taken to a hospital, the hospital must be notified of the contents and the document or other evidence must be sent to the hospital. If a body is taken to a morgue, the person who discovered the body must notify the person's dispatcher. A dispatcher notified under this section must notify the state's federally designated organ procurement organization and inform the organization of the deceased's name, donor status, and location.

(d) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to section 525.9212, paragraph (a), or a release and removal of a part has been permitted pursuant to section 525.9213, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

(e) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability.

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

Sec. 23. Minnesota Statutes 2004, section 611A.0315, is amended to read:

611A.0315 VICTIM NOTIFICATION; DOMESTIC ASSAULT; HARASSMENT.

Subdivision 1. **Notice of decision not to prosecute.** (a) A prosecutor shall make every reasonable effort to notify a victim of domestic assault, a criminal sexual conduct offense, or harassment that the prosecutor has decided to decline prosecution of the case or to dismiss the criminal charges filed against the defendant. Efforts to notify the victim should include, in order of priority: (1) contacting the victim or a person designated by the victim by telephone; and (2) contacting the victim by mail. If a suspect is still in custody, the notification attempt shall be made before the suspect is released from custody.

(b) Whenever a prosecutor dismisses criminal charges against a person accused of domestic assault, a criminal sexual conduct offense, or harassment, a record shall be made of the specific reasons for the dismissal. If the dismissal is due to the unavailability of the witness, the prosecutor shall indicate the specific reason that the witness is unavailable.

(c) Whenever a prosecutor notifies a victim of domestic assault or harassment under this section, the prosecutor shall also inform the victim of the method and benefits of seeking an order for protection under section 518B.01 or a restraining order under section 609.748 and that the victim may seek an order without paying a fee.

Subd. 2. **Definitions.** For the purposes of this section, the following terms have the meanings given them.

- (a) "Assault" has the meaning given it in section 609.02, subdivision 10.
- (b) "Domestic assault" means an assault committed by the actor against a family or household member.
- (c) "Family or household member" has the meaning given it in section 518B.01, subdivision 2.
- (d) "Harassment" means a violation of section 609.749.
- (e) "Criminal sexual conduct offense" means a violation of sections 609.342 to 609.3453.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 24. Minnesota Statutes 2004, section 624.22, subdivision 8, is amended to read:

Subd. 8. **Suspension, revocation, or refusal to renew certification.** (a) The state fire marshal may suspend, revoke, or refuse to renew certification of an operator if the operator has:

- (1) submitted a fraudulent application;
- (2) caused or permitted a fire or safety hazard to exist or occur during the storage, transportation, handling, preparation, or use of fireworks;
- (3) conducted a display of fireworks without receipt of a permit required by the state or a political subdivision;
- (4) conducted a display of fireworks with assistants who were not at least 18 years of age, properly instructed, and continually supervised; or
- (5) otherwise failed to comply with any federal or state law or regulation, or the guidelines, relating to fireworks.

(b) Any person aggrieved by a decision made by the state fire marshal under this subdivision may petition the state fire marshal in writing to reconsider the decision. The state fire marshal shall render a decision in writing within 30 days of receipt of the written request for reconsideration. Following reconsideration, the person may appeal the decision to the district court.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 25. Laws 2005, chapter 136, article 1, section 13, subdivision 3, is amended to read:

Subd. 3. Community Services	103,556,000	103,369,000
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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 reimburse counties or their designees, or courts 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 contained 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.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 26. **RICHFIELD DISABLED FIREFIGHTER HEALTH CARE ELIGIBILITY REVIEW.**

Subdivision 1. **Authorization.** An eligible individual specified in subdivision 2 is authorized to have a review of health care coverage eligibility as specified in subdivision 3.

Subd. 2. **Eligibility.** An eligible person is an individual who:

(1) was a member of the Public Employees Retirement Association police and fire plan due to employment as a firefighter with the city of Richfield;

(2) became disabled and was granted a duty-related disability benefit from the Public Employees Retirement Association police and fire plan on November 20, 2002; and

(3) is not receiving employer-paid health care coverage under the program established by Minnesota Statutes, section 299A.465, due to a determination by the city of Richfield that the individual does not satisfy all eligibility requirements for inclusion under that program.

Subd. 3. **Treatment.** Notwithstanding that the disability benefit was granted before the creation of the review panel, and notwithstanding Minnesota Statutes, section 299A.465, subdivision 6, which requires that applications for review by the panel created under that section be submitted to the panel within 90 days of approval of a disability benefit application by the applicable retirement plan, an eligible individual under subdivision 2 may submit an application to the panel within 90 days of the effective date of this section. The panel shall make a determination of whether the firefighter meets the requirements of Minnesota Statutes, section 299A.465, subdivision 1, paragraph (a), clause (2). The panel's final determination is binding on the applicant and the employer, subject to any right of judicial review.

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

Sec. 27. **MISSING ADULTS MODEL POLICY.**

The superintendent of the Bureau of Criminal Apprehension, in consultation with the Minnesota Sheriffs Association and the Minnesota Chiefs of Police Association, shall develop a model policy to address law enforcement efforts and duties regarding missing adults and provide training to local law enforcement agencies on this model policy.

By February 1, 2007, the superintendent shall report to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding on the model policy and training.

EFFECTIVE DATE. This section is effective July 1, 2006.

ARTICLE 4 CORRECTIONS

Section 1. Minnesota Statutes 2004, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. **Unclassified positions.** Unclassified positions are held by employees who are:

- (1) chosen by election or appointed to fill an elective office;
- (2) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;
- (3) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a and in the Office of Strategic and Long-Range Planning;
- (4) the confidential secretary to each of the elective officers of this state and, for the secretary of state and state auditor, an additional deputy, clerk, or employee;
- (5) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;
- (6) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the Office of the Adjutant General;
- (7) employees of the Washington, D.C., office of the state of Minnesota;
- (8) employees of the legislature and of legislative committees or commissions; provided that employees of the Legislative Audit Commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;
- (9) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal Economic Opportunity Act work study program in the Perpich Center for Arts Education and the Minnesota State Colleges and Universities, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;
- (10) officers and enlisted persons in the National Guard;
- (11) attorneys, legal assistants, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;
- (12) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the Department of Labor and Industry;
- (13) members of the State Patrol; provided that selection and appointment of State Patrol troopers must be made in accordance with applicable laws governing the classified service;
- (14) ~~chaplains employed by the state;~~

~~(15)~~ examination monitors and intermittent training instructors employed by the Departments of Employee Relations and Commerce and by professional examining boards and intermittent staff employed by the technical colleges for the administration of practical skills tests and for the staging of instructional demonstrations;

~~(16)~~ (15) student workers;

~~(17)~~ (16) executive directors or executive secretaries appointed by and reporting to any policy-making board or commission established by statute;

~~(18)~~ (17) employees unclassified pursuant to other statutory authority;

~~(19)~~ (18) intermittent help employed by the commissioner of agriculture to perform duties relating to pesticides, fertilizer, and seed regulation;

~~(20)~~ (19) the administrators and the deputy administrators at the State Academies for the Deaf and the Blind; and

~~(21)~~ (20) chief executive officers in the Department of Human Services.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 2. Minnesota Statutes 2004, section 144.445, subdivision 1, is amended to read:

Subdivision 1. **Screening of inmates.** (a) All persons detained or confined for 14 consecutive days or more in facilities operated, licensed, or inspected by the Department of Corrections shall be screened for tuberculosis with either a Mantoux test or a chest roentgenogram (x-ray) as consistent with screening and follow-up practices recommended by the United States Public Health Service or the Department of Health, as determined by the commissioner of health. Administration of the Mantoux test or chest roentgenogram (x-ray) must take place on or before the 14th day of detention or confinement.

(b) If an inmate refuses to submit to an annual test as specified in paragraph (a), the commissioner of corrections may order the inmate to be tested.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 241.016, subdivision 1, is amended to read:

Subdivision 1. **Biennial report.** (a) The Department of Corrections shall submit a performance report to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice funding by January 15, 2005, and every other year thereafter. The issuance and content of the report must include the following:

(1) department strategic mission, goals, and objectives;

(2) the department-wide per diem, adult facility-specific per diems, and an average per diem, reported in a standard calculated method as outlined in the departmental policies and procedures; ~~and~~

(3) department annual statistics as outlined in the departmental policies and procedures; and

(4) information about prison-based mental health programs, including, but not limited to, the availability of these programs, participation rates, and completion rates.

(b) The department shall maintain recidivism rates for adult facilities on an annual basis. In addition, each year the department shall, on an alternating basis, complete a recidivism analysis of adult facilities, juvenile services, and the community services divisions and include a three-year recidivism analysis in the report described in paragraph (a). When appropriate, the recidivism analysis must include education

programs, vocational programs, treatment programs, including mental health programs, industry, and employment. In addition, when reporting recidivism for the department's adult and juvenile facilities, the department shall report on the extent to which offenders it has assessed as chemically dependent commit new offenses, with separate recidivism rates reported for persons completing and not completing the department's treatment programs.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 4. **[241.0222] CONTRACTS WITH NEWLY CONSTRUCTED JAIL FACILITIES THAT PROVIDE ACCESS TO CHEMICAL DEPENDENCY TREATMENT PROGRAMS.**

Notwithstanding section 16C.05, subdivision 2, the commissioner may enter into contracts, up to five years in duration, with a county or group of counties to house inmates committed to the custody of the commissioner in newly constructed county or regional jail facilities that provide inmates access to chemical dependency treatment programs licensed by the Department of Human Services. A contract entered into under this section may contain an option to renew the contract for a term of up to five years.

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

Sec. 5. Minnesota Statutes 2005 Supplement, section 241.06, is amended by adding a subdivision to read:

Subd. 3. **Substance abuse information provided to supervising corrections agency.** When an offender is being released from prison, the commissioner shall provide to the corrections agency that will supervise the offender prison records relating to that offender's prison-based substance abuse assessments, treatment, and any other substance abuse-related services provided to the offender. If the offender did not participate in the prison-based substance abuse program to which the offender was directed, the commissioner shall provide the supervising agency with an explanation of the reasons.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 6. **[241.105] SOCIAL SECURITY ADMINISTRATION INCENTIVE PAYMENTS; INMATE DISCHARGE PLANNING.**

Money received by the commissioner of corrections from the Social Security Administration as a result of the incentive payment agreement under the Personal Responsibility and Work Opportunity Reconciliation Act, Public Law 104-193, section 1611(e)(1), and Public Law 106-170, section 202(x)(3), is appropriated to the commissioner of corrections for discharge planning for inmates with mental illness.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 7. **[241.40] PERIODIC REVIEWS OF SUBSTANCE ABUSE ASSESSMENT PROCESS.**

By January 15, 2007, and at least once every three years thereafter, the commissioner shall ensure that an outside entity conducts an independent review of the department's prison-based substance abuse assessment activities.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 8. **[241.415] RELEASE PLANS; SUBSTANCE ABUSE.**

The commissioner shall cooperate with community-based corrections agencies to determine how best to address the substance abuse treatment needs of offenders who are being released from prison. The

commissioner shall ensure that an offender's prison release plan adequately addresses the offender's needs for substance abuse assessment, treatment, or other services following release, within the limits of available resources.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 9. **[241.416] SUBSTANCE ABUSE PROGRAMS; RECORD KEEPING.**

The commissioner shall keep adequate records regarding inmate participation in substance abuse treatment programs. For inmates who did not comply with directives to participate in substance abuse treatment programs, these records must include the reasons why the inmate did not do so.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 10. **[241.75] INMATE HEALTH CARE DECISIONS.**

Subdivision 1. **Definitions.** (a) Except as provided in paragraph (b), the definitions in chapter 145C apply to this section.

(b) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect a person's physical or mental condition.

Subd. 2. **Health care decisions.** The medical director of the Department of Corrections may make a health care decision for an inmate incarcerated in a state correctional facility if the inmate's attending physician determines that the inmate lacks decision-making capacity and:

(1) there is not a documented health care agent designated by the inmate or the health care agent is not reasonably available to make the health care decision;

(2) if there is a documented health care directive, the decision is consistent with that directive;

(3) the decision is consistent with reasonable medical practice and other applicable law; and

(4) the medical director has made a good-faith attempt to consult with the inmate's next of kin or emergency contact person in making the decision, to the extent those persons are reasonably available.

Subd. 3. **Disagreement regarding health care; guardianship petition.** If the medical director consults with an inmate's next of kin under subdivision 2, clause (4), and the inmate's next of kin and the medical director are not in agreement with respect to a health care decision, the commissioner may bring a petition under section 524.5-303 for appointment of a guardian with authority to make health care decisions for the inmate.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 11. Minnesota Statutes 2005 Supplement, section 244.055, subdivision 10, is amended to read:

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. If the authority or court elects to comment, the comments must specify the reasons for the authority or court's position. This subdivision applies only to offenders sentenced before July 1, 2005.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 12. Minnesota Statutes 2005 Supplement, section 244.055, subdivision 11, is amended to read:

Subd. 11. **Sunset.** This section expires July 1, ~~2007~~ 2009.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 13. Minnesota Statutes 2004, section 609.102, subdivision 2, is amended to read:

Subd. 2. **Imposition of fee.** When a court ~~sentences~~ places a person convicted of a crime; ~~and places the person~~ under the supervision and control of a local correctional agency, that agency may collect a local correctional fee based on the local correctional agency's fee schedule adopted under section 244.18.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2005 Supplement, section 609.3455, subdivision 8, is amended to read:

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. 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, 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. 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, 2006.

Sec. 15. Minnesota Statutes 2004, section 631.425, subdivision 3, is amended to read:

Subd. 3. **Continuation of employment.** If the person committed under this section has been regularly employed, the sheriff shall arrange for a continuation of the employment insofar as possible without interruption. If the person is not employed, the court may designate a suitable person or agency to make reasonable efforts to secure some suitable employment for that person. An inmate employed under this section must be paid a fair and reasonable wage for work performed and must work at fair and reasonable hours per day and per week. There must not be a fee or charge for the inmate to participate in any employment under this section if the inmate is paying for the cost of the inmate's maintenance under subdivision 5.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 16. **TRANSITION.**

The incumbent of a position that is transferred from the unclassified to the classified service under section 1 is appointed to the newly classified position.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 17. **SUBSTANCE ABUSE TREATMENT; RECOMMENDATIONS, REPORT.**

(a) The commissioner of corrections shall make recommendations to:

(1) improve the availability of prison-based substance abuse treatment programming and related services; and

(2) better ensure that offenders released from prison receive appropriate community-based substance abuse treatment and services.

These recommendations must include an estimate of the financial costs associated with implementing them.

(b) The commissioner shall recommend changes in prison-based programs or release plans to improve the postprison release outcomes of:

(1) inmates who are directed to complete prison-based short-term substance abuse programs; and

(2) inmates who fail the prison-based substance abuse programs they start.

(c) By January 15, 2007, the commissioner shall report to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding on the commissioner's recommendations under paragraphs (a) and (b).

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

ARTICLE 5

COURTS

Section 1. Minnesota Statutes 2004, section 13.84, subdivision 1, is amended to read:

Subdivision 1. **Definition.** As used in this section "court services data" means data that are created, collected, used or maintained by a court services department, parole or probation authority, correctional agency, or by an agent designated by the court to perform studies or other duties and that are on individuals who are or were defendants, parolees or probationers of a ~~municipal~~, district ~~or county~~ court, participants in diversion programs, petitioners or respondents to a family court, or juveniles adjudicated delinquent and committed, detained prior to a court hearing or hearings, or found to be dependent or neglected and placed under the supervision of the court.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 2. Minnesota Statutes 2004, section 13.84, subdivision 2, is amended to read:

Subd. 2. **General.** Unless the data is summary data or a statute, including sections 609.115 and 257.70, specifically provides a different classification, the following court services data are classified as private pursuant to section 13.02, subdivision 12:

(a) Court services data on individuals gathered at the request of a ~~municipal~~, district ~~or county~~ court to determine the need for any treatment, rehabilitation, counseling, or any other need of a defendant, parolee, probationer, or participant in a diversion program, and used by the court to assist in assigning an appropriate sentence or other disposition in a case;

(b) Court services data on petitioners or respondents to a family court gathered at the request of the court for purposes of, but not limited to, individual, family, marriage, chemical dependency and marriage dissolution adjustment counseling, including recommendations to the court as to the custody of minor children in marriage dissolution cases;

(c) Court services data on individuals gathered by psychologists in the course of providing the court or its staff with psychological evaluations or in the course of counseling individual clients referred by the court for the purpose of assisting them with personal conflicts or difficulties.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 16D.04, subdivision 2, is amended to read:

Subd. 2. **Agency participation.** (a) A ~~state~~ referring agency may, at its option, refer debts to the commissioner for collection. The ultimate responsibility for the debt, including the reporting of the debt to the commissioner of finance and the decision with regard to the continuing collection and uncollectibility of the debt, remains with the referring ~~state~~ agency.

