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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. **2996**

February 14, 2008

Authored by Paymar, Eastlund, Hornstein and Loeffler  
The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

March 11, 2008

Committee Recommendation and Adoption of Report:  
Amended and re-referred to the Committee on Finance without further recommendation

April 17, 2008

Committee Recommendation and Adoption of Report:  
To Pass as Amended and re-referred to the Committee on Rules and Legislative Administration

April 21, 2008

Committee Recommendation and Adoption of Report:  
To Pass and Read Second Time

April 24, 2008

Calendar For The Day, Amended  
Read Third Time as Amended  
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

A bill for an act

relating to public safety; allowing persons facing civil commitment as sexually dangerous persons or sexual psychopathic personalities to choose to be confined in correctional facilities while the petition is being adjudicated; addressing the cost of care for persons facing civil commitment; addressing access to certain data; modifying intensive supervised release provisions; modifying fireworks provisions; modifying registration requirements for predatory offenders; establishing a working group to review, assess, and make recommendations regarding the modification and application of controlled substance laws; providing for a report; requiring studies; amending Minnesota Statutes 2006, sections 13.851, by adding a subdivision; 243.166, subdivisions 1a, 3a, 4; 243.167, subdivision 2; 244.05, subdivision 6; 253B.045, subdivisions 1, 2, by adding a subdivision; 253B.185, subdivision 5; 299C.41, as added if enacted; 609.115, by adding a subdivision; 624.20, subdivision 1; 641.05; Minnesota Statutes 2007 Supplement, section 253B.185, subdivision 1b.

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

Section 1. Minnesota Statutes 2006, section 13.851, is amended by adding a subdivision to read:

Subd. 9. Civil commitment of sexual offenders. Data relating to the preparation of a petition to commit an individual as a sexual psychopathic personality or sexually dangerous person is governed by section 253B.185, subdivision 1b.

Sec. 2. Minnesota Statutes 2006, section 243.166, subdivision 1a, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

2.26 (l) "Social networking Web site" means an Internet Web site that allows users to  
2.27 create Web pages or profiles that provide information about themselves and are available  
2.28 publicly or to other users and that offers a mechanism for communication with other users,  
2.29 such as a forum, chat room, electronic mail, or instant messaging.

2.30 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to  
2.31 predatory offenders who are required to register before, on, or after that date.

2.32 Sec. 3. Minnesota Statutes 2006, section 243.166, subdivision 3a, is amended to read:

2.33 Subd. 3a. **Registration procedure when person lacks primary address.** (a) If  
2.34 a person leaves a primary address and does not have a new primary address, the person

3.1 shall register with the law enforcement authority that has jurisdiction in the area where the  
3.2 person is staying within 24 hours of the time the person no longer has a primary address.

3.3 (b) Notwithstanding the time period for registration in paragraphs (a) and (c), a  
3.4 person with a primary address of a correctional facility who is scheduled to be released  
3.5 from the facility and who does not have a new primary address shall register with the law  
3.6 enforcement authority that has jurisdiction in the area where the person will be staying at  
3.7 least five days before the person is released from the correctional facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

4.31 Sec. 4. Minnesota Statutes 2006, section 243.166, subdivision 4, is amended to read:

4.32 Subd. 4. **Contents of registration.** (a) The registration provided to the corrections  
4.33 agent or law enforcement authority, must consist of a statement in writing signed by the  
4.34 person, giving information required by the bureau, a fingerprint card, and photograph of  
4.35 the person taken at the time of the person's release from incarceration or, if the person

5.1 was not incarcerated, at the time the person initially registered under this section. The  
5.2 registration information also must include a written consent form signed by the person  
5.3 allowing a treatment facility or residential housing unit or shelter to release information to  
5.4 a law enforcement officer about the person's admission to, or residence in, a treatment  
5.5 facility or residential housing unit or shelter. Registration information on adults and  
5.6 juveniles may be maintained together notwithstanding section 260B.171, subdivision 3.

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

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

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

5.23 (1) Except as provided in clause (2), the agent or authority shall require a person  
5.24 required to register under this section who is classified as a level III offender under  
5.25 section 244.052 to appear before the agent or authority at least every six months to be  
5.26 photographed.

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

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

5.33 (1) Except for persons registering under subdivision 3a, the bureau shall mail a  
5.34 verification form to the person's last reported primary address. This verification form must  
5.35 provide notice to the offender that, if the offender does not return the verification form  
5.36 as required, information about the offender may be made available to the public through

6.1 electronic, computerized, or other accessible means. For persons who are registered under  
6.2 subdivision 3a, the bureau shall mail an annual verification form to the law enforcement  
6.3 authority where the offender most recently reported. The authority shall provide the  
6.4 verification form to the person at the next weekly meeting and ensure that the person  
6.5 completes and signs the form and returns it to the bureau. Notice is sufficient under this  
6.6 paragraph, if the verification form is sent by first class mail to the person's last reported  
6.7 primary address, or for persons registered under subdivision 3a, to the law enforcement  
6.8 authority where the offender most recently reported.

