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# State of Minnesota

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## HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH  
SESSION

**HOUSE FILE No. 1301**

March 5, 2009

Authored by Hilstrom, Olin, Bigham, Fritz, Johnson and others

The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

April 1, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

April 20, 2009

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

1.1 A bill for an act  
1.2 relating to public safety; providing for public safety, courts, and corrections  
1.3 including requirements for predatory offenders regarding registration, computer  
1.4 access, electronic solicitation, and special license plates; crime victims of  
1.5 criminal sexual conduct and domestic abuse; domestic fatality review teams;  
1.6 public defenders eligibility for representation, appointment, and reimbursement;  
1.7 courts regarding judges' evidence from recording equipment in a law enforcement  
1.8 vehicle; driver's license reinstatement diversion pilot program; driver's license  
1.9 records; corrections regarding probation, pretrial release, and correctional  
1.10 officers, sentencing, and evidence-based practices for community supervision;  
1.11 sentencing guidelines; emergency response team; controlled substances; financial  
1.12 crimes; unsafe recalled toys; animal fighting; public employer consideration of  
1.13 criminal records in hiring; peace officer and public safety dispatcher employment;  
1.14 assault on public utility workers; trespass in police cordoned-off areas; peace  
1.15 officer education; communications regarding criminal history, background  
1.16 checks, warrant information, CIBRS data, criminal justice data, and Statewide  
1.17 Radio Board; authorizing requests for proposals to replace alcohol concentration  
1.18 breath testing devices; providing for boards, task forces, and programs;  
1.19 providing for reports; providing for penalties; amending Minnesota Statutes  
1.20 2008, sections 12.03, by adding a subdivision; 13.87, subdivision 1; 122A.18,  
1.21 subdivision 8; 123B.03, subdivision 1; 152.02, subdivisions 6, 12; 152.027, by  
1.22 adding a subdivision; 169.71, subdivision 1; 243.166, subdivisions 1a, 4, 4b, 6;  
1.23 244.05, subdivision 6; 244.052, subdivision 1; 246.13, subdivision 2; 253B.141,  
1.24 subdivision 1; 299A.681; 299C.115; 299C.17; 299C.21; 299C.40, subdivisions  
1.25 1, 2; 299C.46, subdivision 1; 299C.52, subdivisions 1, 3, 4; 299C.53, subdivision  
1.26 1; 299C.62, subdivision 1; 299C.65, subdivisions 1, 5; 299C.68, subdivision 2;  
1.27 343.31, subdivision 1; 357.021, subdivision 6; 388.24, subdivision 4; 401.025,  
1.28 subdivision 1; 401.065, subdivision 3a; 403.36, subdivision 2, by adding a  
1.29 subdivision; 471.59, by adding subdivisions; 480.23; 484.91, subdivision 1;  
1.30 491A.03, subdivision 1; 518.165, subdivision 5; 518B.01, subdivisions 2,  
1.31 20; 524.5-118, subdivision 2; 609.131, subdivision 1; 609.2231, by adding a  
1.32 subdivision; 609.352, subdivision 2a; 609.605, subdivision 1; 611.17; 611.18;  
1.33 611.20, subdivision 3; 611.21; 611.272; 611A.0315, subdivision 1; 626.843,  
1.34 subdivisions 1, 3; 626.845, subdivision 1; 626.863; 628.69, subdivision 6;  
1.35 629.34, subdivision 1; 629.341, subdivision 1; Laws 1999, chapter 216, article  
1.36 2, section 27, subdivisions 1, as amended, 3c, as added, 4; proposing coding  
1.37 for new law in Minnesota Statutes, chapters 12; 168; 169A; 244; 260B; 325F;  
1.38 364; 634; repealing Minnesota Statutes 2008, sections 260B.199, subdivision  
1.39 2; 260B.201, subdivision 3; 299C.61, subdivision 8; 299C.67, subdivision 3;

2.1 383B.65, subdivision 2; 403.36, subdivision 1f; Laws 2002, chapter 266, section  
2.2 1, as amended.

