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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **2470**

May 9, 2007

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The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

1.1 A bill for an act
1.2 relating to public safety; authorizing criminal complaints for felonies to proceed
1.3 against unnamed defendants when DNA evidence exists; amending Minnesota
1.4 Statutes 2006, section 628.26.

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

1.6 Section 1. Minnesota Statutes 2006, section 628.26, is amended to read:

1.7 **628.26 LIMITATIONS.**

1.8 Subdivision 1. Time limitations. (a) Indictments or complaints for any crime
1.9 resulting in the death of the victim may be found or made at any time after the death
1.10 of the person killed.

1.11 (b) Indictments or complaints for a violation of section 609.25 may be found or
1.12 made at any time after the commission of the offense.

1.13 (c) Indictments or complaints for violation of section 609.282 may be found or made
1.14 at any time after the commission of the offense if the victim was under the age of 18 at
1.15 the time of the offense.

1.16 (d) Indictments or complaints for violation of section 609.282 where the victim
1.17 was 18 years of age or older at the time of the offense, or 609.42, subdivision 1, clause
1.18 (1) or (2), shall be found or made and filed in the proper court within six years after
1.19 the commission of the offense.

1.20 (e) Indictments or complaints for violation of sections 609.342 to 609.345 if the
1.21 victim was under the age of 18 years at the time the offense was committed, shall be found
1.22 or made and filed in the proper court within nine years after the commission of the offense
1.23 or, if the victim failed to report the offense within this limitation period, within three years
1.24 after the offense was reported to law enforcement authorities.

2.1 (f) Notwithstanding the limitations in paragraph (e), indictments or complaints for
2.2 violation of sections 609.342 to 609.344 may be found or made and filed in the proper
2.3 court at any time after commission of the offense, if physical evidence is collected and
2.4 preserved that is capable of being tested for its DNA characteristics. If this evidence is not
2.5 collected and preserved and the victim was 18 years old or older at the time of the offense,
2.6 the prosecution must be commenced within nine years after the commission of the offense.

2.7 (g) Indictments or complaints for violation of sections 609.466 and 609.52,
2.8 subdivision 2, clause (3), item (iii), shall be found or made and filed in the proper court
2.9 within six years after the commission of the offense.

2.10 (h) Indictments or complaints for violation of section 609.52, subdivision 2, clause
2.11 (3), items (i) and (ii), (4), (15), or (16), 609.631, or 609.821, where the value of the
2.12 property or services stolen is more than \$35,000, shall be found or made and filed in the
2.13 proper court within five years after the commission of the offense.

2.14 (i) Except for violations relating to false material statements, representations or
2.15 omissions, indictments or complaints for violations of section 609.671 shall be found or
2.16 made and filed in the proper court within five years after the commission of the offense.

2.17 (j) Indictments or complaints for violation of sections 609.561 to 609.563, shall
2.18 be found or made and filed in the proper court within five years after the commission
2.19 of the offense.

2.20 (k) In all other cases, indictments or complaints shall be found or made and filed in
2.21 the proper court within three years after the commission of the offense.

2.22 **Subd. 2. Tolling provision.** ~~(h)~~ (a) The limitations periods contained in ~~this section~~
2.23 subdivision 1 shall exclude any period of time during which the defendant was not an
2.24 inhabitant of or usually resident within this state.

2.25 ~~(m)~~ (b) The limitations periods contained in ~~this section~~ subdivision 1 for an offense
2.26 shall not include any period during which the alleged offender participated under a written
2.27 agreement in a pretrial diversion program relating to that offense.

2.28 ~~(n)~~ (c) The limitations periods contained in ~~this section~~ subdivision 1 shall not
2.29 include any period of time during which physical evidence relating to the offense
2.30 was undergoing DNA analysis, as defined in section 299C.155, unless the defendant
2.31 demonstrates that the prosecuting or law enforcement agency purposefully delayed the
2.32 DNA analysis process in order to gain an unfair advantage.

2.33 **Subd. 3. Indictment or complaint against unnamed defendant based upon DNA**
2.34 **evidence.** An indictment or complaint is sufficient to commence an action for any felony
2.35 if: (1) the defendant who is the subject of the indictment or complaint is described with
2.36 reasonable certainty; (2) the indictment or complaint is found or made and filed in the

3.1 proper court within the time period provided in subdivision 1; and (3) the prosecution is
3.2 commenced within three years after comparison of the DNA profile results in a probable
3.3 identification of the defendant. The indictment or complaint shall be deemed to describe
3.4 the defendant with reasonable certainty if it specifies the defendant as an unknown person
3.5 with a matching DNA profile.

3.6 **EFFECTIVE DATE.** This section is effective August 1, 2007, and applies to crimes
3.7 committed on or after that date, and to crimes committed before that date if the limitations
3.8 period for the offense did not expire before August 1, 2007.