(b) When a debt owed to a state agency becomes 121 days past due, the state agency must refer the debt to the commissioner for collection. This requirement does not apply if there is a dispute over the amount or validity of the debt, if the debt is the subject of legal action or administrative proceedings, or the agency determines that the debtor is adhering to acceptable payment arrangements. The commissioner, in consultation with the commissioner of finance, may provide that certain types of debt need not be referred to the commissioner for collection under this paragraph. Methods and procedures for referral must follow internal guidelines prepared by the commissioner of finance.

(c) If the referring agency is a court, the court must furnish a debtor's Social Security number to the commissioner when the court refers the debt.

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

Sec. 4. Minnesota Statutes 2004, section 48A.10, subdivision 3, is amended to read:

Subd. 3. **Order.** Upon finding that the applicant is authorized to exercise fiduciary powers, the district court shall enter an order substituting the applicant bank or trust company in every fiduciary capacity held by the affiliated bank or other bank or trust company for which substitution is sought and which joined in the application, except as may be otherwise specified in the application, and except for fiduciary capacities in any account with respect to which a person beneficially interested in the account has filed objection to the substitution and has appeared and been heard in support of the objection. Upon entry of the order, or at a later date as may be specified in the order, the applicant bank or trust company is substituted in every fiduciary capacity to which the order extends. The substitution may be made a matter of record in any county of this state by filing a certified copy of the order of substitution in the office of the court administrator of a district ~~or county~~ court, or by filing a certified copy of the order in the office of the county recorder.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 5. Minnesota Statutes 2004, section 219.97, subdivision 13, is amended to read:

Subd. 13. **Violation of provision for stopping train at crossing.** Upon the complaint of any person, a company operating a railroad violating section 219.93 shall forfeit not less than \$20 nor more than \$100 to be recovered in a civil action before a ~~county or municipal~~ judge of the county in which the violation occurs. One-half of the forfeiture must go to the complainant and one-half to the school district where the violation occurs.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 6. Minnesota Statutes 2005 Supplement, section 270C.545, is amended to read:

270C.545 FEDERAL TAX REFUND OFFSET FEES; TIME LIMIT FOR SUBMITTING CLAIMS FOR OFFSET.

For fees charged by the Department of the Treasury of the United States for the offset of federal tax refunds that are deducted from the refund amounts remitted to the commissioner, the unpaid debts of the taxpayers whose refunds are being offset to satisfy the debts are reduced only by the actual amount of the refund payments received by the commissioner. Notwithstanding any other provision of law to the contrary, a claim for the offset of a federal tax refund must be submitted to the Department of the Treasury of the United States within ten years after the date of the assessment of the tax owed by the taxpayer whose refund is to be offset to satisfy the debt. For court debts referred to the commissioner under section 16D.04, subdivision 2, paragraph (a), the federal refund offset fees are deducted as provided in this section, but the ten-year time limit prescribed in this section for tax debts does not apply.

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

Sec. 7. Minnesota Statutes 2004, section 346.09, subdivision 1, is amended to read:

Subdivision 1. **Notice; appraisers.** The person distraining shall give notice to the owner of the beast, if known to the distrainer, within 24 hours if the owner resides in the same town, and within 48 hours if the owner resides in another town in the same county, Sundays excepted. The notice shall specify the time when and the place where distrained, the number of beasts, and the place of their detention, and that at a time and place stated therein, which shall not be less than 12 hours after the service of the notice, nor more than three days after the distress, the distrainer will apply to a designated ~~county or municipal~~ judge of the county for the appointment of appraisers to appraise the damages. If the owner is unknown or does not reside in the county, the distraining person shall apply for the appointment of appraisers within 24 hours after the distress without notice. After the application, the judge shall appoint three disinterested residents of the town to appraise the damages.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 8. Minnesota Statutes 2004, section 347.04, is amended to read:

347.04 PUBLIC NUISANCE.

Any dog that habitually worries, chases, or molests teams or persons traveling peaceably on the public road is a public nuisance. Upon complaint in writing to a ~~county or municipal~~ district court judge containing a description of the dog, including the name of the dog and its owner, or stating that the name or names are not known, and alleging that the dog is a public nuisance, the judge shall issue a summons, if the owner is known, commanding the owner to appear before the judge at a specified time, not less than six nor more than ten days from the date of the summons, to answer the complaint. The summons shall be served not less than six days before the day of the hearing in the same manner as other district court summonses.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 9. Minnesota Statutes 2004, section 375A.13, subdivision 1, is amended to read:

Subdivision 1. **Appointment by ~~county~~ district judge.** A county government study commission hereinafter called "the commission" may be established in any county as provided in this section to study the form and structure of county government in the county and other counties both within and outside this

state and, if deemed advisable by the commission, recommend to the voters of the county the adoption of any of the optional forms of county government contained in sections 375A.01 to 375A.13. The commission shall be established upon presentation of a petition requesting such action signed by voters equal in number to five percent of the electors voting at the last previous election for the office of governor or a resolution of the board of county commissioners of the county requesting such action. Appointments to the commission shall be made by order filed with the court administrator of the district court of the county and shall be made by the senior ~~county~~ judge having chambers in the county. If there be no judge having chambers in the county, appointments shall be made by the chief judge of the judicial district. The number on the study commission shall be set by the appointing judge but not to exceed 15. A noncommissioner from each commissioner district shall be appointed to a study commission. In addition three members shall be county commissioners and two shall be elected county officials. An appointee who neglects to file with the court administrator within 15 days a written acceptance shall be deemed to have declined the appointment and the place shall be filled as though the appointee had resigned. Vacancies in the commission shall be filled as in the case of original appointments. The county board, the commission, or the petitioners requesting the appointment of the commission may submit to the appointing judge the names of eligible nominees which the appointing judge may consider in making appointments to the commission.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 10. Minnesota Statutes 2004, section 383B.65, subdivision 2, is amended to read:

Subd. 2. **May relocate Bloomington court.** Notwithstanding the provisions of section 488A.01, subdivision 9, the county of Hennepin may relocate the ~~municipal~~ district court serving the city of Bloomington and thereupon shall provide suitable quarters for the holding of regular terms of court in a southern suburban location within the county as may be designated by a majority of the judges of the court. All functions of the court may be discharged, including both court and jury trials of civil and criminal matters, at the location designated pursuant to this section. Nothing in this section shall be construed to reduce the level of services to the residents of the city of Bloomington.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 11. Minnesota Statutes 2004, section 390.20, is amended to read:

390.20 PERSON CHARGED ARRESTED.

If any person charged by the inquest with having committed the offense is not in custody, the coroner shall have the same power as a ~~county or municipal~~ district court judge to issue process for the person's apprehension. The warrant shall be returnable before any court having jurisdiction in the case and the court shall proceed as in similar cases.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 12. Minnesota Statutes 2004, section 390.33, subdivision 2, is amended to read:

Subd. 2. **Subpoena power.** The judge exercising probate jurisdiction may issue subpoenas for witnesses, returnable immediately or at a time and place the judge directs. The persons served with subpoenas shall be allowed the same fees, the sheriff shall enforce their attendance in the same manner, and they shall be subject to the same penalties as if they had been served with a subpoena in behalf of the state in a criminal case before a ~~county or municipal~~ district court judge.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 13. Minnesota Statutes 2004, section 480.181, subdivision 1, is amended to read:

Subdivision 1. **State employees; compensation.** (a) District court referees, judicial officers, court reporters, law clerks, district administration staff, other than district administration staff in the Second and Fourth Judicial Districts, guardian ad litem program coordinators and staff, staff court interpreters in the Second Judicial District, court psychological services staff in the Fourth Judicial District, and other court employees under paragraph (b), are state employees and are governed by the judicial branch personnel rules adopted by the Supreme Court. The Supreme Court, in consultation with the ~~conference of chief judges~~ Judicial Council, shall establish the salary range of these employees under the judicial branch personnel rules. In establishing the salary ranges, the Supreme Court shall consider differences in the cost of living in different areas of the state.

(b) The court administrator and employees of the court administrator who are in the Fifth, Seventh, Eighth, or Ninth Judicial District are state employees. The court administrator and employees of the court administrator in the remaining judicial districts become state employees as follows:

- (1) effective July 1, 2003, for the Second and Fourth Judicial Districts;
- (2) effective July 1, 2004, for the First and Third Judicial Districts; and
- (3) effective July 1, 2005, for the Sixth and Tenth Judicial Districts.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2004, section 480.181, subdivision 2, is amended to read:

Subd. 2. **Election to retain insurance and benefits; retirement.** (a) Before a person is transferred to state employment under this section, the person may elect to do either or both of the following:

(1) keep life insurance; hospital, medical, and dental insurance; and vacation and sick leave benefits and accumulated time provided by the county instead of receiving benefits from the state under the judicial branch personnel rules; or

(2) remain a member of the Public Employees Retirement Association or the Minneapolis employees retirement fund instead of joining the Minnesota State Retirement System.

Employees who make an election under clause (1) remain on the county payroll, but the state shall reimburse the county on a quarterly basis for the salary and cost of the benefits provided by the county. The state shall make the employer contribution to the Public Employees Retirement Association or the employer contribution under section 422A.101, subdivision 1a, to the Minneapolis Employees Retirement Fund on behalf of employees who make an election under clause (2).

(b) An employee who makes an election under paragraph (a), clause (1), may revoke the election, once, at any time, but if the employee revokes the election, the employee cannot make another election. An employee who makes an election under paragraph (a), clause (2), may revoke the election at any time within six months after the person becomes a state employee. Once an employee revokes this election, the employee cannot make another election.

(c) The Supreme Court, after consultation with the ~~conference of chief judges~~ Judicial Council, the commissioner of employee relations, and the executive directors of the Public Employees Retirement Association and the Minnesota State Retirement Association, shall adopt procedures for making elections under this section.

(d) The Supreme Court shall notify all affected employees of the options available under this section. The executive directors of the Public Employees Retirement Association and the Minnesota State Retirement

System shall provide counseling to affected employees on the effect of making an election to remain a member of the Public Employees Retirement Association.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 15. Minnesota Statutes 2004, section 480.182, is amended to read:

480.182 STATE ASSUMPTION OF CERTAIN COURT COSTS.

~~(a)~~ Notwithstanding any law to the contrary, the state courts will pay for the following court-related programs and costs:

- (1) court interpreter program costs, including the costs of hiring court interpreters;
- (2) guardian ad litem program and personnel costs;
- (3) examination costs, not including hospitalization or treatment costs, for mental commitments and related proceedings under chapter 253B;
- (4) examination costs under rule 20 of the Rules of Criminal Procedure;
- (5) in forma pauperis costs;
- (6) costs for transcripts mandated by statute, except in appeal cases and postconviction cases handled by the Board of Public Defense; ~~and~~
- (7) jury program costs; ~~not including personnel; and~~

~~(b) In counties in a judicial district under section 480.181, subdivision 1, paragraph (b), the state courts shall pay the~~ (8) witness fees and mileage fees specified in sections 253B.23, subdivision 1; 260B.152, subdivision 2; 260C.152, subdivision 2; 260B.331, subdivision 3, clause (a); 260C.331, subdivision 3, clause (a); 357.24; 357.32; 525.012, subdivision 5; and 627.02.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 16. Minnesota Statutes 2004, section 484.01, subdivision 1, is amended to read:

Subdivision 1. **General.** The district courts shall have original jurisdiction in the following cases:

- (1) all civil actions within their respective districts;
- (2) in all cases of crime committed or triable therein;
- (3) in all special proceedings not exclusively cognizable by some other court or tribunal; ~~and;~~
- (4) in law and equity for the administration of estates of deceased persons and all guardianship and incompetency proceedings;
- (5) the jurisdiction of a juvenile court as provided in chapter 260;
- (6) proceedings for the management of the property of persons who have disappeared, and actions relating thereto, as provided in chapter 576; and
- (7) in all other cases wherein such jurisdiction is especially conferred upon them by law.

They shall also have appellate jurisdiction in every case in which an appeal thereto is allowed by law from any other court, officer, or body.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 17. Minnesota Statutes 2004, section 484.011, is amended to read:

~~484.011 JURISDICTION IN SECOND AND FOURTH JUDICIAL DISTRICTS.~~

~~In the Second and Fourth Judicial Districts~~The district court shall also be a probate court.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 18. Minnesota Statutes 2004, section 484.012, is amended to read:

484.012 COURT ADMINISTRATOR OF PROBATE COURT, SECOND JUDICIAL DISTRICT.

Notwithstanding section 525.09 the judicial district administrator in the Second Judicial District may appoint a court administrator of the Probate Court for the district subject to the approval of the chief judge and assistant chief judge who shall serve at the pleasure of the judges of the district, and who shall be supervised by the judicial district administrator, ~~and whose salary shall be fixed by the Ramsey County Board of Commissioners.~~

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 19. Minnesota Statutes 2004, section 484.45, is amended to read:

484.45 COURTHOUSE; JAIL; EXPENSES; ST. LOUIS COUNTY.

It is hereby made the duty of the board of county commissioners of the county of St. Louis to furnish and maintain adequate accommodations for the holding of terms of the district court at the city of Hibbing, and the city of Virginia, proper offices for these deputies and a proper place for the confinement and maintenance of the prisoners at the city of Hibbing and the city of Virginia.

The county shall reimburse the ~~court administrator and deputies as herein provided for and the county attorney and assistants and the district judges of the district and the official court reporter~~ for their traveling expenses actually and necessarily incurred in the performance of their respective official duties.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 20. Minnesota Statutes 2004, section 484.54, subdivision 3, is amended to read:

Subd. 3. **Reimbursement filings.** Each judge claiming reimbursement for allowable expenses may file with the supreme court monthly and shall file not later than 90 days after the expenses are incurred, an itemized statement, verified by the judge, of all allowable expenses actually paid by the judge. All statements shall be audited by the Supreme Court and, if approved by the Supreme Court, shall be paid ~~by the commissioner of finance~~ from appropriations for this purpose.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 21. Minnesota Statutes 2004, section 484.545, subdivision 1, is amended to read:

Subdivision 1. **Law clerk appointments.** ~~The Each district judges regularly assigned to hold court in each judicial district except for the Second, Fourth, and Tenth Judicial Districts may by orders filed with the court administrator and county auditor of each county in the district judge may~~ appoint a competent law clerk for every two district court judges of the judicial district. ~~The district judges regularly assigned to hold court in the First and Tenth Judicial Districts may by orders filed with the court administrator and county auditor of each county in the district appoint a competent law clerk for each district court judge of the district.~~

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 22. Minnesota Statutes 2004, section 484.64, subdivision 3, is amended to read:

Subd. 3. **Chambers and supplies.** The Board of County Commissioners of Ramsey County shall provide suitable chambers and courtroom space, ~~clerks, and bailiffs, and other personnel to assist said judge,~~ together with necessary library, supplies, ~~stationery~~ and other expenses necessary ~~thereto~~. The state shall provide referees, court reporters, law clerks, and guardian ad litem program coordinators and staff.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 23. Minnesota Statutes 2004, section 484.65, subdivision 3, is amended to read:

Subd. 3. **Space; personnel; supplies.** The Board of County Commissioners of Hennepin County shall provide suitable chambers and courtroom space, ~~clerks, and bailiffs, and other personnel to assist said judge,~~ together with necessary library, supplies, ~~stationery~~ and other expenses necessary ~~thereto~~. The state shall provide referees, court reporters, law clerks, and guardian ad litem program coordinators and staff.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 24. Minnesota Statutes 2004, section 484.68, subdivision 1, is amended to read:

Subdivision 1. **Appointment.** ~~By November 1, 1977,~~ The chief judge of the judicial district in each judicial district shall appoint a single district administrator, subject to the approval of the Supreme Court, with the advice of the judges of the judicial district.

The district administrator shall serve at the pleasure of a majority of the judges of the judicial district.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 25. Minnesota Statutes 2004, section 484.702, subdivision 5, is amended to read:

Subd. 5. **Rules.** The Supreme Court, ~~in consultation with the conference of chief judges,~~ shall adopt rules to implement the expedited child support hearing process under this section.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 26. **[484.80] LOCATION OF TRIAL RULE.**

If a municipality is located in more than one county or district, the county in which the city hall of the municipality is located determines the county or district in which the municipality shall be deemed located for the purposes of this chapter provided, however, that the municipality by ordinance enacted may designate, for those purposes, some other county or district in which a part of the municipality is located.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 27. **[484.81] PLEADING; PRACTICE; PROCEDURE.**

Subdivision 1. **General.** Pleading, practice, procedure, and forms in civil actions shall be governed by Rules of Civil Procedure which shall be adopted by the Supreme Court.