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

2.4 **ARTICLE 1**

2.5 **PREDATORY OFFENDERS**

2.6 Section 1. **[168.1299] PREDATORY OFFENDER PLATE.**

2.7 The commissioner shall issue a special plate to any person who is a registered owner  
2.8 of a passenger automobile or motorcycle and who is required to register as a predatory  
2.9 offender under section 243.166. The color of the plate shall be lime green and must be  
2.10 issued entirely at the predatory offender's expense. A predatory offender may not be  
2.11 issued any other special plate under this chapter.

2.12 **EFFECTIVE DATE.** This section is effective the day following final enactment  
2.13 and applies to any plate issued before or after that day.

2.14 Sec. 2. Minnesota Statutes 2008, section 243.166, subdivision 1a, is amended to read:

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

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

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

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

2.21 (e) "Instant messaging or chat room" means a program that requires a person to  
2.22 register or create an account, a user name, or a password to become a member or registered  
2.23 user of the program and allows members or authorized users to communicate over the  
2.24 Internet in real time using typed text or voice, including programs associated with online  
2.25 games, and other online communities. The term does not include an electronic mail  
2.26 (e-mail) or message board program.

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

2.30 ~~(f)~~ (g) "Motor vehicle" has the meaning given in section 169.011, subdivision ~~92~~ 42.

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

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

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

3.9 (k) "Social networking Web site" means an Internet Web site that has a primary  
3.10 purpose of facilitating social interaction between two or more persons for the purposes of  
3.11 friendship, meeting other persons, or information exchanges, and allows users to create  
3.12 Web pages or profiles that provide information about themselves and are available publicly  
3.13 or to other users and that offers a mechanism for communication with other users, such as  
3.14 a forum, chat room, electronic mail, or instant messaging.

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

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

3.23 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to  
3.24 predators who are required to register before, on, or after that date.

3.25 Sec. 3. Minnesota Statutes 2008, section 243.166, subdivision 4, is amended to read:

3.26 Subd. 4. **Contents of registration.** (a) The registration provided to the corrections  
3.27 agent or law enforcement authority, must consist of a statement in writing signed by the  
3.28 person, giving information required by the bureau, a fingerprint card, and photograph of  
3.29 the person taken at the time of the person's release from incarceration or, if the person  
3.30 was not incarcerated, at the time the person initially registered under this section. The  
3.31 registration information also must include a written consent form signed by the person  
3.32 allowing a treatment facility or residential housing unit or shelter to release information to  
3.33 a law enforcement officer about the person's admission to, or residence in, a treatment  
3.34 facility or residential housing unit or shelter. Registration information on adults and  
3.35 juveniles may be maintained together notwithstanding section 260B.171, subdivision 3.

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

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

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

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

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

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

4.27 (1) Except for persons registering under subdivision 3a, the bureau shall mail a  
4.28 verification form to the person's last reported primary address. This verification form must  
4.29 provide notice to the offender that, if the offender does not return the verification form  
4.30 as required, information about the offender may be made available to the public through  
4.31 electronic, computerized, or other accessible means. For persons who are registered under  
4.32 subdivision 3a, the bureau shall mail an annual verification form to the law enforcement  
4.33 authority where the offender most recently reported. The authority shall provide the  
4.34 verification form to the person at the next weekly meeting and ensure that the person  
4.35 completes and signs the form and returns it to the bureau. Notice is sufficient under this  
4.36 paragraph, if the verification form is sent by first class mail to the person's last reported

5.1 primary address, or for persons registered under subdivision 3a, to the law enforcement  
5.2 authority where the offender most recently reported.

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

5.6 (3) In addition to the requirements listed in this section, a person who is assigned  
5.7 to risk level II or III under section 244.052, and who is no longer under correctional  
5.8 supervision for a registration offense, or a failure to register offense, but who resides,  
5.9 works, or attends school in Minnesota, shall have an annual in-person contact with a law  
5.10 enforcement authority as provided in this section. If the person resides in Minnesota, the  
5.11 annual in-person contact shall be with the law enforcement authority that has jurisdiction  
5.12 over the person's primary address or, if the person has no address, the location where the  
5.13 person is staying. If the person does not reside in Minnesota but works or attends school  
5.14 in this state, the person shall have an annual in-person contact with the law enforcement  
5.15 authority or authorities with jurisdiction over the person's school or workplace. During  
5.16 the month of the person's birth date, the person shall report to the authority to verify the  
5.17 accuracy of the registration information and to be photographed. Within three days of this  
5.18 contact, the authority shall enter information as required by the bureau into the predatory  
5.19 offender registration database and submit an updated photograph of the person to the  
5.20 bureau's predatory offender registration unit.