6.9 (2) The person shall mail the signed verification form back to the bureau within ten  
6.10 days after receipt of the form, stating on the form the current and last address of the  
6.11 person's residence and the other information required under subdivision 4a.

6.12 (3) In addition to the requirements listed in this section, a person who is assigned  
6.13 to risk level II or III under section 244.052, and who is no longer under correctional  
6.14 supervision for a registration offense, or a failure to register offense, but who resides,  
6.15 works, or attends school in Minnesota, shall have an annual in-person contact with a law  
6.16 enforcement authority as provided in this section. If the person resides in Minnesota, the  
6.17 annual in-person contact shall be with the law enforcement authority that has jurisdiction  
6.18 over the person's primary address or, if the person has no address, the location where the  
6.19 person is staying. If the person does not reside in Minnesota but works or attends school  
6.20 in this state, the person shall have an annual in-person contact with the law enforcement  
6.21 authority or authorities with jurisdiction over the person's school or workplace. During  
6.22 the month of the person's birth date, the person shall report to the authority to verify the  
6.23 accuracy of the registration information and to be photographed. Within three days of this  
6.24 contact, the authority shall enter information as required by the bureau into the predatory  
6.25 offender registration database and submit an updated photograph of the person to the  
6.26 bureau's predatory offender registration unit.

6.27 (4) If the person fails to mail the completed and signed verification form to the  
6.28 bureau within ten days after receipt of the form, or if the person fails to report to the  
6.29 law enforcement authority during the month of the person's birth date, the person is in  
6.30 violation of this section.

6.31 (5) For any person who fails to mail the completed and signed verification form to  
6.32 the bureau within ten days after receipt of the form and who has been determined to be  
6.33 a risk level III offender under section 244.052, the bureau shall immediately investigate  
6.34 and notify local law enforcement authorities to investigate the person's location and to  
6.35 ensure compliance with this section. The bureau also shall immediately give notice of the

7.1 person's violation of this section to the law enforcement authority having jurisdiction over  
7.2 the person's last registered address or addresses.

7.3 (6) Persons required to register under this section shall not access, or create or  
7.4 maintain a personal Web page or profile on a social networking Web site that (i) has  
7.5 a primary purpose of facilitating the social interaction between two or more persons  
7.6 for the purposes of friendship, meeting other persons, or information exchanges, and  
7.7 (ii) permits persons under the age of 18 to become a member or to create or maintain a  
7.8 personal Web page.

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

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

7.23 **EFFECTIVE DATE.** Paragraph (e), clause (6), of this section is effective August  
7.24 1, 2009, and applies to predatory offenders who are required to register before, on, or  
7.25 after that date.

7.26 Sec. 5. Minnesota Statutes 2006, section 243.167, subdivision 2, is amended to read:

7.27 Subd. 2. **When required.** (a) In addition to the requirements of section 243.166, a  
7.28 person also shall register under section 243.166 if:

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

7.30 (2) the person was previously convicted of or adjudicated delinquent for an offense  
7.31 listed in section 243.166, or a comparable offense in another state, but was not required  
7.32 to register for the offense because the registration requirements of that section did not  
7.33 apply to the person at the time the offense was committed or at the time the person was  
7.34 released from imprisonment.

8.1 (b) A person who was previously required to register in any state and who has  
8.2 completed the registration requirements of that state shall again register under section  
8.3 243.166 if the person commits a crime against the person.