Subd. 2. **Court rules.** The court may adopt rules governing pleading, practice, procedure, and forms for civil actions which are not inconsistent with the provisions of governing statutes.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 28. **[484.82] MISDEMEANOR OFFENSES.**

A person who receives a misdemeanor citation shall proceed as follows: when a fine is not paid, the person charged must appear before the court at the time specified in the citation. If appearance before a misdemeanor bureau is designated in the citation, the person charged must appear within the time specified in the citation and arrange a date for arraignment in the district court.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 29. **[484.83] REINSTATEMENT OF FORFEITED SUMS.**

A district court judge may order any sums forfeited to be reinstated and the commissioner of finance shall then refund accordingly. The commissioner of finance shall reimburse the court administrator if the court administrator refunds the deposit upon a judge's order and obtains a receipt to be used as a voucher.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 30. **[484.84] DISPOSITION OF FINES, FEES, AND OTHER MONEY ACCOUNTS; HENNEPIN COUNTY DISTRICT COURT.**

Subdivision 1. **Disposition of fines, fees and other money; accounts.** (a) Except as otherwise provided within this subdivision, and except as otherwise provided by law, the court administrator shall pay to the Hennepin county treasurer all fines and penalties collected by the court administrator, all fees collected by the court administrator for court administrator's services, all sums forfeited to the court as provided in this subdivision, and all other money received by the court administrator.

(b) The court administrator shall provide the county treasurer with the name of the municipality or other subdivision of government where the offense was committed and the name and official position of the officer who prosecuted the offense for each fine or penalty, and the total amount of fines or penalties collected for each municipality or other subdivision of government or for the county.

(c) At the beginning of the first day of any month the amount owing to any municipality or county in the hands of the court administrator shall not exceed \$5,000.

(d) On or before the last day of each month the county treasurer shall pay over to the treasurer of each municipality or subdivision of government in Hennepin County all fines or penalties collected during the previous month for offenses committed within such municipality or subdivision of government, except that all such fines and penalties attributable to cases in which the county attorney had charge of the prosecution shall be retained by the county treasurer and credited to the county general revenue fund.

(e) Amounts represented by checks issued by the court administrator or received by the court administrator which have not cleared by the end of the month may be shown on the monthly account as having been paid or received, subject to adjustment on later monthly accounts.

(f) The court administrator may receive negotiable instruments in payment of fines, penalties, fees or other obligations as conditional payments, and is not held accountable for this until collection in cash is made and then only to the extent of the net collection after deduction of the necessary expense of collection.

Subd. 2. **Fees payable to administrator.** (a) The civil fees payable to the administrator for services are the same in amount as the fees then payable to the District Court of Hennepin County for like services. Library and filing fees are not required of the defendant in an eviction action. The fees payable to the administrator for all other services of the administrator or the court shall be fixed by rules promulgated by a majority of the judges.

(b) Fees are payable to the administrator in advance.

(c) Judgments will be entered only upon written application.

(d) The following fees shall be taxed for all charges filed in court where applicable:

(1) the state of Minnesota and any governmental subdivision within the jurisdictional area of any district court herein established may present cases for hearing before said district court;

(2) in the event the court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town in Hennepin County, all fines, penalties, and forfeitures collected shall be paid over to the treasurer of the governmental subdivision which submitted charges for prosecution under ordinance violation and to the county treasurer in all other charges except where a different disposition is provided by law, in which case, payment shall be made to the public official entitled thereto.

(e) The following fees shall be taxed to the county or to the state or governmental subdivision which would be entitled to payment of the fines, forfeiture or penalties in any case, and shall be paid to the court administrator for disposing of the matter:

(1) For each charge where the defendant is brought into court and pleads guilty and is sentenced, or the matter is otherwise disposed of without trial, \$5.

(2) In arraignments where the defendant waives a preliminary examination, \$10.

(3) For all other charges where the defendant stands trial or has a preliminary examination by the court, \$15.

(f) This paragraph applies to the distribution of fines paid by defendants without a court appearance in response to a citation. On or before the tenth day after the last day of the month in which the money was collected, the county treasurer shall pay 80 percent of the fines to the treasurer of the municipality or subdivision within the county where the violation was committed. The remainder of the fines shall be credited to the general revenue fund of the county.

EFFECTIVE DATE AND SUNSET. This section is effective July 1, 2006, and expires June 30, 2007.

Sec. 31. [484.841] DISPOSITION OF FINES, FEES, AND OTHER MONEY ACCOUNTS; HENNEPIN COUNTY DISTRICT COURT.

Subdivision 1. **Disposition of fines, fees and other money; accounts.** (a) Except as otherwise provided within this subdivision, and except as otherwise provided by law, the court administrator shall pay all fines and penalties collected by the court administrator, all fees collected by the court administrator for court administrator's services, all sums forfeited to the court as provided in this subdivision, and all other money received by the court administrator to the subdivision of government entitled to it as follows on or before the 20th day after the last day of the month in which the money was collected. Eighty percent of all fines and penalties collected during the previous month shall be paid to the treasurer of the municipality or subdivision of government where the crime was committed. The remainder of the fines and penalties shall be credited to the general fund of the state. In all cases in which the county attorney had charge of the prosecution, all fines and penalties shall be credited to the state general fund.

(b) The court administrator shall identify the name of the municipality or other subdivision of government where the offense was committed and the total amount of fines or penalties collected for each municipality or other subdivision of government, for the county, or for the state.

(c) Amounts represented by checks issued by the court administrator or received by the court administrator which have not cleared by the end of the month may be shown on the monthly account as having been paid or received, subject to adjustment on later monthly accounts.

(d) The court administrator may receive negotiable instruments in payment of fines, penalties, fees or other obligations as conditional payments, and is not held accountable for this until collection in cash is made and then only to the extent of the net collection after deduction of the necessary expense of collection.

Subd. 2. Fees payable to administrator. (a) The civil fees payable to the administrator for services are the same in amount as the fees then payable to the District Court of Hennepin County for like services. Library and filing fees are not required of the defendant in an eviction action. The fees payable to the administrator for all other services of the administrator or the court shall be fixed by rules promulgated by a majority of the judges.

(b) Fees are payable to the administrator in advance.

(c) Judgments will be entered only upon written application.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 32. [484.85] DISPOSITION OF FINES, FEES, AND OTHER MONEY; ACCOUNTS; RAMSEY COUNTY DISTRICT COURT.

(a) In the event the Ramsey County District Court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town in Ramsey County, all fines, penalties, and forfeitures collected shall be paid over to the county treasurer except where a different disposition is provided by law, and the following fees shall be taxed to the state or governmental subdivision other than a city or town within Ramsey County which would be entitled to payment of the fines, forfeitures, or penalties in any case, and shall be paid to the administrator of the court for disposal of the matter. The administrator shall deduct the fees from any fine collected for the state of Minnesota or a governmental subdivision other than a city or town within Ramsey County and transmit the balance in accordance with the law, and the deduction of the total of the fees each month from the total of all the fines collected is hereby expressly made an appropriation of funds for payment of the fees:

(1) in all cases where the defendant is brought into court and pleads guilty and is sentenced, or the matter is otherwise disposed of without a trial, \$5;

(2) in arraignments where the defendant waives a preliminary examination, \$10;

(3) in all other cases where the defendant stands trial or has a preliminary examination by the court, \$15; and

(4) the court shall have the authority to waive the collection of fees in any particular case.

(b) On or before the last day of each month, the county treasurer shall pay over to the treasurer of the city of St. Paul two-thirds of all fines, penalties, and forfeitures collected and to the treasurer of each other municipality or subdivision of government in Ramsey County one-half of all fines or penalties collected during the previous month from those imposed for offenses committed within the treasurer's municipality or subdivision of government in violation of a statute; an ordinance; or a charter provision, rule, or regulation of a city. All other fines and forfeitures and all fees and costs collected by the district court shall be paid to the treasurer of Ramsey County, who shall dispense the same as provided by law.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 33. [484.86] COURT DIVISIONS.

Subdivision 1. Authority. Subject to the provisions of section 244.19 and rules of the Supreme Court, a court may establish a probate division, a family court division, juvenile division, and a civil and

criminal division which shall include a conciliation court, and may establish within the civil and criminal division a traffic and ordinance violations bureau.

Subd. 2. **Establishment.** The court may establish, consistent with Rule 23 of the Rules of Criminal Procedure, misdemeanor violations bureaus at the places it determines.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 34. **[484.87] PLEADING, PRACTICE, PROCEDURE, AND FORMS IN CRIMINAL PROCEEDINGS.**

Subdivision 1. **Right to jury trial.** In any prosecution brought in a district court in which conviction of the defendant for the offense charged could result in imprisonment, the defendant has the right to a jury trial.

Subd. 2. **Prosecuting attorneys in Hennepin and Ramsey Counties.** In the counties of Hennepin and Ramsey, except as otherwise provided in this subdivision and section 388.051, subdivision 2, the attorney of the municipality in which the violation is alleged to have occurred has charge of the prosecution of all violations of the state laws, including violations which are gross misdemeanors, and municipal charter provisions, ordinances, rules, and regulations triable in the district court, and shall prepare complaints for the violations. The county attorney has charge of the prosecution of a violation triable in district court and shall prepare a complaint for the violation:

(1) if the county attorney is specifically designated by law as the prosecutor for the particular violation charged; or

(2) if the alleged violation is of state law and is alleged to have occurred in a municipality or other subdivision of government whose population according to the most recent federal decennial census is less than 2,500 and whose governing body, or the town board in the case of a town, has accepted this clause by majority vote, and if the defendant is cited or arrested by a member of the staff of the sheriff of Hennepin County or by a member of the State Patrol.

Clause (2) shall not apply to a municipality or other subdivision of government whose population according to the most recent federal decennial census is 2,500 or more, regardless of whether or not it has previously accepted clause (2).

Subd. 3. **Prosecuting attorneys.** Except as provided in subdivision 2 and as otherwise provided by law, violations of state law that are petty misdemeanors or misdemeanors must be prosecuted by the attorney of the statutory or home rule charter city where the violation is alleged to have occurred, if the city has a population greater than 600. If a city has a population of 600 or less, it may, by resolution of the city council, and with the approval of the board of county commissioners, give the duty to the county attorney. In cities of the first, second, and third class, gross misdemeanor violations of sections 609.52, 609.535, 609.595, 609.631, and 609.821 must be prosecuted by the attorney of the city where the violation is alleged to have occurred. The statutory or home rule charter city may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense. All other petty misdemeanors, misdemeanors, and gross misdemeanors must be prosecuted by the county attorney of the county in which the alleged violation occurred. All violations of a municipal ordinance, charter provision, rule, or regulation must be prosecuted by the attorney for the governmental unit that promulgated the municipal ordinance, charter provision, rule, or regulation, regardless of its population, or by the county attorney with whom it has contracted to prosecute these matters.

In the counties of Anoka, Carver, Dakota, Scott, and Washington, violations of state law that are petty misdemeanors, misdemeanors, or gross misdemeanors except as provided in section 388.051, subdivision 2, must be prosecuted by the attorney of the statutory or home rule charter city where the violation is alleged to

have occurred. The statutory or home rule charter city may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense. All other petty misdemeanors, misdemeanors, or gross misdemeanors must be prosecuted by the county attorney of the county in which the alleged violation occurred. All violations of a municipal ordinance, charter provision, rule, or regulation must be prosecuted by the attorney for the governmental unit that promulgated the municipal ordinance, charter provision, rule, or regulation or by the county attorney with whom it has contracted to prosecute these matters.

Subd. 4. **Presumption of innocence; conviction of lowest degree.** In an action or proceeding charging a violation of an ordinance of any subdivision of government in Hennepin County, if such ordinance is the same or substantially the same as a state law, the provisions of section 611.02 shall apply.

Subd. 5. **Assistance of attorney general.** An attorney for a statutory or home rule charter city in the metropolitan area, as defined in section 473.121, subdivision 2, may request, and the attorney general may provide, assistance in prosecuting nonfelony violations of section 609.66, subdivision 1; 609.666; 624.713, subdivision 2; 624.7131, subdivision 11; 624.7132, subdivision 15; 624.714, subdivision 1 or 10; 624.7162, subdivision 3; or 624.7181, subdivision 2.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 35. [484.88] COUNTY ATTORNEY AS PROSECUTOR; NOTICE TO COUNTY.

A municipality or other subdivision of government seeking to use the county attorney for violations enumerated in section 484.87, subdivision 2, shall notify the county board of its intention to use the services of the county attorney at least 60 days prior to the adoption of the board's annual budget each year. A municipality may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense on a case-by-case basis.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 36. [484.89] ORDER FOR PRISON RELEASE.

When a person is confined to the Hennepin County Adult Correctional Facility and a fine is remitted or a sentence is stayed or suspended, the person released on parole, or the release of the person secured by payment of the fine in default of which the person was committed, the prisoner shall not be released except upon order of the court. A written transcript of such order signed by the court administrator and under the court's seal shall be furnished to the superintendent of the Hennepin County Adult Correctional Facility. All cost of confinement or imprisonment in any jail or correctional facility shall be paid by the municipality or subdivision of government in Hennepin County in which the violation occurred, except that the county shall pay all costs of confinement or imprisonment incurred as a result of a prosecution of a gross misdemeanor.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 37. [484.90] FEES PAYABLE TO COURT ADMINISTRATOR.

Subdivision 1. **Fees.** The fees payable to the court administrator for the following services in petty misdemeanors or criminal actions are governed by the following provisions:

In the event the court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town within the county court district; all fines, penalties and forfeitures collected shall be paid over to the treasurer of the governmental subdivision which submitted a case for prosecution except where a different disposition is provided by law, in which case payment shall be made to the public official entitled thereto. The following fees for services in petty

misdemeanor or criminal actions shall be taxed to the state or governmental subdivision which would be entitled to payment of the fines, forfeiture or penalties in any case, and shall be retained by the court administrator for disposing of the matter but in no case shall the fee that is taxed exceed the fine that is imposed. The court administrator shall deduct the fees from any fine collected and transmit the balance in accordance with the law, and the deduction of the total of such fees each month from the total of all such fines collected is hereby expressly made an appropriation of funds for payment of such fees:

(1) in all cases where the defendant pleads guilty at or prior to first appearance and sentence is imposed or the matter is otherwise disposed of without a trial, \$5;

(2) where the defendant pleads guilty after first appearance or prior to trial, \$10;

(3) in all other cases where the defendant is found guilty by the court or jury or pleads guilty during trial, \$15; and

(4) the court shall have the authority to waive the collection of fees in any particular case.

The fees set forth in this subdivision shall not apply to parking violations for which complaints and warrants have not been issued.

Subd. 2. **Miscellaneous fees.** Fees payable to the court administrator for all other services shall be fixed by court rule.

Subd. 3. **Payment in advance.** Except as provided in subdivision 1, fees are payable to the court administrator in advance.

Subd. 4. **Fines paid by check.** Amounts represented by checks issued by the court administrator or received by the court administrator which have not cleared by the end of the month may be shown on the monthly account as having been paid or received, subject to adjustment on later monthly accounts.

Subd. 5. **Checks.** The court administrator may receive checks in payment of fines, penalties, fees or other obligations as conditional payments, and is not held accountable therefor until collection in cash is made and then only to the extent of the net collection after deduction of the necessary expense of collection.

Subd. 6. **Allocation.** The court administrator shall provide the county treasurer with the name of the municipality or other subdivision of government where the offense was committed which employed or provided by contract the arresting or apprehending officer and the name of the municipality or other subdivision of government which employed the prosecuting attorney or otherwise provided for prosecution of the offense for each fine or penalty and the total amount of fines or penalties collected for each municipality or other subdivision of government. On or before the last day of each month, the county treasurer shall pay over to the treasurer of each municipality or subdivision of government within the county all fines or penalties for parking violations for which complaints and warrants have not been issued and one third of all fines or penalties collected during the previous month for offenses committed within the municipality or subdivision of government from persons arrested or issued citations by officers employed by the municipality or subdivision or provided by the municipality or subdivision by contract. An additional one third of all fines or penalties shall be paid to the municipality or subdivision of government providing prosecution of offenses of the type for which the fine or penalty is collected occurring within the municipality or subdivision, imposed for violations of state statute or of an ordinance, charter provision, rule, or regulation of a city whether or not a guilty plea is entered or bail is forfeited. Except as provided in section 299D.03, subdivision 5, or as otherwise provided by law, all other fines and forfeitures and all fees and statutory court costs collected by the court administrator shall be paid to the county treasurer of the county in which the funds were collected who shall dispense them as provided by law. In a county in a judicial district under section 480.181, subdivision 1, paragraph (b), all other fines, forfeitures, fees, and statutory court costs must be paid to the commissioner of finance for deposit in the state treasury and credited to the general fund.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 38. **[484.91] MISDEMEANOR VIOLATIONS BUREAUS.**

Subdivision 1. Establishment. Misdemeanor violations bureaus shall be established in Minneapolis, a southern suburb location, and at any other northern and western suburban locations dispersed throughout the county as may be designated by a majority of the judges of the court.