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

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

5.32 (6) Persons required to register under this section and who are also on intensive  
5.33 supervised release under section 244.05, subdivision 6, shall not access, or create or  
5.34 maintain a personal Web page, profile, account, password, or user name for: (i) a social  
5.35 networking Web site; or (ii) an instant messaging or chat room program, that permits

6.1 persons under the age of 18 to become a member or to create or maintain a personal  
6.2 Web page.

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

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

6.17 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to  
6.18 predatory offenders who are required to register before, on, or after that date.

6.19 Sec. 4. Minnesota Statutes 2008, section 243.166, subdivision 4b, is amended to read:

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

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

6.25 (2) registered by the commissioner of health as a housing with services establishment  
6.26 as defined in section 144D.01; or

6.27 ~~(2)~~ (3) licensed by the commissioner of human services as a residential facility  
6.28 under chapter 245A to provide adult foster care, adult mental health treatment, chemical  
6.29 dependency treatment to adults, or residential services to persons with developmental  
6.30 disabilities.

6.31 (b) Prior to admission to a health care facility, a person required to register under  
6.32 this section shall disclose to:

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

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

7.4 (c) A law enforcement authority or corrections agent who receives notice under  
7.5 paragraph (b) or who knows that a person required to register under this section is  
7.6 planning to be admitted and receive, or has been admitted and is receiving health care  
7.7 at a health care facility shall notify the administrator of the facility and deliver a fact  
7.8 sheet to the administrator containing the following information: (1) name and physical  
7.9 description of the offender; (2) the offender's conviction history, including the dates of  
7.10 conviction; (3) the risk level classification assigned to the offender under section 244.052,  
7.11 if any; and (4) the profile of likely victims.

7.12 (d) Except for a hospital licensed under sections 144.50 to 144.58, if a health care  
7.13 facility receives a fact sheet under paragraph (c) that includes a risk level classification for  
7.14 the offender, and if the facility admits the offender, the facility shall distribute the fact  
7.15 sheet to all residents at the facility. If the facility determines that distribution to a resident  
7.16 is not appropriate given the resident's medical, emotional, or mental status, the facility  
7.17 shall distribute the fact sheet to the patient's next of kin or emergency contact.

7.18 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to  
7.19 predatory offenders who are required to register before, on, or after that date.

7.20 Sec. 5. Minnesota Statutes 2008, section 243.166, subdivision 6, is amended to read:

7.21 Subd. 6. **Registration period.** (a) Notwithstanding the provisions of section  
7.22 609.165, subdivision 1, and except as provided in paragraphs (b), (c), and (d), a person  
7.23 required to register under this section shall continue to comply with this section until ten  
7.24 years have elapsed since the person initially registered in connection with the offense, or  
7.25 until the probation, supervised release, or conditional release period expires, whichever  
7.26 occurs later. For a person required to register under this section who is committed under  
7.27 section 253B.18 or 253B.185, the ten-year registration period does not include the period  
7.28 of commitment.

7.29 (b) If a person required to register under this section fails to provide the person's  
7.30 primary address as required by subdivision 3, paragraph (b), fails to comply with the  
7.31 requirements of subdivision 3a, fails to provide information as required by subdivision  
7.32 4a, or fails to return the verification form referenced in subdivision 4 within ten days,  
7.33 the commissioner of public safety may require the person to continue to register for an  
7.34 additional period of five years. This five-year period is added to the end of the offender's  
7.35 registration period.