8.4 Sec. 6. Minnesota Statutes 2006, section 244.05, subdivision 6, is amended to read:

8.5 Subd. 6. **Intensive supervised release.** The commissioner may order that an  
8.6 inmate be placed on intensive supervised release for all or part of the inmate's supervised  
8.7 release or parole term if the commissioner determines that the action will further the  
8.8 goals described in section 244.14, subdivision 1, clauses (2), (3), and (4). In addition, the  
8.9 commissioner may order that an inmate be placed on intensive supervised release for all  
8.10 of the inmate's conditional or supervised release term if the inmate was convicted of  
8.11 a sex offense under section 609.342, 609.343, 609.344, 609.345, or 609.3453 or was  
8.12 sentenced under the provisions of section 609.3455, subdivision 3a. The commissioner  
8.13 shall order that all level III predatory offenders be placed on intensive supervised release  
8.14 for the entire supervised release, conditional release, or parole term. The commissioner  
8.15 may impose appropriate conditions of release on the inmate including but not limited to  
8.16 unannounced searches of the inmate's person, vehicle, ~~or~~ premises, computer, or other  
8.17 electronic devices capable of accessing the Internet by an intensive supervision agent;  
8.18 compliance with court-ordered restitution, if any; random drug testing; house arrest; daily  
8.19 curfews; frequent face-to-face contacts with an assigned intensive supervision agent;  
8.20 work, education, or treatment requirements; and electronic surveillance. In addition, any  
8.21 sex offender placed on intensive supervised release may be ordered to participate in an  
8.22 appropriate sex offender program as a condition of release. If the inmate violates the  
8.23 conditions of the intensive supervised release, the commissioner shall impose sanctions as  
8.24 provided in subdivision 3 and section 609.3455.

8.25 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to  
8.26 predatory offenders who are required to register before, on, or after that date.

8.27 Sec. 7. Minnesota Statutes 2006, section 253B.045, subdivision 1, is amended to read:

8.28 Subdivision 1. **Restriction.** Except when ordered by the court pursuant to a finding  
8.29 of necessity to protect the life of the proposed patient or others or as provided under  
8.30 subdivision 1a, no person subject to the provisions of this chapter shall be confined in a  
8.31 jail or correctional institution, except pursuant to chapter 242 or 244.

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

9.1 Sec. 8. Minnesota Statutes 2006, section 253B.045, is amended by adding a  
9.2 subdivision to read:

9.3 Subd. 1a. **Exception.** A person who is being petitioned for commitment  
9.4 under section 253B.185 and who is placed under a judicial hold order under section  
9.5 253B.07, subdivision 2b or 7, may be confined at a Department of Corrections or a  
9.6 county correctional or detention facility, rather than a secure treatment facility, until a  
9.7 determination of the commitment petition as specified in this subdivision.

9.8 (a) A court may order that a person who is being petitioned for commitment under  
9.9 section 253B.185 be confined in a Department of Corrections facility pursuant to the  
9.10 judicial hold order under the following circumstances and conditions:

9.11 (1) The person is currently serving a sentence in a Department of Corrections  
9.12 facility and the court determines that the person has made a knowing and voluntary (i)  
9.13 waiver of the right to be held in a secure treatment facility and (ii) election to be held in a  
9.14 Department of Corrections facility. The order confining the person in the Department of  
9.15 Corrections facility shall remain in effect until the court vacates the order or the person's  
9.16 criminal sentence and conditional release term expire.

9.17 In no case may the person be held in a Department of Corrections facility pursuant  
9.18 only to this subdivision, and not pursuant to any separate correctional authority, for more  
9.19 than 210 days.

9.20 (2) A person who has elected to be confined in a Department of Corrections facility  
9.21 under this subdivision may revoke the election by filing a written notice of intent to revoke  
9.22 the election with the court and serving the notice upon the Department of Corrections and  
9.23 the county attorney. The court shall order the person transferred to a secure treatment  
9.24 facility within 15 days of the date that the notice of revocation was filed with the court,  
9.25 except that, if the person has additional time to serve in prison at the end of the 15-day  
9.26 period, the person shall not be transferred to a secure treatment facility until the person's  
9.27 prison term expires. After a person has revoked an election to remain in a Department of  
9.28 Corrections facility under this subdivision, the court may not adopt another election to  
9.29 remain in a Department of Corrections facility without the agreement of both parties and  
9.30 the Department of Corrections.

9.31 (3) Upon petition by the commissioner of corrections, after notice to the parties  
9.32 and opportunity for hearing and for good cause shown, the court may order that the  
9.33 person's place of confinement be changed from the Department of Corrections to a secure  
9.34 treatment facility.

9.35 (4) While at a Department of Corrections facility pursuant to this subdivision, the  
9.36 person shall remain subject to all rules and practices applicable to correctional inmates

10.1 in the facility in which the person is placed including, but not limited to, the powers and  
10.2 duties of the commissioner of corrections under section 241.01, powers relating to use of  
10.3 force under section 243.52, and the right of the commissioner of corrections to determine  
10.4 the place of confinement in a prison, reformatory, or other facility.

10.5 (5) A person may not be confined in a Department of Corrections facility under this  
10.6 provision beyond the end of the person's executed sentence or the end of any applicable  
10.7 conditional release period, whichever is later. If a person confined in a Department of  
10.8 Corrections facility pursuant to this provision reaches the person's supervised release  
10.9 date and is subject to a period of conditional release, the period of conditional release  
10.10 shall commence on the supervised release date even though the person remains in the  
10.11 Department of Corrections facility pursuant to this provision. At the end of the later of  
10.12 the executed sentence or any applicable conditional release period, the person shall be  
10.13 transferred to a secure treatment facility.