Subd. 2. Supervision. The court shall supervise and the court administrator shall operate the misdemeanor violations bureaus in accordance with Rule 23 of the Rules of Criminal Procedure. Subject to approval by a majority of the judges, the court administrator shall assign one or more deputy court administrators to discharge and perform the duties of the bureau.

Subd. 3. Uniform traffic ticket. The Hennepin County Board may alter by deletion or addition the uniform traffic ticket, provided in section 169.99, in such manner as it deems advisable for use in Hennepin County.

Subd. 4. Procedure by person receiving misdemeanor citation. A person who receives a misdemeanor or petty misdemeanor citation shall proceed as follows:

(a) If a fine for the violation may be paid at the bureau without appearance before a judge, the person charged may pay the fine in person or by mail to the bureau within the time specified in the citation. Payment of the fine shall be deemed to be the entry of a plea of guilty to the violation charged and a consent to the imposition of a sentence for the violation in the amount of the fine paid. A receipt shall be issued to evidence the payment and the receipt shall be satisfaction for the violation charged in that citation.

(b) When a fine is not paid, the person charged must appear at a bureau within the time specified in the citation, state whether the person desires to enter a plea of guilty or not guilty, arrange for a date for arraignment in court and appear in court for arraignment on the date set by the bureaus.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 39. **[484.92] ADDITIONAL EMPLOYEES.**

Subdivision 1. Bailiffs. The sheriff of a county shall furnish to the district court deputies to serve as bailiffs within the county as the court may request. The county board may, with the approval of the chief judge of the district, contract with any municipality, upon terms agreed upon, for the services of police officers of the municipality to act as bailiffs in the county district court.

Nothing contained herein shall be construed to limit the authority of the court to employ probation officers with the powers and duties prescribed in section 244.19.

Subd. 2. Transcription of court proceedings. Electronic recording equipment may be used for the purposes of Laws 1971, chapter 951, to record court proceedings in lieu of a court reporter. However, at the request of any party to any proceedings the court may in its discretion require the proceedings to be recorded by a competent court reporter who shall perform such additional duties as the court directs. The salary of a reporter shall be set in accordance with the procedure provided by sections 486.05 and 486.06.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 40. Minnesota Statutes 2005 Supplement, section 485.01, is amended to read:

485.01 APPOINTMENT; BOND; DUTIES.

A clerk of the district court for each county within the judicial district, who shall be known as the court administrator, shall be appointed by a majority of the district court judges in the district. ~~The clerk,~~

~~before entering upon the duties of office, shall give bond to the state, to be approved by the chief judge of the judicial district, conditioned for the faithful discharge of official duties. The bond, with An oath of office, shall be recorded with the county recorder court administrator. The clerk court administrator shall perform all duties assigned by law and by the rules of the court. The clerk court administrator and all deputy clerks deputies must not practice as attorneys in the court in which they are employed.~~

The duties, functions, and responsibilities which have been and may be required by law or rule to be performed by the clerk of district court shall be performed by the court administrator.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 41. Minnesota Statutes 2004, section 485.018, subdivision 5, is amended to read:

Subd. 5. **Collection of fees.** The court administrator of district court shall charge and collect all fees as prescribed by law and all such fees collected by the court administrator as court administrator of district court shall be paid to the ~~county treasurer~~ Department of Finance. Except for those portions of forfeited bail paid to victims pursuant to existing law, the ~~county treasurer~~ court administrator shall forward all revenue from fees and forfeited bail collected under chapters 357, 487, and 574 to the commissioner of finance for deposit in the state treasury and credit to the general fund, unless otherwise provided in chapter 611A or other law, in the manner and at the times prescribed by the commissioner of finance, but not less often than once each month. If the defendant or probationer is located after forfeited bail proceeds have been forwarded to the commissioner of finance, the commissioner of finance shall reimburse the county, on request, for actual costs expended for extradition, transportation, or other costs necessary to return the defendant or probationer to the jurisdiction where the bail was posted, in an amount not more than the amount of forfeited bail. The court administrator of district court shall not retain any additional compensation, per diem or other emolument for services as court administrator of district court, but may receive and retain mileage and expense allowances as prescribed by law.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 42. Minnesota Statutes 2004, section 485.021, is amended to read:

485.021 INVESTMENT OF FUNDS DEPOSITED WITH COURT ADMINISTRATOR.

When money is paid into court pursuant to court order, the court administrator of district court, unless the court order specifies otherwise, may place such moneys with the ~~county treasurer~~ Department of Finance for investment, as provided by law. When such moneys are subsequently released, or otherwise treated, by court order, the same shall be immediately paid over by the county treasurer to the court administrator of district court who shall then fulfill the direction of the court order relative to such moneys.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 43. Minnesota Statutes 2005 Supplement, section 485.03, is amended to read:

485.03 DEPUTIES.

(a) The county board shall determine the number of permanent full time deputies, clerks and other employees in the office of the court administrator of district court and shall fix the compensation for each position. The county board shall also budget for temporary deputies and other employees and shall fix their rates of compensation. This paragraph does not apply to a county in a judicial district under section 480.181, subdivision 1, paragraph (b).

(b) The court administrator shall appoint in writing the deputies and other employees, for whose acts the court administrator shall be responsible, ~~and whom the court administrator may remove at pleasure.~~

Before each enters upon official duties, the appointment and oath of each shall be recorded with the ~~county recorder~~ court administrator.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 44. Minnesota Statutes 2005 Supplement, section 485.05, is amended to read:

485.05 DEPUTY COURT ADMINISTRATOR IN ST. LOUIS COUNTY.

In all counties in the state now or hereafter having a population of more than 150,000 and wherein regular terms of the district court are held in three or more places, the court administrator of the district court therein, by an instrument in writing, under the court administrator's hand and seal, and with the approval of the district judge of the judicial district in which said county is situated, or, if there be more than one such district judge, with the approval of a majority thereof, may appoint deputies for whose acts the court administrator shall be responsible, such deputies to hold office as such until they shall be removed therefrom, which removal shall not be made except with the approval of the district judge or judges. The appointment and oath of every such deputy shall be recorded with the ~~county recorder~~ court administrator.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 45. Minnesota Statutes 2004, section 485.11, is amended to read:

485.11 PRINTED CALENDARS.

The court administrator of the district court in each of the several counties of this state shall provide calendars ~~either printed or otherwise duplicated~~ of the cases to be tried at the general terms thereof ~~at the expense of the counties where such court is held. This section shall not apply to a county where only one term of court is held each year.~~

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 46. Minnesota Statutes 2004, section 517.041, is amended to read:

517.041 POWER TO APPOINT COURT COMMISSIONER; DUTY.

~~The county court of the combined county court district of Benton and Stearns may appoint as court commissioner a person who was formerly employed by that county court district as a court commissioner.~~

The ~~county court of the Third or Fifth Judicial Districts~~ District may appoint as court commissioner for ~~Brown, Dodge, Fillmore and Olmsted Counties~~ respectively a person who was formerly employed by those counties as a court commissioner.

The sole duty of an appointed court commissioner is to solemnize marriages.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 47. Minnesota Statutes 2004, section 518.157, subdivision 2, is amended to read:

Subd. 2. **Minimum standards; plan.** The Minnesota Supreme Court should promulgate minimum standards for the implementation and administration of a parent education program. ~~The chief judge of each judicial district or a designee shall submit a plan to the Minnesota conference of chief judges for their approval that is designed to implement and administer a parent education program in the judicial district. The plan must be consistent with the minimum standards promulgated by the Minnesota Supreme Court.~~

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 48. Minnesota Statutes 2004, section 518B.01, is amended by adding a subdivision to read:

Subd. 19a. **Entry and enforcement of foreign protective orders.** (a) As used in this subdivision, "foreign protective order" means an order for protection entered by a court of another state; an order by an Indian tribe or United States territory that would be a protective order entered under this chapter; a temporary or permanent order or protective order to exclude a respondent from a dwelling; or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault if it had been entered in Minnesota.

(b) A person for whom a foreign protection order has been issued or the issuing court or tribunal may provide a certified or authenticated copy of a foreign protective order to the court administrator in any county that would have venue if the original action was being commenced in this state or in which the person in whose favor the order was entered may be present, for filing and entering of the same into the state order for protection database.

(c) The court administrator shall file and enter foreign protective orders that are not certified or authenticated, if supported by an affidavit of a person with personal knowledge, subject to the penalties for perjury. The person protected by the order may provide this affidavit.

(d) The court administrator shall provide copies of the order as required by this section.

(e) A valid foreign protective order has the same effect and shall be enforced in the same manner as an order for protection issued in this state whether or not filed with a court administrator or otherwise entered in the state order for protection database.

(f) A foreign protective order is presumed valid if it meets all of the following:

(1) the order states the name of the protected individual and the individual against whom enforcement is sought;

(2) the order has not expired;

(3) the order was issued by a court or tribunal that had jurisdiction over the parties and subject matter under the law of the foreign jurisdiction; and

(4) the order was issued in accordance with the respondent's due process rights, either after the respondent was provided with reasonable notice and an opportunity to be heard before the court or tribunal that issued the order, or in the case of an ex parte order, the respondent was granted notice and an opportunity to be heard within a reasonable time after the order was issued.

(g) Proof that a foreign protective order failed to meet all of the factors listed in paragraph (f) is an affirmative defense in any action seeking enforcement of the order.

(h) A peace officer shall treat a foreign protective order as a valid legal document and shall make an arrest for a violation of the foreign protective order in the same manner that a peace officer would make an arrest for a violation of a protective order issued within this state.

(i) The fact that a foreign protective order has not been filed with the court administrator or otherwise entered into the state order for protection database shall not be grounds to refuse to enforce the terms of the order unless it is apparent to the officer that the order is invalid on its face.

(j) A peace officer acting reasonably and in good faith in connection with the enforcement of a foreign protective order is immune from civil and criminal liability in any action arising in connection with the enforcement.

(k) Filing and service costs in connection with foreign protective orders are waived.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 49. Minnesota Statutes 2004, section 546.27, subdivision 2, is amended to read:

Subd. 2. **Board of judicial standards review.** At least annually, the board on judicial standards shall review the compliance of each district, ~~county, or municipal~~ judge with the provisions of subdivision 1. To facilitate this review, the director of the state judicial information system shall notify the executive secretary of the state board on judicial standards when a matter exceeds 90 days without a disposition. The board shall notify the commissioner of finance of each judge not in compliance. If the board finds that a judge has compelling reasons for noncompliance, it may decide not to issue the notice. Upon notification that a judge is not in compliance, the commissioner of finance shall not pay the salary of that judge. The board may cancel a notice of noncompliance upon finding that a judge is in compliance, but in no event shall a judge be paid a salary for the period in which the notification of noncompliance was in effect.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 50. Minnesota Statutes 2004, section 609.101, subdivision 4, is amended to read:

Subd. 4. **Minimum fines; other crimes.** Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law, unless the fine is set at a lower amount on a uniform fine schedule established by the ~~conference of chief judges~~ Judicial Council in consultation with affected state and local agencies. This schedule shall be promulgated not later than September 1 of each year and shall become effective on January 1 of the next year unless the legislature, by law, provides otherwise.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

The court shall collect the fines mandated in this subdivision and, except for fines for traffic and motor vehicle violations governed by section 169.871 and section 299D.03 and fish and game violations governed by section 97A.065, forward 20 percent of the revenues to the commissioner of finance for deposit in the general fund.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 51. Minnesota Statutes 2004, section 629.74, is amended to read:

629.74 PRETRIAL BAIL EVALUATION.

The local corrections department or its designee shall conduct a pretrial bail evaluation of each defendant arrested and detained for committing a crime of violence as defined in section 624.712, subdivision 5, a gross misdemeanor violation of section 609.224 or 609.2242, or a nonfelony violation of section 518B.01, 609.2231, 609.3451, 609.748, or 609.749. In cases where the defendant requests appointed counsel, the evaluation shall include completion of the financial statement required by section 611.17. The local corrections department shall be reimbursed \$25 by the Department of Corrections for each evaluation performed. The ~~conference of chief judges~~ Judicial Council in consultation with the Department of Corrections, shall approve the pretrial evaluation form to be used in each county.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 52. Minnesota Statutes 2004, section 641.25, is amended to read:

641.25 DISTRICT JAILS; HOW DESIGNATED.

The commissioner of corrections, with the consent of the county board, may designate any suitable jail in the state as a district jail, to be used for the detention of prisoners from other counties in addition to those of its own. If the jail or its management becomes unfit for that purpose, the commissioner may rescind its designation. Whenever there is no sufficient jail in any county, the examining ~~county or municipal~~ judge, or upon the judge's own motion, or the judge of the district court, upon application of the sheriff, may order any person charged with a criminal offense committed to a sufficient jail in some other county. If there is a district jail in the judicial district, the charged person shall be sent to it, or to any other nearer district jail designated by the judge. The sheriff of the county containing the district jail, on presentation of the order, shall receive, keep in custody, and deliver the charged person up upon the order of the court or a judge.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 53. Laws 2002, chapter 266, section 1, as amended by Laws 2004, chapter 290, section 38, is amended to read:

Section 1. **DOMESTIC FATALITY REVIEW TEAM PILOT PROJECT EXTENSION.**

The fourth judicial district may extend the duration of the pilot project authorized by Laws 1999, chapter 216, article 2, section 27, and Laws 2000, chapter 468, sections 29 to 32, until December 31, ~~2006~~ 2008. If the pilot project is extended, the domestic fatality review team shall submit a report on the project to the legislature by January 15, ~~2007~~ 2009.

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

Sec. 54. **REPEALER.**

Minnesota Statutes 2004, sections 484.013, subdivision 8; 484.545, subdivisions 2 and 3; 484.55; 484.68, subdivision 7; 484.75; 485.018, subdivisions 2, 6, and 8; 485.12; 487.01; 487.02; 487.03; 487.04; 487.07; 487.10; 487.11; 487.13; 487.14; 487.15; 487.16; 487.17; 487.18; 487.19; 487.191; 487.20; 487.21; 487.23; 487.24; 487.25; 487.26; 487.27; 487.28; 487.29; 487.31; 487.32; 487.33; 487.34; 487.36; 487.37; 487.38; 487.40; 488A.01; 488A.021; 488A.025; 488A.03; 488A.035; 488A.04; 488A.08; 488A.09; 488A.10; 488A.101; 488A.11; 488A.112; 488A.113; 488A.115; 488A.116; 488A.119; 488A.18; 488A.19; 488A.20; 488A.21; 488A.23; 488A.24; 488A.26; 488A.27; 488A.28; 488A.282; 488A.285; 488A.286; 488A.287; 525.011; 525.012; 525.013; 525.014; 525.015; 525.02; 525.03; 525.051; 525.052; 525.053; 525.06; 525.07; 525.08; 525.081; 525.082; 525.09; and 625.09, and Minnesota Statutes 2005 Supplement, sections 353.027; and 485.03, are repealed.

EFFECTIVE DATE. This section is effective July 1, 2006.