8.1 (c) If a person required to register under this section is ~~subsequently incarcerated~~  
8.2 ~~following a conviction~~ arrested for any new offenses or any probation, parole, supervised  
8.3 release, or conditional release violations prior to the end of the person's registration period  
8.4 and is convicted of and incarcerated for a any new offense or ~~following~~ is incarcerated  
8.5 for a revocation of probation, parole, supervised release, or conditional release for any  
8.6 offense, the person shall continue to register until ten years have elapsed since the person  
8.7 was last released from incarceration or until the person's probation, supervised release, or  
8.8 conditional release period expires, whichever occurs later. For the purposes of this section,  
8.9 incarcerated includes credit for time served prior to the conviction or revocation.

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

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

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

8.20 (3) if the person is required to register based upon a conviction for an offense under  
8.21 section 609.342, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.343, subdivision  
8.22 1, paragraph (a), (c), (d), (e), (f), or (h); 609.344, subdivision 1, paragraph (a), (c), or (g);  
8.23 or 609.345, subdivision 1, paragraph (a), (c), or (g); or a statute from another state or the  
8.24 United States similar to the offenses described in this clause; or

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

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

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

8.34 Sec. 6. Minnesota Statutes 2008, section 244.05, subdivision 6, is amended to read:



9.1 Subd. 6. **Intensive supervised release.** The commissioner may order that an  
9.2 inmate be placed on intensive supervised release for all or part of the inmate's supervised  
9.3 release or parole term if the commissioner determines that the action will further the  
9.4 goals described in section 244.14, subdivision 1, clauses (2), (3), and (4). In addition, the  
9.5 commissioner may order that an inmate be placed on intensive supervised release for all  
9.6 of the inmate's conditional or supervised release term if the inmate was convicted of  
9.7 a sex offense under section 609.342, 609.343, 609.344, 609.345, or 609.3453 or was  
9.8 sentenced under the provisions of section 609.3455, subdivision 3a. The commissioner  
9.9 shall order that all level III predatory offenders be placed on intensive supervised release  
9.10 for the entire supervised release, conditional release, or parole term. The commissioner  
9.11 may impose appropriate conditions of release on the inmate including but not limited to  
9.12 unannounced searches of the inmate's person, vehicle, ~~or~~ premises, computer, or other  
9.13 electronic devices capable of accessing the Internet by an intensive supervision agent;  
9.14 compliance with court-ordered restitution, if any; random drug testing; house arrest; daily  
9.15 curfews; frequent face-to-face contacts with an assigned intensive supervision agent;  
9.16 work, education, or treatment requirements; and electronic surveillance. In addition, any  
9.17 sex offender placed on intensive supervised release may be ordered to participate in an  
9.18 appropriate sex offender program as a condition of release. If the inmate violates the  
9.19 conditions of the intensive supervised release, the commissioner shall impose sanctions as  
9.20 provided in subdivision 3 and section 609.3455.

9.21 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to  
9.22 predatory offenders who are required to register before, on, or after that date.

9.23 Sec. 7. Minnesota Statutes 2008, section 244.052, subdivision 1, is amended to read:

9.24 Subdivision 1. **Definitions.** As used in this section:

9.25 (1) "confinement" means confinement in a state correctional facility or a state  
9.26 treatment facility;

9.27 (2) "immediate household" means any and all individuals who live in the same  
9.28 household as the offender;

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

9.31 (4) "residential facility" means a regional treatment center operated by the  
9.32 commissioner of human services or a facility that is licensed as a residential program, as  
9.33 defined in section 245A.02, subdivision 14, by the commissioner of human services under  
9.34 chapter 245A, or the commissioner of corrections under section 241.021, whose staff are  
9.35 trained in the supervision of sex offenders; and

10.1 (5) "predatory offender" and "offender" mean a person who is required to register as  
 10.2 a predatory offender under section 243.166. However, the terms do not include persons  
 10.3 required to register based solely on a delinquency adjudication.

10.4 Sec. 8. **[244.0521] TRAINING MATERIALS ON THE DANGERS OF**  
 10.5 **PREDATORY OFFENDERS.**

10.6 By October 1, 2010, the commissioner of corrections, in consultation with the  
 10.7 commissioner of public safety, shall develop training materials on the dangers of  
 10.8 predatory offenders for programs and officials who care for and educate children and  
 10.9 vulnerable adults. The training materials must include information on the predatory  
 10.10 offender community notice requirements under section 244.052, the predatory offender  
 10.11 registration requirements under section 243.166, and the dangers that predatory offenders  
 10.12 pose to children and vulnerable adults. The training materials shall be developed in a  
 10.13 format that permits self-study or facilitator-assisted training that can be completed in  
 10.14 approximately one hour. Upon development of these training materials, the commissioner  
 10.15 of corrections shall provide notice of completion and electronic access to the training to  
 10.16 the commissioner of human services and the commissioner of health. Training materials  
 10.17 required by this section must be developed by the Department of Corrections.