10.14 (6) Nothing in this section may be construed to establish a right of an inmate in a  
10.15 state correctional facility to participate in sex offender treatment. This section must be  
10.16 construed in a manner consistent with the provisions of section 244.03.

10.17 (b) The committing county may offer a person who is being petitioned for  
10.18 commitment under section 253B.185 and who is placed under a judicial hold order under  
10.19 section 253B.07, subdivision 2b or 7, the option to be held in a county correctional or  
10.20 detention facility rather than a secure treatment facility, under such terms as may be agreed  
10.21 to by the county, the commitment petitioner, and the commitment respondent. If a person  
10.22 makes such an election under this paragraph, the court hold order shall specify the terms  
10.23 of the agreement, including the conditions for revoking the election.

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

10.25 Sec. 9. Minnesota Statutes 2006, section 253B.045, subdivision 2, is amended to read:

10.26 Subd. 2. **Facilities.** Each county or a group of counties shall maintain or provide by  
10.27 contract a facility for confinement of persons held temporarily for observation, evaluation,  
10.28 diagnosis, treatment, and care. When the temporary confinement is provided at a regional  
10.29 treatment center, the commissioner shall charge the county of financial responsibility for  
10.30 the costs of confinement of persons hospitalized under section 253B.05, subdivisions 1  
10.31 and 2, and section 253B.07, subdivision 2b, except that the commissioner shall bill the  
10.32 responsible health plan first. If the person has health plan coverage, but the hospitalization  
10.33 does not meet the criteria in subdivision 6 or section 62M.07, 62Q.53, or 62Q.535,  
10.34 the county is responsible. When a person is temporarily confined in a Department  
10.35 of Corrections facility solely under subdivision 1a, and not based on any separate

11.1 correctional authority: (1) the commissioner of corrections may charge the county of  
11.2 financial responsibility for the costs of confinement; and (2) the Department of Human  
11.3 Services shall use existing appropriations to fund all remaining nonconfinement costs.  
11.4 The funds received by the commissioner for the confinement and nonconfinement costs  
11.5 are appropriated to the department for these purposes. "County of financial responsibility"  
11.6 means the county in which the person resides at the time of confinement or, if the person  
11.7 has no residence in this state, the county which initiated the confinement. The charge  
11.8 for confinement in a facility operated by the commissioner of human services shall be  
11.9 based on the commissioner's determination of the cost of care pursuant to section 246.50,  
11.10 subdivision 5. When there is a dispute as to which county is the county of financial  
11.11 responsibility, the county charged for the costs of confinement shall pay for them pending  
11.12 final determination of the dispute over financial responsibility. Disputes about the county  
11.13 of financial responsibility shall be submitted to the commissioner to be settled in the  
11.14 manner prescribed in section 256G.09.

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

11.16 Sec. 10. Minnesota Statutes 2007 Supplement, section 253B.185, subdivision 1b,  
11.17 is amended to read:

11.18 Subd. 1b. **County attorney access to data.** Notwithstanding sections 144.291  
11.19 to 144.298; 245.467, subdivision 6; 245.4876, subdivision 7; 260B.171; 260B.235,  
11.20 subdivision 8; 260C.171; and 609.749, subdivision 6, or any provision of chapter 13  
11.21 or other state law, prior to filing a petition for commitment as a sexual psychopathic  
11.22 personality or as a sexually dangerous person, and upon notice to the proposed patient,  
11.23 the county attorney or the county attorney's designee may move the court for an order  
11.24 granting access to any records or data, to the extent it relates to the proposed patient, for  
11.25 the purpose of determining whether good cause exists to file a petition and, if a petition  
11.26 is filed, to support the allegations set forth in the petition.

11.27 The court may grant the motion if: (1) the Department of Corrections refers the case  
11.28 for commitment as a sexual psychopathic personality or a sexually dangerous person; or  
11.29 (2) upon a showing that the requested category of data or records may be relevant to  
11.30 the determination by the county attorney or designee. The court shall decide a motion  
11.31 under this subdivision within 48 hours after a hearing on the motion. Notice to the  
11.32 proposed patient need not be given upon a showing that such notice may result in harm or  
11.33 harassment of interested persons or potential witnesses. Notwithstanding any provision  
11.34 of chapter 13 or other state law, a county attorney considering the civil commitment of a  
11.35 person under this section may obtain records and data from the Department of Corrections

12.1 or any probation or parole agency in this state upon request, without a court order, for the  
12.2 purpose of determining whether good cause exists to file a petition and, if a petition is  
12.3 filed, to support the allegations set forth in the petition. At the time of the request for  
12.4 the records, the county attorney shall provide notice of the request to the person who is  
12.5 the subject of the records.