ARTICLE 6

EMERGENCY COMMUNICATIONS

Section 1. Minnesota Statutes 2004, section 237.49, is amended to read:

237.49 COMBINED LOCAL ACCESS SURCHARGE.

Each local telephone company shall collect from each subscriber an amount per telephone access line representing the total of the surcharges required under sections 237.52, 237.70, and 403.11. Amounts collected must be remitted to the commissioner of public safety in the manner prescribed in section

403.11. The commissioner of public safety shall divide the amounts received ~~proportional to the individual surcharges~~ and deposit them in the appropriate accounts. The commissioner of public safety may recover from the agencies receiving the surcharges the personnel and administrative costs to collect and distribute the surcharge. A company or the billing agent for a company shall list the surcharges as one amount on a billing statement sent to a subscriber.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 2. Minnesota Statutes 2004, section 403.02, is amended by adding a subdivision to read:

Subd. 19a. Secondary public safety answering point. "Secondary public safety answering point" means a communications facility that: (1) is operated on a 24-hour basis, in which a minimum of three public safety answering points (PSAP's) route calls for postdispatch or prearrival instructions; (2) receives calls directly from medical facilities to reduce call volume at the PSAP's; and (3) is able to receive 911 calls routed to it from a PSAP when the PSAP is unable to receive or answer 911 calls.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 3. Minnesota Statutes 2005 Supplement, section 403.025, subdivision 7, is amended to read:

Subd. 7. Contractual requirements. (a) The state, ~~together~~ shall contract with the county or other governmental agencies operating public safety answering points, ~~shall contract and~~ 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 to the county or other governmental agencies operating public safety answering points. 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.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 4. Minnesota Statutes 2005 Supplement, section 403.05, subdivision 3, is amended to read:

Subd. 3. Agreements for service. Each county ~~and or~~ 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. If requested by the county or other governmental agency, the county or agency is entitled to be a party to any contract between the state and any wire-line telecommunications service provider or 911 emergency telecommunications service provider providing components of the 911 system within the county.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 5. Minnesota Statutes 2004, section 403.08, subdivision 7, is amended to read:

Subd. 7. **Duties.** Each wireless telecommunications service provider shall cooperate in planning and implementing integration with enhanced 911 systems operating in their service territories to meet Federal Communications Commission-enhanced 911 standards. ~~By August 1, 1997, each 911 emergency telecommunications service provider operating enhanced 911 systems, in cooperation with each involved~~ Each wireless telecommunications service provider, shall annually develop and provide to the commissioner good-faith estimates of installation and recurring expenses to integrate wireless 911 service into the enhanced 911 networks to meet Federal Communications Commission phase one wireless enhanced 911 standards. The commissioner shall coordinate with counties and affected public safety agency representatives in developing a statewide design and plan for implementation.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 6. Minnesota Statutes 2005 Supplement, 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 to offset 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 contract. The fee assessed under this section must also be used for the purpose of offsetting, to make distributions provided for in section 403.113, and to offset~~ 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 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 are eligible for payment by the commissioner if the 911 service provider is included in the statewide design plan and the charges are made pursuant to contract.

(g) Competitive local exchanges carriers holding certificates of authority from the Public Utilities Commission are eligible to receive payment for recurring 911 services.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 7. Minnesota Statutes 2005 Supplement, 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 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.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 8. Minnesota Statutes 2005 Supplement, section 403.11, subdivision 3a, is amended to read:

Subd. 3a. **Timely certification invoices.** ~~A certification~~ An invoice for services provided for in the contract with a wireless or wire-line telecommunications service provider must be submitted to the commissioner no later than ~~one year~~ 90 days after commencing a new or additional eligible 911 service. 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.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 9. Minnesota Statutes 2004, section 403.11, subdivision 3b, is amended to read:

Subd. 3b. **Certification Declaration.** ~~All~~ If the commissioner disputes an invoice, the wireless and wire-line telecommunications service providers shall submit a self-certification form declaration under section 16A.41 signed by an officer of the company to the commissioner with the invoices for payment of an initial or changed service described in the service provider's 911 contract. The self-certification shall sworn declaration must specifically describe and affirm that the 911 service contracted for is being provided and the costs invoiced for the service are true and correct. All certifications are subject to verification and audit. When a wireless or wire-line telecommunications service provider fails to provide a sworn declaration

within 90 days of notice by the commissioner that the invoice is disputed, the disputed amount of the invoice must be disallowed.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 10. Minnesota Statutes 2004, section 403.11, subdivision 3c, is amended to read:

Subd. 3c. **Audit.** If the commissioner determines that an audit is necessary to document the ~~certification described~~ invoice and sworn declaration in subdivision 3b, the wireless or wire-line telecommunications service provider must contract with an independent certified public accountant to conduct the audit. The audit must be conducted according to generally accepted accounting principles. The wireless or wire-line telecommunications service provider is responsible for any costs associated with the audit.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 11. Minnesota Statutes 2005 Supplement, 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. A portion of the fee collected under section 403.11 must be used 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 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.~~

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 12. Minnesota Statutes 2004, section 403.113, subdivision 3, is amended to read:

Subd. 3. **Local expenditures.** (a) Money distributed under subdivision 2 for enhanced 911 service may be spent on enhanced 911 system costs for the purposes stated in subdivision 1, ~~paragraph (a).~~ In addition, money may be spent to lease, purchase, lease-purchase, or maintain enhanced 911 equipment, including telephone equipment; recording equipment; computer hardware; computer software for database provisioning, addressing, mapping, and any other software necessary for automatic location identification or local location identification; trunk lines; selective routing equipment; the master street address guide; dispatcher public safety answering point equipment proficiency and operational skills; pay for long-distance charges incurred due to transferring 911 calls to other jurisdictions; and the equipment necessary within the public safety answering point for community alert systems and to notify and communicate with the emergency services requested by the 911 caller.

(b) Money distributed for enhanced 911 service may not be spent on:

(1) purchasing or leasing of real estate or cosmetic additions to or remodeling of communications centers;

(2) mobile communications vehicles, fire engines, ambulances, law enforcement vehicles, or other emergency vehicles;

(3) signs, posts, or other markers related to addressing or any costs associated with the installation or maintenance of signs, posts, or markers.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 13. Minnesota Statutes 2004, section 403.21, subdivision 2, is amended to read:

Subd. 2. **Board.** "Board" or "radio board" ~~or "Metropolitan Radio Board"~~ means the Metropolitan Statewide Radio Board ~~or its successor regional radio board.~~

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2004, section 403.21, subdivision 7, is amended to read:

Subd. 7. **Plan.** "Plan" or "regionwide public safety radio system communication plan" means ~~the a~~ plan adopted by the Metropolitan Radio Board for a regionwide public safety radio communications system. ~~a regional radio board.~~

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 15. Minnesota Statutes 2005 Supplement, 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 and operated by ~~the Metropolitan Radio Board;~~ a regional radio board; ~~or~~ local government units for their own internal operations.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 16. Minnesota Statutes 2004, section 403.21, subdivision 9, is amended to read:

Subd. 9. **System backbone.** "System backbone" or "backbone" means a public safety radio communication system that consists of a shared, trunked, communication, and interoperability infrastructure network, including, but not limited to, radio towers and associated structures and equipment, the elements of which are identified in the regionwide public safety radio communication system plan ~~under section 403.23, subdivision 6,~~ and the statewide radio communication plan under section 403.36.

Sec. 17. Minnesota Statutes 2004, section 403.33, is amended to read:

403.33 LOCAL PLANNING.

Subdivision 1. **County planning process.** (a) No later than two years from May 22, 1995, each metropolitan county shall undertake and complete a planning process for its public safety radio subsystem to ensure participation by representatives of local government units, quasi-public service organizations, and private entities eligible to use the regional public safety radio system and to ensure coordination and planning of the local subsystems. Local governments and other eligible users shall cooperate with the county in its preparation of the subsystem plan to ensure that local needs are met.

(b) The regional radio board for the metropolitan area shall encourage the establishment by each metropolitan county of local public safety radio subsystem committees composed of representatives of local governments and other eligible users for the purposes of:

(1) establishing a plan for coordinated and timely use of the regionwide public safety radio system by the local governments and other eligible users within each metropolitan county; and

(2) assisting and advising the regional radio board for the metropolitan area in its implementation of the regional public safety radio plan by identification of local service needs and objectives.

(c) The regional radio board for the metropolitan area shall also encourage the establishment of joint or multicounty planning for the regionwide public safety radio system and subsystems.

(d) The regional radio board for the metropolitan area may provide local boards with whatever assistance it deems necessary and appropriate.

(e) No metropolitan county or city of the first class shall be required to undertake a technical subsystem design to meet the planning process requirements of this subdivision or subdivision 2.

Subd. 2. **Cities of first class; planning process.** Each city of the first class in the metropolitan counties shall have the option to participate in the county public safety radio subsystem planning process or develop its own plan.

Subd. 3. **Submission of plans to board.** Each metropolitan county and each city of the first class in the metropolitan area which has chosen to develop its own plan shall submit the plan to the regional radio board for the metropolitan area for the board's review and approval.

Subd. 4. **Local government joinder.** Local government units, except for cities of the first class, quasi-public service organizations, and private entities eligible to use the regional public safety radio system cannot join the system until its county plan has been approved by the regional radio board for the metropolitan area.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 18. Minnesota Statutes 2004, section 403.34, is amended to read:

403.34 OPTIONAL LOCAL USE OF ~~REGIONAL~~ STATEWIDE SYSTEM.

Subdivision 1. **Options.** Use of the ~~regional~~ statewide public safety radio system by local governments, quasi-public service organizations, and private entities eligible to use the system shall be optional and no local government or other eligible user of the system shall be required to abandon or modify current public safety radio communication systems or purchase new equipment until the local government or other eligible user elects to join the system. Public safety radio communication service to local governments and other eligible users who do not initially join the system shall not be interrupted. No local government or other eligible users who do not join the system shall be charged a user fee for the use of the system.

Subd. 2. **Requirements to join.** Local governments and other entities eligible to join the ~~regional~~ statewide public safety radio system which elect to join the system must do so in accordance with and meet the requirements of the provisions of the plan adopted by the ~~radio~~ board as provided in section ~~403.23~~, ~~subdivision 2~~ 403.36.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 19. Minnesota Statutes 2005 Supplement, section 403.36, subdivision 1, is amended to read:

Subdivision 1. **Membership.** (a) The commissioner of public safety shall convene and chair the Statewide Radio Board to develop a project plan for a statewide, shared, trunked public safety radio communication system. The system may be referred to as "Allied Radio Matrix for Emergency Response," or "ARMER."

(b) The board consists of the following members or their designees:

- (1) the commissioner of public safety;
- (2) the commissioner of transportation;
- (3) the state chief information officer;
- (4) the commissioner of natural resources;
- (5) the chief of the Minnesota State Patrol;
- ~~(6) the commissioner of health;~~
- ~~(7) (6) the commissioner of finance;~~
- (7) the chair of the Metropolitan Council;

(8) two elected city officials, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governing body of the League of Minnesota Cities;

(9) two elected county officials, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governing body of the Association of Minnesota Counties;

(10) two sheriffs, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governing body of the Minnesota Sheriffs' Association;

(11) two chiefs of police, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governor after considering recommendations made by the Minnesota Chiefs' of Police Association;

(12) two fire chiefs, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governor after considering recommendations made by the Minnesota Fire Chiefs' Association;

(13) two representatives of emergency medical service providers, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governor after considering recommendations made by the Minnesota Ambulance Association;

(14) the chair of the ~~Metropolitan regional~~ radio board ~~for the metropolitan area;~~ and

(15) a representative of Greater Minnesota elected by those units of government in phase three and any subsequent phase of development as defined in the statewide, shared radio and communication plan, who have submitted a plan to the Statewide Radio Board and where development has been initiated.

(c) The Statewide Radio Board shall coordinate the appointment of board members representing Greater Minnesota with the appointing authorities and may designate the geographic region or regions from which an appointed board member is selected where necessary to provide representation from throughout the state.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 20. Minnesota Statutes 2004, section 403.36, subdivision 1f, is amended to read:

Subd. 1f. **Advisory groups.** (a) The Statewide Radio Board shall establish one or more advisory groups for the purpose of advising on the plan, design, implementation, and administration of the statewide, shared trunked radio and communication system.

(b) At least one such group must consist of the following members:

(1) ~~the chair of the Metropolitan Radio Board and~~ the chair of each regional radio board or, if no regional radio board has been formed, a representative of each region of development as defined in the statewide, shared, trunked radio and communication plan, once planning and development have been initiated for the region, or a designee;

- (2) the chief of the Minnesota State Patrol or a designee;
- (3) a representative of the Minnesota State Sheriffs' Association;
- (4) a representative of the Minnesota Chiefs of Police Association;
- (5) a representative of the Minnesota Fire Chiefs' Association; and
- (6) a representative of the Emergency Medical Services Board.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 21. **REPEALER.**

Minnesota Statutes 2004, sections 403.08, subdivision 8; 403.22; 403.23; 403.24; 403.25; 403.26; 403.28; 403.29, subdivisions 1, 2, and 3; 403.30, subdivisions 2 and 4; and 403.35 are repealed.

EFFECTIVE DATE. This section is effective July 1, 2006.

ARTICLE 7

FRAUDULENT OR IMPROPER FINANCING STATEMENTS

Section 1. Minnesota Statutes 2004, section 358.41, is amended to read:

358.41 DEFINITIONS.

As used in sections 358.41 to 358.49:

(1) "Notarial act" means any act that a notary public of this state is authorized to perform, and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument. A notary public may perform a notarial act by electronic means.

(2) "Acknowledgment" means a declaration by a person that the person has executed an instrument or electronic record for the purposes stated therein and, if the instrument or electronic record is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein.

(3) "Verification upon oath or affirmation" means a declaration that a statement is true made by a person upon oath or affirmation.

(4) "In a representative capacity" means:

(i) for and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;

(ii) as a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

(iii) as an attorney in fact for a principal; or

(iv) in any other capacity as an authorized representative of another.

(5) "Notarial officer" means a notary public or other officer authorized to perform notarial acts.

(6) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 2. Minnesota Statutes 2004, section 358.42, is amended to read:

358.42 NOTARIAL ACTS.

(a) In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument or electronic record.

(b) In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

(c) In witnessing or attesting a signature the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named therein.

(d) In certifying or attesting a copy of a document, electronic record, or other item, the notarial officer must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

(e) In making or noting a protest of a negotiable instrument or electronic record the notarial officer must determine the matters set forth in section 336.3-505.

(f) A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document or electronic record if that person (i) is personally known to the notarial officer, (ii) is identified upon the oath or affirmation of a credible witness personally known to the notarial officer, or (iii) is identified on the basis of identification documents.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 358.47, is amended to read:

358.47 CERTIFICATE OF NOTARIAL ACTS.

(a) A notarial act must be evidenced by a certificate physically or electronically signed and dated by a notarial officer in a manner that attributes such signature to the notary public identified on the commission. The certificate must include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer and may include the official stamp or seal of office, or the notary's electronic seal. If the officer is a notary public, the certificate must also indicate the date of expiration, if any, of the commission of office, but omission of that information may subsequently be corrected. If the officer is a commissioned officer on active duty in the military service of the United States, it must also include the officer's rank.

(b) A certificate of a notarial act is sufficient if it meets the requirements of subsection (a) and it:

(1) is in the short form set forth in section 358.48;

(2) is in a form otherwise prescribed by the law of this state;

(3) is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(4) sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

(c) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by section 358.42.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 4. Minnesota Statutes 2004, section 358.50, is amended to read:

358.50 EFFECT OF ACKNOWLEDGMENT.

An acknowledgment made in a representative capacity for and on behalf of a corporation, partnership, trust, or other entity and certified substantially in the form prescribed in this chapter is prima facie evidence that the instrument or electronic record was executed and delivered with proper authority.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 5. Minnesota Statutes 2004, section 359.01, is amended by adding a subdivision to read:

Subd. 5. **Registration to perform electronic notarizations.** Before performing electronic notarial acts, a notary public shall register the capability to notarize electronically with the secretary of state. Before performing electronic notarial acts after recommissioning, a notary public shall reregister with the secretary of state.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 6. Minnesota Statutes 2004, section 359.03, subdivision 3, is amended to read:

Subd. 3. **Specifications.** The seal of every notary public may be affixed by a stamp that will print a seal which legibly reproduces under photographic methods the seal of the state of Minnesota, the name of the notary, the words "Notary Public," and the words "My commission expires, " with the expiration date shown thereon or may be an electronic form. ~~The~~ A physical seal used to authenticate a paper document shall be a rectangular form of not more than three-fourths of an inch vertically by 2-1/2 inches horizontally, with a serrated or milled edge border, and shall contain the information required by this subdivision.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 7. Minnesota Statutes 2004, section 359.03, is amended by adding a subdivision to read:

Subd. 4. **Electronic seal.** A notary's electronic seal shall contain the notary's name, jurisdiction, and commission expiration date, and shall be logically and securely affixed to or associated with the electronic record being notarized.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 8. Minnesota Statutes 2004, section 359.04, is amended to read:

359.04 POWERS.

Every notary public so appointed, commissioned, and qualified shall have power throughout this state to administer all oaths required or authorized to be administered in this state; to take and certify all depositions to be used in any of the courts of this state; to take and certify all acknowledgments of deeds, mortgages, liens, powers of attorney, and other instruments in writing or electronic records; and to receive, make out, and record notarial protests.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 9. Minnesota Statutes 2004, section 359.05, is amended to read:

359.05 DATE OF EXPIRATION OF COMMISSION AND NAME TO BE ENDORSED.

Every notary public, except in cases provided in section 359.03, subdivision 3, taking an acknowledgment of an instrument, taking a deposition, administering an oath, or making a notarial protest, shall, immediately following the notary's physical or electronic signature to the jurat or certificate of acknowledgment, endorse the date of the expiration of the commission; such endorsement may be legibly written, stamped, or printed upon the instrument, but must be disconnected from the seal, and shall be substantially in the following form: "My commission expires, .." Except in cases provided in section 359.03, subdivision 3, every notary public, in addition to signing the jurat or certificate of acknowledgment, shall, immediately following the signature and immediately preceding the official description, endorse thereon the notary's name with a typewriter or print the same legibly with a stamp or with pen and ink, or affix by electronic means; provided that the failure so to endorse or print the name shall not invalidate any jurat or certificate of acknowledgment.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 10. Minnesota Statutes 2004, section 359.085, is amended to read:

359.085 STANDARDS OF CONDUCT FOR NOTARIAL ACTS.

Subdivision 1. **Acknowledgments.** In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument or electronic record.