10.18 **EFFECTIVE DATE.** This section is effective August 1, 2009.

10.19 Sec. 9. Minnesota Statutes 2008, section 609.352, subdivision 2a, is amended to read:

10.20 Subd. 2a. ~~Internet or computer~~ **Electronic solicitation of children.** A person  
 10.21 18 years of age or older who uses the Internet ~~or~~ a computer, computer program,  
 10.22 computer network, ~~or~~ computer system, an electronic communications system, or a  
 10.23 telecommunications, wire, or radio communications system, or other electronic device  
 10.24 capable of electronic data storage or transmission to commit any of the following acts,  
 10.25 with the intent to arouse the sexual desire of any person, is guilty of a felony and may be  
 10.26 sentenced as provided in subdivision 4:

10.27 (1) soliciting a child or someone the person reasonably believes is a child to engage  
 10.28 in sexual conduct;

10.29 (2) engaging in communication ~~relating to or describing sexual conduct~~ with a  
 10.30 child or someone the person reasonably believes is a child, relating to or describing  
 10.31 sexual conduct; or

10.32 (3) distributing any material, language, or communication, including a photographic  
 10.33 or video image, that relates to or describes sexual conduct to a child or someone the  
 10.34 person reasonably believes is a child.

11.1 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
11.2 committed on or after that date.

11.3 **ARTICLE 2**  
11.4 **CRIME VICTIMS**

11.5 Section 1. Minnesota Statutes 2008, section 518B.01, subdivision 2, is amended to read:

11.6 Subd. 2. **Definitions.** As used in this section, the following terms shall have the  
11.7 meanings given them:

11.8 (a) "Domestic abuse" means the following, if committed against a family or  
11.9 household member by a family or household member:

11.10 (1) physical harm, bodily injury, or assault;

11.11 (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or

11.12 (3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal  
11.13 sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or  
11.14 609.3451; or interference with an emergency call within the meaning of section 609.78,  
11.15 subdivision 2.

11.16 (b) "Family or household members" means:

11.17 (1) spouses and former spouses;

11.18 (2) parents and children;

11.19 (3) persons related by blood;

11.20 (4) persons who are presently residing together or who have resided together in  
11.21 the past;

11.22 (5) persons who have a child in common regardless of whether they have been  
11.23 married or have lived together at any time;

11.24 (6) a man and woman if the woman is pregnant and the man is alleged to be the  
11.25 father, regardless of whether they have been married or have lived together at any time; and

11.26 (7) persons who are involved in a significant romantic or sexual relationship or who  
11.27 have been involved in a significant romantic or sexual relationship in the past.

11.28 Issuance of an order for protection on the ground in clause (6) does not affect a  
11.29 determination of paternity under sections 257.51 to 257.74. In determining whether  
11.30 persons are or have been involved in a significant romantic or sexual relationship  
11.31 under clause (7), the court shall consider the length of time of the relationship; type of  
11.32 relationship; frequency of interaction between the parties; and, if the relationship has  
11.33 terminated, length of time since the termination.

11.34 (c) "Qualified domestic violence-related offense" has the meaning given in section  
11.35 609.02, subdivision 16.

12.1 **EFFECTIVE DATE.** This section is effective July 1, 2009.

12.2 Sec. 2. Minnesota Statutes 2008, section 518B.01, subdivision 20, is amended to read:

12.3 Subd. 20. **Statewide application.** An order for protection or domestic abuse no  
12.4 contact order granted under this section applies throughout this state.

12.5 **EFFECTIVE DATE.** This section is effective July 1, 2009.

12.6 Sec. 3. Minnesota Statutes 2008, section 611A.0315, subdivision 1, is amended to read:

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

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

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

12.23 **EFFECTIVE DATE.** This section is effective July 1, 2009.