12.6 Data collected pursuant to this subdivision shall retain their original status and, if not  
12.7 public, are inadmissible in any court proceeding unrelated to civil commitment, unless  
12.8 otherwise permitted.

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

12.10 Sec. 11. Minnesota Statutes 2006, section 253B.185, subdivision 5, is amended to read:

12.11 Subd. 5. **Financial responsibility.** (a) For purposes of this subdivision, "state  
12.12 facility" has the meaning given in section 246.50 and also includes a Department of  
12.13 Corrections facility when the proposed patient is confined in such a facility pursuant to  
12.14 section 253B.045, subdivision 1a.

12.15 (b) Notwithstanding sections 246.54, 253B.045, and any other law to the contrary,  
12.16 when a petition is filed for commitment under this section pursuant to the notice required  
12.17 in section 244.05, subdivision 7, the state and county are each responsible for 50 percent of  
12.18 the cost of the person's confinement at a state facility or county jail, prior to commitment.

12.19 (c) The county shall submit an invoice to the state court administrator for  
12.20 reimbursement of the state's share of the cost of confinement.

12.21 (d) Notwithstanding paragraph (b), the state's responsibility for reimbursement is  
12.22 limited to the amount appropriated for this purpose.

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

12.24 Sec. 12. 2008 S. F. No. 3342, section 3, if enacted, is amended to read:

12.25 **Sec. 3. [299C.41] E-CHARGING.**

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

12.28 (b) "Auditing data" means data in e-charging that document:

12.29 (1) who took a particular action;

12.30 (2) when the action took place;

12.31 (3) the Internet Protocol address of the computer used to take the action;

12.32 (4) the identification number of the organization employing the individual taking  
12.33 action;

- 13.1 (5) what action was taken;
- 13.2 (6) the unique identification for the document against which the action was taken;
- 13.3 (7) the purpose for taking the action;
- 13.4 (8) the date and time the request was received by the e-charging system; and
- 13.5 (9) the identification number of the system from which the request originated.

13.6 (c) "Credentialed individual" means an individual who has provided credentialing  
13.7 data to a government entity or a court and has been authorized to use e-charging.

13.8 (d) "Credentialing data" means data in e-charging that document for an individual  
13.9 who is or was authorized to use e-charging:

- 13.10 (1) user identification;
- 13.11 (2) password; and
- 13.12 (3) jurisdiction identification.

13.13 For law enforcement officers, credentialing data also includes a biometric identifier.  
13.14 For notaries public, credentialing data also includes an e-notary digital certificate.

13.15 (e) "E-charging" means a service operated by the Bureau of Criminal Apprehension  
13.16 to provide communication and workflow tools for law enforcement, prosecutors, and the  
13.17 courts to use during the process of charging a person with a crime.

13.18 (f) "Government entity" has the meaning given in section 13.02, subdivision 7a.

13.19 (g) "Individual" has the meaning given in section 13.02, subdivision 8.

13.20 (h) "Workflow and routing data" means data in e-charging that document:

- 13.21 (1) the assignment or reassignment of a document to a person or place;
- 13.22 (2) any deadline for the action on the assignment; and
- 13.23 (3) validation that the needed action has been completed.

13.24 **Subd. 2. Data classification.** (a) Credentialing data held by a government entity  
13.25 are classified as private data on individuals as defined in section 13.02, subdivision 12, or  
13.26 nonpublic data as defined in section 13.02, subdivision 9.

13.27 (b) Auditing data and workflow and routing data maintained by the Bureau of  
13.28 Criminal Apprehension are classified as confidential data on individuals as defined in  
13.29 section 13.02, subdivision 3, or protected nonpublic data as defined in section 13.02,  
13.30 subdivision 13, until the investigation is inactive as defined in section 13.82, subdivision  
13.31 7. Once the investigation is inactive, and the recipient of the data authorizes release  
13.32 to the data subject, the auditing data and workflow and routing data maintained by the  
13.33 Bureau of Criminal Apprehension are classified as private data on individuals as defined  
13.34 in section 13.02, subdivision 12, or nonpublic data as defined in section 13.02, subdivision  
13.35 9. The same data maintained by any other government entity are classified as provided  
13.36 by other law.

14.1 Subd. 3. **Data sharing authorized.** (a) Auditing data, workflow and routing data, or  
14.2 credentialing data must be disclosed to a credentialed individual to resolve issues about  
14.3 the integrity of data at issue in a pending criminal matter. No use outside the pending  
14.4 criminal matter is authorized and no recipient can redisclose the data that are received.  
14.5 To the extent that court rules make the data accessible to the public, they are accessible  
14.6 in the court records.