Subd. 2. **Verifications.** In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

Subd. 3. **Witnessing or attesting signatures.** In witnessing or attesting a signature, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named in the document or electronic record.

Subd. 4. **Certifying or attesting documents.** In certifying or attesting a copy of a document, electronic record, or other item, the notarial officer must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

Subd. 5. **Making or noting protests of negotiable instruments.** In making or noting a protest of a negotiable instrument or electronic record, the notarial officer must determine the matters set forth in section 336.3-505.

Subd. 6. **Satisfactory evidence.** A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document or electronic record if that person (i) is personally known to the notarial officer, (ii) is identified upon the oath or affirmation of a credible witness personally known to the notarial officer, or (iii) is identified on the basis of identification documents.

Subd. 7. **Prohibited acts.** A notarial officer may not acknowledge, witness or attest to the officer's own signature, or take a verification of the officer's own oath or affirmation.

Subd. 8. **Failure to appear before notary.** A notarial officer may not notarize the physical or electronic signature of any signer who is not in the presence of the notary at the time of notarization.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 11. **[545.05] EXPEDITED PROCESS TO REVIEW AND DETERMINE THE EFFECTIVENESS OF FINANCING STATEMENTS.**

Subdivision 1. **Definitions.** (a) As used in this section, a financing statement or other record is fraudulent or otherwise improper if it is filed without the authorization of the obligor, person named as debtor, or owner of collateral described or indicated in the financing statement or other record, or by consent of an agent, fiduciary, or other representative of that person or without the consent of the secured party of record in the case of an amendment or termination.

(b) As used in this section, filing office or filing officer refers to the office or officer where a financing statement or other record is appropriately filed or recorded as provided by law, including, but not limited to, the county recorder, the secretary of state, and other related filing officers.

Subd. 2. **Motion.** An obligor, person named as a debtor, or owner of collateral described or indicated in a financing statement or other record filed under sections 336.9-101 to 336.9-709 (Uniform Commercial Code - Secured Transactions), who has reason to believe that the financing statement or other record is fraudulent or otherwise improper may complete and file at any time a motion for judicial review of the effectiveness of the financing statement or other record. A secured party of record who believes that an amendment or termination of a financing statement or other record is fraudulent or otherwise improper may also file a motion.

Subd. 3. **Service and filing.** (a) The motion under subdivision 2 must be mailed by certified United States mail to the person who is indicated as the secured party on the allegedly fraudulent or improper record at the address listed on the record or, in the case of a filing by the secured party of record, to the address of the person who filed the amendment or termination in question, as listed on the record. The motion must be accompanied by a copy of the record in question, an affidavit of mailing, the form for responding to the motion under subdivision 6, and a copy of the text of this section.

(b) On the day the motion is mailed, a copy of the materials must be filed with the district court of the county in which the financing statement or other record has been filed or in the county of residence of the moving party. The motion must be supported by the affidavit of the moving party or the moving party's attorney setting forth a concise statement of the facts upon which the claim for relief is based. There is no filing fee for a motion or a response filed under this section.

Subd. 4. **Motion form.** The motion must be in substantially the following form:

In Re: A Purported Financing Statement in the district court of County, Minnesota, Against [Name of person who filed the financing statement]

MOTION FOR JUDICIAL REVIEW OF A FINANCING STATEMENT FILED UNDER THE UNIFORM COMMERCIAL CODE - SECURED TRANSACTIONS

..... (name of moving party) files this motion requesting a judicial determination of the effectiveness of a financing statement or other record filed under the Uniform Commercial Code - Secured Transactions in the office of the (filing office and location) and in support of the motion provides as follows:

I.

..... (name), the moving party, is the [obligor, person named as a debtor, or owner of collateral described or indicated in] [secured party of record listed in] a financing statement or other record filed under the Uniform Commercial Code.

II.

On (date), in the exercise of the filing officer's official duties as (filing officer's position), the filing officer received and filed or recorded the financing statement or other record, a copy which is attached, that purports to [perfect a security interest against the obligor, person named as debtor, or the owner of collateral described or indicated in the financing statement or other record] or [amend or terminate the financing statement in which the moving party is listed as the secured party of record].

III.

The moving party alleges that the financing statement or other record is fraudulent or otherwise improper and that this court should declare the financing statement or other record ineffective.

IV.

The moving party attests that the assertions in this motion are true and correct.

V.

The moving party does not request the court to make a finding as to any underlying claim of the parties involved and acknowledges that this motion does not seek review of an effective financing statement. The moving party further acknowledges that the moving party may be subject to sanctions if this motion is determined to be frivolous. The moving party may be contacted by the respondent at:

Mailing Address: (required)

Telephone Number:

Facsimile Number: (either facsimile or e-mail contact is required)

E-Mail Address: (either facsimile or e-mail contact is required)

REQUEST FOR RELIEF

The moving party requests the court to review the attached documentation and enter an order finding that the financing statement or other record is ineffective together with other findings as the court deems appropriate.

Respectfully submitted, (Signature and typed name and address).

Subd. 5. **Motion acknowledgment form.** The form for the certificate of acknowledgment must be substantially as follows:

AFFIDAVIT

THE STATE OF MINNESOTA COUNTY OF

BEFORE ME, the undersigned authority, personally appeared, who, being by me duly sworn, deposed as follows:

"My name is I am over 18 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I attest that the assertions contained in the accompanying motion are true and correct."

SUBSCRIBED and SWORN TO before me, this day of

NOTARY PUBLIC, State of [state name]

Notary's printed name:

My commission expires:

The motion must be supported by the affidavit of the moving party or the moving party's attorney setting forth a concise statement of the facts upon which the claim for relief is based.

Subd. 6. **Motion affidavit of mailing form.** The moving party shall complete an affidavit of mailing the motion to the court and to the respondent in substantially the following form:

State of Minnesota

County of

....., the moving party, being duly sworn, on oath, deposes and says that on the day of,, the moving party mailed the motion to the court and the respondent by placing a true and correct copy of the motion in an envelope addressed to them as shown by certified United States mail at, Minnesota.

Subscribed and sworn to before me this day of,

Subd. 7. **Response form.** The person listed as [the secured party in] [filing] the record for which the moving party has requested review may respond to the motion and accompanying materials to request an actual hearing within 20 days from the mailing by certified United States mail by the moving party. The form for use by the person listed as [the secured party in] [filing] the record in question to respond to the motion for judicial review must be in substantially the following form:

In Re: A Purported Financing Statement in the district court of County, Minnesota, Against [Name of person who filed the financing statement]

RESPONSE TO MOTION FOR JUDICIAL REVIEW OF A FINANCING STATEMENT FILED UNDER THE UNIFORM COMMERCIAL CODE - SECURED TRANSACTIONS

..... (name) files this response to a motion requesting a judicial determination of the effectiveness of a financing statement or other record filed under the Uniform Commercial Code - Secured Transactions in the office of the (filing office and location) and in support of the motion provides as follows:

I.

..... (name), the respondent, is the person listed as [the secured party in] [filing] the record for which review has been requested by the moving party.

II.

On (date), in the exercise of the filing officer's official duties as (filing officer's position), the filing officer received and filed or recorded the financing statement or other record, a copy which is attached, that purports to [perfect a security interest against] [amend or terminate a record filed by] the moving party.

III.

Respondent states that the financing statement or other record is not fraudulent or otherwise improper and that this court should not declare the financing statement or other record ineffective.

IV.

Respondent attests that assertions in this response are true and correct.

V.

Respondent does not request the court to make a finding as to any underlying claim of the parties involved. Respondent further acknowledges that respondent may be subject to sanctions if this response is determined to be frivolous.

REQUEST FOR RELIEF

Respondent requests the court to review the attached documentation, to set a hearing for no later than five days after the date of this response or as soon after that as the court shall order and to enter an order finding that the financing statement or other record is not ineffective together with other findings as the court deems appropriate. Respondent may be contacted at:

Mailing Address: (required)

Telephone Number:

Facsimile Number: (either facsimile or e-mail contact is required)

E-Mail Address: (either facsimile or e-mail contact is required)

Respectfully submitted,

(Signature and typed name and address).

Subd. 8. **Response acknowledgment form.** The form for the certificate of acknowledgment must be substantially as follows:

AFFIDAVIT

THE STATE OF MINNESOTA COUNTY OF

BEFORE ME, the undersigned authority, personally appeared, who, being by me duly sworn, deposed as follows:

"My name is I am over 18 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I attest that the assertions contained in the accompanying motion are true and correct."

SUBSCRIBED and SWORN TO before me, this day of

NOTARY PUBLIC, State of [state name]

Notary's printed name:

My commission expires:

Subd. 9. **Response affidavit of mailing form.** Respondent shall submit the response by United States mail to both the court and the moving party, and also by either e-mail or facsimile as provided by the moving party. The respondent shall complete an affidavit of mailing the response to the court and to the moving party in substantially the following form:

State of Minnesota

County of

....., being the responding party, being duly sworn, on oath, deposes and says that on the day of,, respondent mailed the response to court and the moving party by placing a true and correct copy of the response in an envelope addressed to them as shown depositing the same with postage prepaid, in the U.S. Mail at, Minnesota.

Subscribed and sworn to before me this day of

Subd. 10. **Hearing.** (a) If a hearing is timely requested, the court shall hold that hearing within five days after the mailing of the response by the respondent or as soon after that as ordered by the court. After the hearing, the court shall enter appropriate findings of fact and conclusions of law regarding the financing statement or other record filed under the Uniform Commercial Code.

(b) If a hearing request under subdivision 7 is not received by the court by the 20th day following the mailing of the original motion, the court's finding may be made solely on a review of the documentation attached to the motion and without hearing any testimonial evidence. After that review, which must be conducted no later than five days after the 20-day period has expired, the court shall enter appropriate findings of fact and conclusions of law as provided in subdivision 11 regarding the financing statement or other record filed under the Uniform Commercial Code.

(c) A copy of the findings of fact and conclusions of law must be sent to the moving party, the respondent, and the person who filed the financing statement or other record at the address listed in the motion or response of each person within seven days of the date that the findings of fact and conclusions of law are issued by the court.

(d) In all cases, the moving party shall file or record an attested copy of the findings of fact and conclusions of law in the filing office in the appropriate class of records in which the original financing statement or other record was filed or recorded. The filing officer shall not collect a filing fee for filing a court's finding of fact and conclusion of law as provided in this section except as specifically directed by the court in its findings and conclusions.

Subd. 11. **Order form; no hearing.** The findings of fact and conclusion of law for an expedited review where no hearing has been requested must be in substantially the following form:

MISCELLANEOUS DOCKET No.

In Re: A purported Financing Statement in the district court of County, Minnesota,
Against [Name of person who filed financing statement]

Judicial Finding of Fact and Conclusion of Law Regarding a Financing Statement or Other Record Filed
Under the Uniform Commercial Code - Secured Transactions

On the (number) day of (month), (year), in the above entitled and numbered cause, this court reviewed a motion, verified by affidavit, of (name) and the documentation attached. The respondent did not respond within the required 20-day period. No testimony was taken from any party, nor was there any notice of the court's review, the court having made the determination that a decision could be made solely on review of the documentation as provided in Minnesota Statutes, section 545.05.

The court finds as follows (only an item or subitem checked and initialed is a valid court ruling):

[..] The documentation attached to the motion IS filed or recorded with the authorization of the obligor, person named as debtor, or owner of collateral described or indicated in the financing statement or other record, or by consent of an agent, fiduciary, or other representative of that person, or with the authorization of the secured party of record in the case of an amendment or termination.

[..] The documentation attached to the motion IS NOT filed or recorded with the authorization of the obligor, person named as debtor, or owner of collateral described or indicated in the documentation, or by consent of an agent, fiduciary, or other representative of that person, or with the authorization of the secured party of record in the case of an amendment or termination and, IS NOT an effective financing statement or other record under the Uniform Commercial Code - Secured Transactions law of this state.

[..] This court makes no finding as to any underlying claims of the parties involved and expressly limits its findings of fact and conclusions of law to the review of a ministerial act. The filing officer shall remove the subject financing statement or other record so that the record is not reflected in or obtained as

a result of any search, standard or otherwise, conducted of those records, but shall retain them and these findings of fact and conclusions of law in the filing office for the duration of the period for which they would have otherwise been filed.

SIGNED ON THIS THE DAY of

..... District Judge

..... District

..... County, Minnesota

Subd. 12. **Hearing determination.** If a determination is made after a hearing, the court may award the prevailing party all costs related to the entire review, including, but not limited to, filing fees, attorney fees, administrative costs, and other costs.

Subd. 13. **Subsequent motion.** If the moving party files a subsequent motion under this section against a person filing a financing statement or other record that is reviewed under this section and found to be filed or recorded with the authorization of the obligor, person named as debtor, or owner of collateral described or indicated in the financing statement or other record, or by consent of an agent, fiduciary, or other representative of that person, or with the authorization of the secured party of record in the case of an amendment or termination, the court may, in addition to assessing costs, order other equitable relief against the moving party or enter other sanctions against the moving party.

Subd. 14. **Judicial officers.** The chief judge of a district court may order that any or all proceedings under this section be conducted and heard by other judicial officers of that district court.

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

Sec. 12. **[604.17] CIVIL LIABILITY FOR FRAUDULENT OR OTHERWISE IMPROPER FINANCING STATEMENTS.**

Subdivision 1. **Definitions.** For purposes of this section:

(1) "financing statement" has the meaning given in section 336.9-102(a) of the Uniform Commercial Code; and

(2) "filing officer" is defined as Uniform Commercial Code filing officer in each jurisdiction.

Subd. 2. **Liability.** (a) A person shall not knowingly cause to be presented for filing or promote the filing of a financing statement that the person knows:

(1) is forged;

(2) is not:

(i) related to a valid lien or security agreement; or

(ii) filed pursuant to section 336.9-502(d); and

(3) is for an improper purpose or purposes, such as to harass, hinder, defraud, or otherwise interfere with any person.

(b) A person who violates paragraph (a) is liable to each injured person for:

(1) the greater of:

(i) nominal damages up to \$10,000; or

(ii) the actual damages caused by the violation;

(2) court costs;

(3) reasonable attorney fees;

(4) related expenses of bringing the action, including investigative expenses; and

(5) exemplary damages in the amount determined by the court.

Subd. 3. **Cause of action.** (a) The following persons may bring an action to enjoin violation of this section or to recover damages under this section:

(1) the obligor, the person named as the debtor, any person who owns an interest in the collateral described or indicated in the financing statement, or any person harmed by the filing of the financing statement;

(2) the attorney general;

(3) a county attorney;

(4) a city attorney; and

(5) a person who has been damaged as a result of an action taken in reliance on the filed financing statement.

(b) A filing officer may refer a matter to the attorney general or other appropriate person for filing the legal actions under this section.

Subd. 4. **Venue.** An action under this section may be brought in any district court in the county in which the financing statement is presented for filing or in a county where any of the persons named in subdivision 3, paragraph (a), clause (1), resides.

Subd. 5. **Filing fee.** (a) The fee for filing an action under this chapter is \$..... The plaintiff must pay the fee to the clerk of the court in which the action is filed. Except as provided by paragraph (b), the plaintiff may not be assessed any other fee, cost, charge, or expense by the clerk of the court or other public official in connection with the action.

(b) The fee for service of notice of an action under this section charged to the plaintiff may not exceed:

(1) \$..... if the notice is delivered in person; or

(2) the cost of postage if the service is by registered or certified mail.

(c) A plaintiff who is unable to pay the filing fee and fee for service of notice may file with the court an affidavit of inability to pay under the Minnesota Rules of Civil Procedure.

(d) If the fee imposed under paragraph (a) is less than the filing fee the court imposes for filing other similar actions and the plaintiff prevails in the action, the court may order a defendant to pay to the court the differences between the fee paid under paragraph (a) and the filing fee the court imposes for filing other similar actions.

Subd. 6. **Other remedies.** (a) An obligor, person named as a debtor, owner of collateral, or any other person harmed by the filing of a financing statement in violation of subdivision 2, paragraph (a), also may request specific relief, including, but not limited to, terminating the financing statement and removing the debtor named in the financing statement from the index under the provisions of section 545.05, paragraph (c), such that it will not appear in a search under that debtor name.

(b) This law is cumulative of other law under which a person may obtain judicial relief with respect to any filed or recorded document.

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

Sec. 13. **[609.7475] FRAUDULENT OR OTHERWISE IMPROPER FINANCING STATEMENTS.**

Subdivision 1. **Definition.** As used in this section, "record" has the meaning given in section 336.9-102.

Subd. 2. **Crime described.** A person who:

(1) knowingly causes to be presented for filing or promotes the filing of a record that:

(i) is not:

(A) related to a valid lien or security agreement; or

(B) filed pursuant to section 336.9-502(d); or

(ii) contains a forged signature or is based upon a document containing a forged signature; or

(2) presents for filing or causes to be presented for filing a record with the intent that it be used to harass or defraud any other person;

is guilty of a crime and may be sentenced as provided in subdivision 3.

Subd. 3. **Penalties.** (a) Except as provided in paragraph (b), a person who violates subdivision 2 is guilty of a gross misdemeanor.

(b) 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, if the person:

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

(2) commits the offense after having been previously convicted of a violation of this section.

Subd. 4. **Venue.** A violation of this section may be prosecuted in either the county of residence of the individual listed as debtor or the county in which the filing is made.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

ARTICLE 8

CORONERS AND MEDICAL EXAMINERS

Section 1. Minnesota Statutes 2004, section 390.005, is amended to read:

390.005 ELECTION OR APPOINTMENT, ELIGIBILITY; VACANCIES; REMOVAL.

Subdivision 1. ~~County election~~ **Selection of coroner or medical examiner.** Each county must have a coroner or medical examiner. A coroner ~~shall~~ may be elected ~~in each county,~~ as prescribed by section 382.01, ~~except as provided in this section~~ or appointed in each county. A medical examiner must be appointed by the county board. The term of an appointed coroner or medical examiner must not be longer than four years.

Subd. 2. **Appointment by resolution.** ~~In a county where the office of coroner has not been abolished,~~ The board of county commissioners may, by resolution, state its intention to fill the office of coroner by appointment. The resolution must be adopted at least six months before the end of the term of the incumbent

coroner, if elected. After the resolution is adopted, the board shall fill the office by appointing a person not less than 30 days before the end of the incumbent's term. The appointed coroner shall serve for a term of office determined by the board beginning upon the expiration of the term of the incumbent. The term must not be longer than four years.

If there is a vacancy in the elected office in the county, the board may by resolution, state its intention to fill the office by appointment. When the resolution is adopted, the board shall fill the office by appointment immediately. The coroner shall serve for a term determined by the board. The term must not be longer than four years.

Subd. 3. ~~**Educational requirements**~~ **Qualifications.** ~~A coroner must have successfully completed academic courses in pharmacology, surgery, pathology, toxicology, and physiology. However, if a board of county commissioners determines that the office of coroner shall not be elective and it cannot appoint any person meeting the educational qualifications as coroner, the board may:~~

~~(1) appoint any qualified person, whether or not a resident of the county, or~~

~~(2) if no qualified person can be found, appoint a person who is serving or has served as deputy coroner, whether or not a resident of the county: (a) The medical examiner must be a forensic pathologist who is certified or eligible for certification by the American Board of Pathology. The medical examiner is an appointed public official in a system of death investigation in which the administrative control, the determination of the extent of the examination, need for autopsy, and the filing of the cause and manner of death information with the state registrar pursuant to section 144.221 are all under the control of the medical examiner.~~

~~(b) The coroner must be a physician with a valid license in good standing under chapter 147, to practice medicine as defined under section 147.081, subdivision 3. The coroner is a public official, elected or appointed, whose duty is to make inquiry into deaths in certain categories, determine the cause and manner of death, and file the information with the state registrar pursuant to section 144.221. The coroner must obtain additional training in medicolegal death investigation, such as training by the American Board of Medicolegal Death Investigators, within four years of taking office, unless the coroner has already obtained this training.~~

~~(c) The coroner or medical examiner need not be a resident of the county.~~

Subd. 4. **Certain incumbents.** An incumbent coroner or medical examiner in office on July 1, 1965 ~~meets~~ the effective date of this section is hereby deemed to meet the qualifications prescribed by this section for the purpose of continuance in, ~~reelection to, or appointment to~~ the office of coroner until the end of the current term of office, after which this statute will apply.

Subd. 5. **Vacancies, removal.** Vacancies in the office of coroner or medical examiner shall be filled according to sections 375.08 and 382.02, or under subdivision 1. ~~★ The medical examiner or appointed coroner may be removed from office as provided by law.~~ by the county board during a term of office for cause shown after a hearing upon due notice of written charges. The hearing shall be conducted in accordance with that county's human resources policy.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 2. **[390.0065] HENNEPIN COUNTY MEDICAL EXAMINER; SELECTION AND TERM.**

Hennepin County shall use the following procedure to select the Hennepin County medical examiner: the Hennepin County Board shall designate three licensed physicians who shall constitute a Medical Examiner Board. One member shall be a dean or professor of the Department of Pathology of a Class A medical school as designated by the American Medical Association. Another member of the board shall be a member of the Minnesota Society of Pathologists. The third member shall be designated

by the Hennepin County Medical Association from its membership. The Medical Examiner Board shall accept applications for the position of Hennepin County medical examiner when a vacancy exists in the office. Applications therefore shall be considered from doctors of medicine who are: (1) graduates of a medical school recognized by the American Medical Association or American Osteopathic Association, (2) members in good standing in the medical profession, (3) eligible for appointment to the staff of the Hennepin County Medical Center, and (4) certified or eligible for certification in forensic pathology by the American Board of Pathology. The Medical Examiner Board shall review the qualifications of the applicants and shall rank the applicants deemed qualified for the position and provide to the county board a report of the seven highest ranked applicants together with their qualifications. The county board shall appoint a county medical examiner from those listed in the report. The term of the examiner shall continue for four years from the date of appointment. Reappointment shall be made at least 90 days prior to the expiration of the term. If a vacancy requires a temporary appointment, the board of commissioners shall appoint a medical doctor on the staff of the county medical examiner's office to assume the duties of the medical examiner until an appointment can be made in compliance with the specified selection procedure. Actual and necessary expenses of the Medical Examiner Board shall be paid in accordance with sections 471.38 to 471.415.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 390.01, is amended to read:

390.01 BOND AND INDEMNIFICATION.

Before taking office, the coroner shall post bond to the state in a penal sum set by the county board, not less than \$500 nor more than \$10,000. The coroner's bond is subject to the same conditions in substance as in the bond required by law to be given by the sheriff, except as to the description of the office. The coroner or medical examiner shall be included in the bond held by the county for all appointed and elected county officials and shall be defended and indemnified, pursuant to section 466.07. The bond and oath of office shall be recorded and filed with the county recorder.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 4. **[390.011] AUTONOMY.**

The coroner or medical examiner is an independent official of the county, subject only to appointment, removal, and budgeting by the county board.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 5. **[390.012] JURISDICTION.**

The coroner or medical examiner of the county in which a person dies or is pronounced dead shall have jurisdiction over the death, regardless of where any injury that resulted in the death occurred. The place where death is pronounced is deemed to be the place where death occurred. If the place of death is unknown but the dead body is found in Minnesota, the place where the body is found is considered the place of death. If the date of death is unknown, the date the body is found is considered the date of death, but only for purposes of this chapter. When a death occurs in a moving conveyance and the body is first removed in Minnesota, documentation of death must be filed in Minnesota and the place of death is considered the place where the body is first removed from the conveyance.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 6. Minnesota Statutes 2004, section 390.04, is amended to read:

390.04 TO ACT WHEN SHERIFF A PARTY TO AN ACTION PROVISION FOR TRANSFER OF JURISDICTION.

When the sheriff is a party to an action or when a party, or a party's agent or attorney, files with the court administrator of the district court an affidavit stating that the party believes the sheriff, coroner or medical examiner, because of partiality, prejudice, consanguinity, or interest, will is not faithfully able to perform the sheriff's coroner or medical examiner's duties in an action commenced, or about to be commenced, the clerk shall direct process in the action to the coroner. The coroner shall perform the duties of the sheriff relative to the action in the same manner required for a sheriff, the coroner or medical examiner shall have the authority to transfer jurisdiction to another coroner or medical examiner, as arranged by the county board.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 7. Minnesota Statutes 2005 Supplement, section 390.05, is amended to read:

390.05 DEPUTIES MEDICAL EXAMINER OR CORONER STAFF.

★ The coroner shall or medical examiner may appoint one or more deputies, assistant coroners or assistant medical examiners, as necessary to fulfill the duties of the office, subject to authorization by the county board. Such assistants shall have the same qualifications as a coroner or medical examiner. When the coroner or medical examiner is absent or unable to act, deputies assistants shall have the same powers and duties and are subject to the same liabilities as coroners. A deputy shall be appointed in writing. The oath and appointment shall be recorded with the county recorder. The deputy shall act by name as deputy coroner and hold office at the same time as the coroner, limitations as the coroner or medical examiner. The assistants shall be appointed in writing, shall take an oath that shall be recorded and filed with the county recorder, and shall be included in the county bond. The assistant shall act by name as assistant coroner or medical examiner and hold office at the pleasure of the coroner or medical examiner.

A coroner or medical examiner may appoint one or more investigators, with such qualifications as the coroner or medical examiner deems appropriate. Such investigators shall have the powers and duties that are delegated to them by the coroner or medical examiner. Unless they are public employees of that county, investigators shall be appointed in writing and take an oath, shall be included in the county bond, and the oath and appointment shall be recorded and filed with the county recorder. Subject to authorization of the county board, assistants may be appointed to the unclassified service and investigators to the classified service of the county.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 8. **[390.061] MORGUE.**

Every county need not have a morgue, but there must be a system or process for receiving, storing, and releasing all dead bodies subject to this statute.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 9. Minnesota Statutes 2004, section 390.11, is amended to read:

390.11 INVESTIGATIONS AND INQUESTS.

Subdivision 1. **Deaths requiring inquests and investigations Reports of death.** Except as provided in subdivision 1a, the coroner shall investigate and may conduct inquests in all human deaths of the following types: All sudden or unexpected deaths and all deaths that may be due entirely or in part to any factor other

than natural disease processes must be promptly reported to the coroner or medical examiner for evaluation. Sufficient information must be provided to the coroner or medical examiner. Reportable deaths include, but are not limited to:

~~(1) unnatural deaths, including violent deaths, whether apparently homicidal, suicidal, or accidental, including but not limited to deaths due to thermal, chemical, electrical, or radiational injury, and deaths due to criminal abortion, whether apparently self induced or not, arising from homicide, suicide, or accident;~~

(2) deaths due to a fire or associated with burns or chemical, electrical, or radiation injury;

(3) unexplained or unexpected perinatal and postpartum maternal deaths;

~~(2)~~ (4) deaths under suspicious, unusual, or mysterious unexpected circumstances;

~~(3)~~ (5) deaths of persons whose bodies are to be cremated, dissected, buried at sea, or otherwise disposed of so that the bodies will later be unavailable for examination; and

~~(4)~~ (6) deaths of inmates of public institutions and persons in custody of law enforcement officers who are have not been hospitalized primarily for organic disease and whose deaths are not of any type referred to in clause (1) or (2);

(7) deaths that occur during, in association with, or as the result of diagnostic, therapeutic, or anesthetic procedures;

(8) deaths due to culpable neglect;

(9) stillbirths of 20 weeks or longer gestation unattended by a physician;

(10) sudden deaths of persons not affected by recognizable disease;

(11) unexpected deaths of persons notwithstanding a history of underlying disease;

(12) deaths in which a fracture of a major bone such as a femur, humerus, or tibia has occurred within the past six months;

(13) deaths unattended by a physician occurring outside of a licensed health care facility or licensed residential hospice program;

(14) deaths of persons not seen by their physician within 120 days of demise;

(15) deaths of persons occurring in an emergency department;

(16) stillbirths or deaths of newborn infants in which there has been maternal use of or exposure to unprescribed controlled substances including street drugs or in which there is history or evidence of maternal trauma;

(17) unexpected deaths of children;

(18) solid organ donors;

(19) unidentified bodies;

(20) skeletonized remains;

(21) deaths occurring within 24 hours of arrival at a health care facility if death is unexpected;

(22) deaths associated with the decedent's employment;

(23) deaths of nonregistered hospice patients or patients in nonlicensed hospice programs; and

(24) deaths attributable to acts of terrorism.

The coroner or medical examiner shall determine the extent of the coroner's or medical examiner's investigation, including whether additional investigation is needed by the coroner or medical examiner, jurisdiction is assumed, or an autopsy will be performed, notwithstanding any other statute.

Subd. 1a. **Commissioner of corrections; investigation of deaths.** ~~The commissioner of corrections may require that all Department of Corrections incarcerated deaths be reviewed by an independent, contracted, board-certified forensic pathologist.~~ For deaths occurring within a facility licensed by the Department of Corrections, the coroner or medical examiner shall ensure that a forensic pathologist who is certified by the American Board of Pathology reviews each death and performs an autopsy on all unnatural, unattended, or unexpected deaths and others as necessary.

Subd. 1b. **Hospice registration.** Each coroner and medical examiner shall establish a registration policy regarding hospice patients. If a hospice patient is determined to be properly preregistered, the coroner or medical examiner may treat the death as attended by a physician.

Subd. 2. ~~Violent or mysterious deaths; Autopsies.~~ The coroner or medical examiner may ~~conduct~~ order an autopsy, at the coroner or medical examiner's sole discretion, in the case of any human death referred to in subdivision 1, ~~clause (1) or (2); when, in the judgment of the coroner judges that~~ or medical examiner the public interest ~~requires~~ would be served by an autopsy, ~~except that an autopsy must be conducted in all unattended inmate deaths that occur in a state correctional facility.~~ The autopsy shall be performed without unnecessary delay. A report of the facts developed by the autopsy and findings of the person performing the autopsy shall be made promptly and filed in the office of the coroner or medical examiner. When further investigation is deemed advisable, a copy of the report shall be delivered to the county attorney. Every autopsy performed pursuant to this subdivision shall, whenever practical, be performed in the county morgue. Nothing herein shall require the coroner or medical examiner to order an autopsy upon the body of a deceased person if the person died of known or ascertainable causes or had been under the care of a licensed physician immediately prior to death or if the coroner or medical examiner determines the autopsy to be unnecessary.

Autopsies performed pursuant to this subdivision may include the removal, retention, testing, or use of organs, parts of organs, fluids or tissues, at the discretion of the coroner or medical examiner, when removal, retention, testing, or use may be useful in determining or confirming the cause of death, mechanism of death, manner of death, identification of the deceased, presence of disease or injury, or preservation of evidence. Such tissue retained by the coroner or medical examiner pursuant to this subdivision shall be disposed of in accordance with standard biohazardous hospital and/or surgical material and does not require specific consent or notification of the legal next of kin. When removal, retention, testing, and use of organs, parts of organs, fluids, or tissues is deemed beneficial, and is done only for research or the advancement of medical knowledge and progress, written consent or documented oral consent shall be obtained from the legal next of kin, if any, of the deceased person prior to the removal, retention, testing, or use.

Subd. 2a. **Deaths caused by fire; autopsies.** ~~The coroner shall conduct an autopsy in the case of any human death reported to the coroner by the state fire marshal or a chief officer under section 299F.04, subdivision 5, and apparently caused by fire.~~ The coroner or medical examiner shall conduct an autopsy or require that one be performed in the case of a death reported to the coroner or medical examiner by the state fire marshal or a chief officer under section 299F.04, subdivision 5, and apparently caused by fire, and in which the decedent is pronounced dead outside of a hospital or in which identification of the decedent has not been confirmed. If the decedent has died in a hospital and identification is not in question, an autopsy may be performed or ordered by the coroner or medical examiner.

Subd. 3. ~~Other deaths; autopsies; Exhumation; consent disinterment.~~ The coroner may ~~conduct~~ an autopsy in the case of any human death referred to in subdivision 1, ~~clause (3) or (4); or medical examiner~~ may exhume any human body and perform an autopsy on it in the case of any human death referred to in subdivision 1 when the coroner or medical examiner judges that the public interest requires an autopsy.

No ~~autopsy exhumation~~ shall be conducted unless the surviving ~~spouse, or legal~~ next of kin ~~if there is no surviving spouse,~~ consents to it, or the district court of the county where the body is located or buried, ~~upon notice as the court directs, enters an order authorizing an autopsy or an exhumation and autopsy orders it.~~ Notice of such exhumation shall be given as directed by the district court. Application for an order may be made by the coroner, medical examiner, or ~~by the~~ county attorney of the county where the body is located or buried, and shall be granted upon a showing that the court deems appropriate.