14.7 (b) Auditing, workflow and routing data, or credentialing data must be disclosed to  
14.8 a defendant in a pending criminal matter when the data are relevant to the individual's  
14.9 defense as defined in the Rules of Criminal Procedure. Relevance must be determined by  
14.10 the court using the standard set in Rules of Criminal Procedure, rule 9.01, subdivision  
14.11 2(1). If the data are found to be relevant, the court must issue an order directing disclosure  
14.12 and send it to the Bureau of Criminal Apprehension. Disclosure cannot be made unless  
14.13 the court's order provides the full name and date of birth of the defendant, the law  
14.14 enforcement agency number, the law enforcement case number connected to the charge,  
14.15 the specific data to be disclosed, and that the recipient must not redisclose the data. The  
14.16 bureau shall provide the data to the defendant's attorney and the prosecutor. The data may  
14.17 not be used outside the pending criminal matter and a recipient may not redisclose the data  
14.18 that are received. To the extent that court rules make the data accessible to the public,  
14.19 they are accessible in the court records.

14.20 (c) Auditing data, workflow and routing data, or credentialing data may be disclosed  
14.21 to an employee of a government entity or court who has been accused of inappropriate  
14.22 access to, or use of data in, e-charging and to the employee's employer. The data may not  
14.23 be used outside the pending employee disciplining case and a recipient may not redisclose  
14.24 the data that are received. To the extent that section 13.43 or court rules require the  
14.25 disclosure of the data as part of the final disposition of discipline against an employee,  
14.26 the data are public.

14.27 (d) Auditing data, workflow and routing data, or credentialing data may be disclosed  
14.28 as part of a criminal or civil matter against a person for unauthorized access to, or use  
14.29 of data in, e-charging. The data may not be used outside the civil or criminal case and  
14.30 a recipient may not redisclose the data that are received. To the extent that the rules of  
14.31 public access to records of the judicial branch make the data accessible to the public,  
14.32 they are accessible in the court records.

14.33 ~~Subd. 4. **Responding to data requests.** When the Bureau of Criminal Apprehension~~  
14.34 ~~receives a request under chapter 13 for access to data in e-charging that are not auditing~~  
14.35 ~~data, credentialing data, or workflow and routing data held by the Bureau of Criminal~~  
14.36 ~~Apprehension, the Bureau of Criminal Apprehension shall direct the requester to all~~

15.1 ~~government entities that have created the requested data. As part of its response, the~~  
15.2 ~~Bureau of Criminal Apprehension shall provide the requester with the name, address, and~~  
15.3 ~~telephone number for the responsible authority for the government entity.~~

15.4 Sec. 13. Minnesota Statutes 2006, section 609.115, is amended by adding a subdivision  
15.5 to read:

15.6 Subd. 10. **Veterans mental health status.** If a defendant convicted of a crime is  
15.7 currently serving in the military or is a veteran and has been diagnosed by a qualified  
15.8 psychiatrist or clinical psychologist or physician with a mental illness, the court may:

15.9 (1) order that the officer preparing the report under subdivision 1 consult with the  
15.10 United States Department of Veterans Affairs, Minnesota Department of Veterans Affairs,  
15.11 or another agency or person with suitable knowledge or experience, for the purpose  
15.12 of providing the court with information regarding treatment options available to the  
15.13 defendant including federal, state, and local programming; and

15.14 (2) consider the treatment recommendations of any diagnosing or treating mental  
15.15 health professionals together with the treatment options available to the defendant in  
15.16 imposing sentence.

15.17 Sec. 14. Minnesota Statutes 2006, section 624.20, subdivision 1, is amended to read:

15.18 Subdivision 1. **Regulation.** (a) As used in sections 624.20 to 624.25, the term  
15.19 "fireworks" means any substance or combination of substances or article prepared  
15.20 for the purpose of producing a visible or an audible effect by combustion, explosion,  
15.21 deflagration, or detonation, and includes blank cartridges, toy cannons, and toy canes in  
15.22 which explosives are used, the type of balloons which require fire underneath to propel  
15.23 them, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers other  
15.24 than those specified in paragraph (c), or other fireworks of like construction, and any  
15.25 fireworks containing any explosive or inflammable compound, or any tablets or other  
15.26 device containing any explosive substance and commonly used as fireworks.

15.27 (b) The term "fireworks" shall not include toy pistols, toy guns, in which paper caps  
15.28 containing 25/100 grains or less of explosive compound are used and toy pistol caps  
15.29 which contain less than 20/100 grains of explosive mixture.