Subd. 4. **Assistance of medical specialists.** If during an investigation the coroner or medical examiner believes the assistance of pathologists, toxicologists, ~~deputy coroners,~~ laboratory technicians, or other medical, scientific, or forensic experts is necessary to determine or confirm the cause or manner of death, identification, time of death, or to address other issues requiring expert opinion, the coroner ~~shall~~ or medical examiner may obtain their assistance.

Subd. 5. **Inquest.** An inquest into a death may be held at the request of the medical examiner and the county attorney or the coroner and the county attorney. An inquest is optional and the coroner or medical examiner may investigate and certify a death without one. The coroner or medical examiner and county attorney may decide how to empanel the inquest. Inquest records will be made public, but the record and report of the inquest proceedings may not be used in evidence in any civil action arising out of the death for which an inquest was ordered. Before an inquest is held, the coroner shall notify the county attorney to appear and examine witnesses at the inquest. Whenever the decision is made to hold an inquest, the county attorney may issue subpoenas for witnesses and enforce their attendance. The persons served with subpoenas shall be allowed the same compensation and be subject to the same enforcement and penalties as provided by Rule 22 of the Minnesota Rules of Criminal Procedure.

Subd. 6. **Records kept by coroner or medical examiner.** The coroner or medical examiner shall keep full and complete records, properly indexed ~~records,~~ giving the name, if known, of every person whose death is investigated, the place where the body was found, the date, cause, and manner of death, and all other relevant available information concerning the death: that the coroner or medical examiner considers pertinent. These records of the coroner or medical examiner are the property of the county and subject to chapter 13. These records shall be kept at the coroner's or medical examiner's office, unless no storage space is available. They shall then be kept with official county records and only released in accordance with the Data Practices Act. Records shall be kept in accordance with section 15.17.

Subd. 7. **Reports Duty to report.** ~~(a)~~ Deaths of the types described in this section must be promptly reported for investigation to the coroner or medical examiner and, when appropriate, to the law enforcement agency with jurisdiction, by the law enforcement officer, attending physician, health care professional, mortician or funeral director, person in charge of the public institutions referred to in subdivision 1, or ~~other person with knowledge of the death.~~ anyone who discovers a deceased person. In a case in which a crime may be involved, the coroner or medical examiner shall promptly notify the law enforcement agency with jurisdiction over a criminal investigation of the death.

Subd. 7a. **Records and other material available to coroner or medical examiner.** ~~(b) For the purposes of this section, health-related records or data on a decedent, Except for health data defined in section 13.3805, subdivision 1, paragraph (a), clause (2), health-related records or data on a decedent whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, shall be made promptly available to the coroner or medical examiner, upon the coroner's or medical examiner's written request, by a any person, agency, entity, or organization having custody of, possession of, access to, or knowledge of the records or data. This provision includes records and data, whether recorded or unrecorded, including but not limited to, records and data, including medical imaging, concerning medical, surgical, psychiatric, psychological, chemical dependency, or any other consultation, diagnosis, or treatment. In cases involving a stillborn infant~~

or the death of a fetus or infant less than one year of age, the prenatal records on the decedent's mother may also be subpoenaed by the coroner or medical examiner. The coroner or medical examiner shall pay the reasonable costs of copies of records or data so provided to the coroner under this section. Data collected or created pursuant to this subdivision relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated shall remain confidential or protected nonpublic data, except that the coroner's or medical examiner's final summary report may contain a summary of, or references to, such data. Where records of a decedent become part of the medical examiner's or coroner's file, they are not subject to subpoena or a request for production directed to the medical examiner or coroner. Body fluids, slides, tissue, organ specimens, radiographs, monitor records, video or other recordings, and any other material or article of diagnostic value obtained from the decedent prior to death, shall be made available to the coroner or medical examiner upon request. Notwithstanding the provisions of sections 13.384 and 595.02, the coroner or medical examiner shall have the power to subpoena any and all documents, records, including medical records, and papers deemed useful in the investigation of a death.

Subd. 7b. **Records released by coroner or medical examiner.** Records and reports, including those of autopsies performed, generated, and certified by the coroner or medical examiner shall be admissible as evidence in any court or grand jury proceeding. The admissibility of such evidence under this subdivision shall not include statements made by witnesses or other persons unless otherwise admissible.

Subd. 8. **Investigation procedure; coroner or medical examiner in charge of body.** Upon notification of a the death subject to of any person as defined in this section, the coroner or deputy shall medical examiner staff or their designee may proceed to the body, take charge of it, and; arrange for transfer of it, when appropriate. This provision also applies to bones, body parts, and specimens that may be human remains. Discovery of such bones, body parts, and specimens must be promptly reported to the coroner or medical examiner. When necessary, the coroner or medical examiner staff, in coordination with the applicable law enforcement agency, may order that there be no interference with or compromise of the body or the scene of death. In the event a person is transported to an emergency vehicle or facility and pronounced dead, the scene of death shall include the original location of the decedent when first discovered to be ill, unresponsive, or stricken prior to removal by emergency medical personnel. Any person violating such an order is guilty of a gross misdemeanor. The coroner or medical examiner staff shall make inquiry regarding the cause and manner of death and, in cases that fall under the medical examiner's or coroner's jurisdiction, prepare written findings together with the report of death and its circumstances, which shall be filed in the office of the coroner or medical examiner.

Subd. 9. **Criminal act report.** ~~On coming to believe that the death may have resulted from a criminal act;~~ The coroner or deputy medical examiner shall deliver a signed copy of the report of investigation or inquest to the county attorney. to the county attorney copies of reports or other information created by the coroner's or medical examiner's office in any cases of a potential criminal nature.

Subd. 10. **Sudden Infant death.** If a child under the age of two years dies suddenly and unexpectedly under circumstances indicating that the death may have been caused by sudden infant death syndrome, the coroner, medical examiner, or personal physician shall notify the child's parents or guardian that an autopsy is essential to establish the cause of death as sudden infant death syndrome. If an autopsy reveals that sudden infant death syndrome is the cause of death, that fact must be stated in the autopsy report. the parents or guardian of the child shall be promptly notified of the cause of death and of the availability of counseling services.

Subd. 11. **Autopsy fees.** ~~The coroner may charge a reasonable fee to a person requesting an autopsy if the autopsy would not otherwise be conducted under subdivision 1, 2, or 3.~~

Subd. 12. **Authorized removal of the brain.** If the coroner or medical examiner is informed by a physician or pathologist that a ~~dead person~~ decedent is suspected of having had Alzheimer's disease, the

coroner ~~shall~~ or medical examiner may authorize the removal of the brain of the dead person for the purposes of sections 145.131 and 145.132.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 10. Minnesota Statutes 2004, section 390.111, is amended to read:

390.111 EXPENSES AND COMPENSATION.

The county board ~~may allow~~ is responsible for the reasonable and necessary compensation and expenses of the coroner or deputies incurred for telephone tolls, telegrams, postage, the cost of transcribing the testimony taken at an inquest, and other expenses incurred solely for the officers' official business under this chapter. medical examiner, assistants, investigators, and other medical specialists.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 11. Minnesota Statutes 2004, section 390.15, is amended to read:

390.15 ~~WITNESSES; FEES.~~

The coroner or medical examiner ~~may issue subpoenas for witnesses, returnable immediately or at a specified time and place. The persons served with the subpoenas shall be allowed the fees, the coroner shall enforce their attendance, and they shall be subject to the penalties provided by statute or the Rules of Criminal Procedure.~~ charge a fee for cremation approval, duplication of reports, and other administrative functions to recover reasonable expenses, subject to county board approval.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 12. **[390.151] ORGAN AND TISSUE DONATION.**

The coroner or medical examiner may facilitate donation of organs and tissues in compliance with the Uniform Anatomical Gift Act, sections 525.921 to 525.9224.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 13. **[390.152] CREMATION APPROVAL.**

After investigating deaths of persons who are to be cremated, the coroner or medical examiner may give approval for cremation and shall record such approval by either signing a cremation authorization form, or electronically through the centralized electronic system for the processing of death records established by the state registrar. It shall be a misdemeanor to perform a cremation without such approval.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2004, section 390.21, is amended to read:

390.21 DISPOSITION; BURIAL.

~~When a coroner holds an inquest upon view of the dead body of any person unknown, or, being called for that purpose, does not think it necessary, on view of the body, that an inquest be held, the coroner shall have the body decently buried. All expenses of the inquisition and burial shall be paid by the county where the dead body is found.~~ After an investigation has been completed, including an autopsy if one is done, the body shall be released promptly to the person or persons who have the right to control the disposition of the body. Section 149A.80, subdivision 2, shall control. If the identity of the deceased person is unknown, or

if the body is unclaimed, the medical examiner or coroner shall provide for dignified burial or storage of the remains. Dignified burial shall not include cremation, donation for anatomic dissection, burial at sea, or other disposition that will make the body later unavailable. The county where the dead body is found shall pay reasonable expenses of the burial. If an estate is opened within six years and claim made for the property or proceeds of the sale of the property of the decedent, the county shall be reimbursed the amount spent on burial, with interest at the statutory rate.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 15. Minnesota Statutes 2004, section 390.221, is amended to read:

390.221 BODIES; EFFECTS; CUSTODY.

A person may not ~~remove~~ move, interfere with, or handle the body or the effects of ~~any person a decedent~~ subject to an investigation by the ~~county~~ coroner or medical examiner except upon order of the coroner ~~or~~ medical examiner, assistant, or deputy authorized investigator. The coroner or medical examiner shall take charge of the effects found on or near the body of a deceased person and dispose of them as ~~the district court directs by written order~~ directed under section 390.225. If a crime is suspected in connection with the death of a deceased person ~~is suspected~~, the coroner or medical examiner may prevent any person, except law enforcement personnel, from entering the premises, rooms, or buildings, and shall have the custody of objects that the coroner or examiner deems material evidence in the case. The coroner or medical examiner shall release any property or articles needed for any criminal investigation to law enforcement officers conducting the investigation, except as noted in section 390.225, subdivision 2. A willful knowing violation of this section is a gross misdemeanor.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 16. **[390.225] PROPERTY.**

Subdivision 1. **Procedure.** The coroner or medical examiner may take possession of all articles that may be useful in establishing the cause or manner of death, identification, or next of kin of the deceased, and, if taken, mark them for identification, make an inventory, and retain them securely until they are no longer needed for evidence or investigation. Except as noted in subdivision 2, the coroner or medical examiner shall release any property or articles needed for any criminal investigation to law enforcement officers conducting the investigation.

Subd. 2. **Retention of property.** When a reasonable basis exists for not releasing property or articles to law enforcement officers, the coroner or medical examiner shall consult with the county attorney. If the county attorney determines that a reasonable basis exists for not releasing the property or articles, the coroner or medical examiner may retain them. The coroner or medical examiner shall obtain written confirmation of this opinion and keep a copy in the decedent's file.

Subd. 3. **Release of property.** With the exception of firearms, when property or articles are no longer needed for the investigation or as evidence, the coroner or medical examiner shall release such property or articles to the person or persons entitled to them. Personal property, including wearing apparel, may be released to the person entitled to control the disposition of the body of the decedent or to the personal representative of the decedent. Personal property not otherwise released pursuant to this subdivision must be disposed of pursuant to section 525.393.

Subd. 4. **Firearms.** The coroner or medical examiner shall release all firearms, when no longer needed, to the law enforcement agency handling the investigation.

Subd. 5. **Property of unknown decedents.** If the name of the decedent is not known, the coroner or medical examiner shall release such property to the county for disposal or sale. If the unknown decedent's

identity is established and if a representative shall qualify within six years from the time of such sale, the county administrator, or a designee, shall pay the amount of the proceeds of the sale to the representative on behalf of the estate upon order of the court. If no order is made within six years, the proceeds of the sale shall become a part of the general revenue of the county.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 17. Minnesota Statutes 2004, section 390.23, is amended to read:

390.23 DEATH RECORDS ~~OF VIOLENT OR MYSTERIOUS DEATH.~~

No person, other than the county coroner, or medical examiner, judge exercising probate jurisdiction, or Department of Corrections' independent, contracted, board-certified forensic pathologist, or, for deaths occurring within a facility licensed by the Department of Corrections, the forensic pathologist who reviewed the death, shall issue a record file or amend the cause or manner of death information with the state registrar in cases of likely or suspected accidental, suicidal, homicidal, violent, or mysterious deaths, including suspected homicides, occurring in the county. The Department of Corrections' independent, contracted, board-certified forensic pathologist must issue the certificate of death in all Department of Corrections-incarcerated deaths. The forensic pathologist who reviewed the death of an incarcerated person within a facility licensed by the Department of Corrections may file or amend the cause or manner of death information with the state registrar. If there is reasonable proof that a death has occurred, but no body has been found, a judge may direct the state registrar to register the death with the fact of death information provided by the court order according to section 144.221, subdivision 3.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 18. Minnesota Statutes 2004, section 390.25, is amended to read:

390.25 FINGERPRINTING OF UNIDENTIFIED DECEASED PERSON PERSONS.

Subdivision 1. **Attempts to identify.** Each coroner shall have fingerprinted all deceased persons in the county whose identity is not immediately established. Within 24 hours after the body is found, the coroner shall forward to the Bureau of Criminal Apprehension the fingerprints, fingerprint records, and other identification data. The superintendent of the bureau shall prescribe the form of these reports. The duties are in addition to those imposed on the coroner by section 525.393. The coroner or medical examiner shall make reasonable attempts to identify the deceased person promptly. These actions may include obtaining: photographs of the body; fingerprints from the body, if possible; formal dental examination by a dentist with forensic training, with charting and radiographs; full body radiographs; specimens such as tissue, blood, bone, teeth, and/or hair, suitable for DNA analysis or other identification techniques; blood type; photographs of items such as clothing and property found on and with the body; and anthropological determination of age, race, sex, and stature, if appropriate. All of these actions shall be taken prior to the disposition of any unidentified deceased person.

Subd. 2. **Report to BCA.** After 60 days, the coroner or medical examiner shall provide to the Bureau of Criminal Apprehension missing persons clearinghouse information to be entered into federal and state databases that can aid in the identification, including the National Crime Information Center database. The coroner or medical examiner shall provide to the Bureau of Criminal Apprehension specimens suitable for DNA analysis. DNA profiles and information shall be entered by the Bureau of Criminal Apprehension into federal and state DNA databases within five business days after the completion of the DNA analysis and procedures necessary for the entry of the DNA profile.

Subd. 3. **Other efforts to identify.** Nothing in this section shall be interpreted to preclude any medical examiner or coroner from pursuing other efforts to identify unidentified deceased persons, including

publicizing information, descriptions, or photographs that may aid in the identification, allowing family members to identify missing persons, and seeking to protect the dignity of the missing persons.

Subd. 4. **Preservation of data.** The coroner or medical examiner may preserve and retain photographs, specimens, documents, and other data such as dental records, radiographs, fingerprints, or DNA, for establishing or confirming the identification of bodies or for other forensic purposes deemed appropriate under the jurisdiction of the office. Upon request by an appropriate agency, or upon the coroner or medical examiner's own initiative, the coroner or medical examiner may make the information available to aid in the establishment of the identity of a deceased person.

Subd. 5. **Notice to state archaeologist.** After the coroner or medical examiner has completed the investigation, the coroner or medical examiner shall notify the state archaeologist, according to section 307.08, of all unidentified human remains found outside of platted, recorded, or identified cemeteries and in contexts which indicate antiquity of greater than 50 years.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 19. **[390.251] REQUEST FOR EXAMINATIONS.**

The coroner or medical examiner may, when requested, make physical examinations and tests incident to any matter of a criminal nature under consideration by the district court or county attorney, law enforcement agency, or publicly appointed criminal defense counsel, and shall deliver a copy of a report of such tests and examinations to the person making the request. Such an examination does not establish a doctor-patient relationship. The person making the request shall pay the cost of such examinations and tests.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 20. **[390.252] CONTRACTS FOR SERVICES.**

A county board may contract to perform coroner or medical examiner services with other units of government or their agencies under a schedule of fees approved by that board.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 21. **REPEALER.**

Minnesota Statutes 2004, sections 383A.36; 383B.225, subdivisions 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, and 13; 390.006; 390.06; 390.07; 390.16; 390.17; 390.19; 390.20; 390.24; and 390.36, and Minnesota Statutes 2005 Supplement, section 383B.225, subdivision 5, are repealed.

EFFECTIVE DATE. This section is effective July 1, 2006.

Presented to the governor May 22, 2006

Signed by the governor June 1, 2006, 9:50 p.m.