15.30 (c) The term also does not include wire or wood sparklers of not more than 100  
15.31 grams of mixture per item, other sparkling items which are nonexplosive and nonaerial  
15.32 and contain 75 grams or less of chemical mixture per tube or a total of ~~200~~ 500 grams  
15.33 or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers  
15.34 which include paper streamers, party poppers, string poppers, snappers, and drop pops,

16.1 each consisting of not more than twenty-five hundredths grains of explosive mixture. The  
 16.2 use of items listed in this paragraph is not permitted on public property. This paragraph  
 16.3 does not authorize the purchase of items listed in it by persons younger than 18 years  
 16.4 of age. The age of a purchaser of items listed in this paragraph must be verified by  
 16.5 photographic identification.

16.6 (d) A local unit of government may impose an annual license fee for the retail  
 16.7 sale of items authorized under paragraph (c). The annual license fee of each retail seller  
 16.8 that is in the business of selling only the items authorized under paragraph (c) may not  
 16.9 exceed \$350, and the annual license of each other retail seller may not exceed \$100. A  
 16.10 local unit of government may not:

16.11 (1) impose any fee or charge, other than the fee authorized by this paragraph, on the  
 16.12 retail sale of items authorized under paragraph (c);

16.13 (2) prohibit or restrict the display of items for permanent or temporary retail sale  
 16.14 authorized under paragraph (c) that comply with National Fire Protection Association  
 16.15 Standard 1124 (2003 edition); or

16.16 (3) impose on a retail seller any financial guarantee requirements, including bonding  
 16.17 or insurance provisions, containing restrictions or conditions not imposed on the same  
 16.18 basis on all other business licensees.

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

16.20 Sec. 15. Minnesota Statutes 2006, section 641.05, is amended to read:

16.21 **641.05 RECORD OF INMATES; ~~RETURN TO COURT~~; BUREAU OF**  
 16.22 **CRIMINAL APPREHENSION.**

16.23 (a) Every sheriff shall, at the expense of the county, maintain a permanent record of  
 16.24 all persons committed to any jail under the sheriff's charge. It shall contain the name of  
 16.25 every person committed, by what authority, residence, date of commitment, and, if for a  
 16.26 criminal offense, a description of the person, when and by what authority liberated, and,  
 16.27 in case of escape, the time and manner thereof. At the opening of each term of district  
 16.28 court the sheriff shall make a certified transcript ~~therefrom~~ from the record to such the  
 16.29 court, showing all cases ~~therein~~ not previously disposed of.

16.30 (b) Upon intake into the jail facility, the name of the committed person shall be  
 16.31 checked against the Bureau of Criminal Apprehension predatory offender registration  
 16.32 database to determine whether the person is a registered predatory offender. In the event  
 16.33 that the person is registered, the sheriff or designee shall notify the bureau of the person's  
 16.34 admission into the jail facility. At the time of discharge from the facility, the sheriff or

17.1 designee shall provide the person with a change of information form for the purposes of  
17.2 reporting the address where the person will be living upon release from the facility.

17.3 (c) Every sheriff who intentionally neglects or refuses to ~~so~~ report under paragraph  
17.4 (a) or (b) shall be guilty of a gross misdemeanor.

17.5 **Sec. 16. JOINT PHYSICAL CUSTODY; STUDY GROUP.**

17.6 (a) The state court administrator shall convene a study group of 12 members to  
17.7 consider the impacts of a presumption of joint physical custody in Minnesota. The  
17.8 evaluation shall consider the positive and negative impact on parents and children of  
17.9 adopting a presumption of joint physical custody, the fiscal impact of adopting this  
17.10 presumption, and the experiences of other states that have adopted a presumption of  
17.11 joint physical custody. The study must consider data and information from academic  
17.12 and research professionals.

17.13 (b) In appointing members to the study group, the state court administrator must  
17.14 ensure that the viewpoint of parent advocacy groups, citizen members who are not  
17.15 associated with a parent advocacy group, academics and policy analysts, judges, court  
17.16 administrators, attorneys, domestic violence advocates, and other interested parties are  
17.17 represented. The state court administrator must consult with the chairs of the house public  
17.18 safety finance division and the senate public safety budget division on the composition  
17.19 of the working group. The state court administrator shall report to the legislature on the  
17.20 evaluation of presumption of joint physical custody, the experiences of other states, and  
17.21 recommendations made by the study group no later than January 15, 2009.

17.22 **Sec. 17. COMPREHENSIVE FAMILY COURT PROCESS; STUDY.**

17.23 The state court administrator shall report on a plan to conduct a multidisciplinary,  
17.24 comprehensive study on family law to the chairs of the budget and policy committees in  
17.25 the house and senate with jurisdiction over family law no later than January 15, 2009.

17.26 **Sec. 18. WORKING GROUP ON CONTROLLED SUBSTANCE LAWS;**  
17.27 **REPORT TO LEGISLATURE.**

17.28 Subdivision 1. **Establishment; membership; staff.** (a) The speaker of the house  
17.29 of representatives and the Subcommittee on Committees of the Committee on Rules and  
17.30 Administration of the senate shall jointly appoint a working group on the state's controlled  
17.31 substance laws. The working group shall include:

17.32 (1) two representatives of the Minnesota County Attorneys Association;

17.33 (2) two representatives of the Board of Public Defense;

18.1 (3) three representatives of state law enforcement associations, including one  
18.2 sheriff, one chief of police, and one member of the Minnesota Police and Peace Officers  
18.3 Association;

18.4 (4) two representatives of the Judicial Council;

18.5 (5) one representative from community corrections or probation;

18.6 (6) one expert in the fields of drug treatment and controlled substance laws;

18.7 (7) one individual who is not affiliated with any of the associations in clauses (1) to  
18.8 (6) and who has relevant experience related to sentencing policy or the criminal justice  
18.9 field; and

18.10 (8) four community members who reside in areas adversely affected by controlled  
18.11 substance crimes and violent crimes, two of whom shall be appointed by the speaker of  
18.12 the house of representatives and two of whom shall be appointed by the Subcommittee  
18.13 on Committees of the Committee on Rules and Administration of the senate. One of  
18.14 the community members appointed by the senate must be a member of a community  
18.15 crime prevention organization. Of the community members appointed by the senate, one  
18.16 must reside in Minneapolis and one must reside in greater Minnesota. Of the community  
18.17 members appointed by the house, one must reside in St. Paul and one must reside in a  
18.18 suburb of Minneapolis or St. Paul.

18.19 (b) Before making the appointments required under paragraph (a), the legislative  
18.20 appointing authorities must consider the recommendations of the chairs and ranking  
18.21 minority members of the committees and divisions in their respective legislative body  
18.22 with jurisdiction over criminal justice and policy funding.

18.23 (c) The appointments under paragraph (a) must be completed by July 1, 2008.  
18.24 Staff support for the working group shall be provided by the Sentencing Guidelines  
18.25 Commission. The executive director of the Sentencing Guidelines Commission or the  
18.26 executive director's designee shall convene the first meeting of the working group. The  
18.27 working group shall elect its chair from its membership at the first meeting.

18.28 Subd. 2. **Subject matter.** (a) The working group must review, assess, and make  
18.29 specific recommendations regarding the following alternatives for modification and  
18.30 application of Minnesota's controlled substance laws:

18.31 (1) revising the threshold amounts for Minnesota's controlled substance crimes;

18.32 (2) establishing a separate sentencing guidelines grid for drug offenses;

18.33 (3) establishing additional aggravating factors so as to target certain particularly  
18.34 dangerous offenders;

18.35 (4) revising the criminal history point calculations for repeat drug offenders;

19.1 (5) maximizing the use of deferred prosecutions for low-level drug offenders under  
19.2 Minnesota Statutes, section 152.18 throughout the state; and

19.3 (6) increasing the use of the early release program for nonviolent controlled  
19.4 substance offenders who successfully complete drug treatment while incarcerated as  
19.5 provided in Minnesota Statutes, section 244.055.

19.6 (b) As part of its review of the various possible reforms, the working group may  
19.7 also study and consider:

19.8 (1) the significance, if any, of current rates of departure from presumptive guidelines  
19.9 sentences for controlled substance crimes;

19.10 (2) the significance, if any, of current rates of departure from presumptive guidelines  
19.11 sentences for controlled substance crimes for identifiable categories of offenders;

19.12 (3) the impact that recent United States Supreme Court criminal sentencing decisions  
19.13 have on implementing further reform;

19.14 (4) the barriers to comparing Minnesota's sentencing data with data from other states;

19.15 (5) strategies for imposing probation and supervised release violations on drug  
19.16 offenders;

19.17 (6) strategies for increasing the efficacy of programs that are now available to treat  
19.18 drug offenders;

19.19 (7) the likely impact of any recommended change in policy upon victims of  
19.20 drug-related crimes and the neighborhoods in which these crimes occur;

19.21 (8) the likely impact of any recommended change in policy upon the efficacy of law  
19.22 enforcement, prosecution, public defender, or court personnel; or

19.23 (9) any other sentencing-related matter that the working group sees fit to consider.

19.24 Subd. 3. **Report to legislature.** The working group shall report its findings and  
19.25 recommendations to the chair of the house Public Safety Finance Division and the chair of  
19.26 the senate Public Safety Budget Division by January 16, 2009.

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