12.24 Sec. 4. Minnesota Statutes 2008, section 629.341, subdivision 1, is amended to read:

12.25 Subdivision 1. **Arrest.** Notwithstanding section 629.34 or any other law or rule, a  
12.26 peace officer may arrest a person anywhere without a warrant, including at the person's  
12.27 residence, if the peace officer has probable cause to believe that within the preceding  
12.28 ~~12~~ 24 hours the person has committed domestic abuse, as defined in section 518B.01,  
12.29 subdivision 2. The arrest may be made even though the assault did not take place in  
12.30 the presence of the peace officer.

12.31 **EFFECTIVE DATE.** This section is effective July 1, 2009.

13.1 Sec. 5. Laws 1999, chapter 216, article 2, section 27, subdivision 1, as amended by  
 13.2 Laws 2000, chapter 468, section 29, is amended to read:

13.3 Subdivision 1. ~~Pilot project authorized~~ **Domestic fatality review teams; purpose.**  
 13.4 ~~The fourth~~ A judicial district may establish a domestic fatality review team ~~as a 30-month~~  
 13.5 ~~pilot project~~ to review domestic violence deaths that have occurred in the district. The  
 13.6 team may review cases in which prosecution has been completed or the prosecutorial  
 13.7 authority has decided not to pursue the case. The purpose of the review team is to  
 13.8 assess domestic violence deaths in order to develop recommendations for policies and  
 13.9 protocols for community prevention and intervention initiatives to reduce and eliminate  
 13.10 the incidence of domestic violence and resulting fatalities.

13.11 **EFFECTIVE DATE.** This section is effective July 1, 2009.

13.12 Sec. 6. Laws 1999, chapter 216, article 2, section 27, subdivision 3c, as added by Laws  
 13.13 2000, chapter 468, section 32, is amended to read:

13.14 Subd. 3c. **Immunity.** Members of the ~~fourth judicial district~~ domestic fatality  
 13.15 advisory board, members of the domestic fatality review team, and members of each  
 13.16 review panel, as well as their agents or employees, are immune from claims and are  
 13.17 not subject to any suits, liability, damages, or any other recourse, civil or criminal,  
 13.18 arising from any act, proceeding, decision, or determination undertaken or performed or  
 13.19 recommendation made by the domestic fatality review team, provided they acted in good  
 13.20 faith and without malice in carrying out their responsibilities. Good faith is presumed until  
 13.21 proven otherwise and the complainant has the burden of proving malice or a lack of good  
 13.22 faith. No organization, institution, or person furnishing information, data, testimony,  
 13.23 reports, or records to the domestic fatality review team as part of an investigation is civilly  
 13.24 or criminally liable or subject to any other recourse for providing the information.

13.25 **EFFECTIVE DATE.** This section is effective July 1, 2009.

13.26 Sec. 7. Laws 1999, chapter 216, article 2, section 27, subdivision 4, is amended to read:

13.27 Subd. 4. **Evaluation and report.** (a) ~~The~~ Each domestic fatality review team  
 13.28 shall develop a system for evaluating the effectiveness of its program and shall focus on  
 13.29 identifiable goals and outcomes. An evaluation must include data components as well as  
 13.30 input from individuals involved in the review process.

13.31 (b) ~~The~~ Each domestic fatality review team shall issue ~~two an~~ an annual reports report  
 13.32 to the legislature ~~during the pilot project; one on or before December 31, 2000, and one on~~  
 13.33 ~~or before December 31, 2001.~~ The ~~reports~~ report must consist of the written aggregate

14.1 recommendations of the domestic fatality review team without reference to specific cases.  
 14.2 ~~The December 31, 2001, report must include recommendations for legislation. The reports~~  
 14.3 report must be available upon request and distributed to the governor, attorney general,  
 14.4 supreme court, county board, and district court.

14.5 **EFFECTIVE DATE.** This section is effective July 1, 2009.

14.6 Sec. 8. **REPEALER.**

14.7 Laws 2002, chapter 266, section 1, as amended by Laws 2004, chapter 290, section  
 14.8 38, and Laws 2006, chapter 260, article 5, section 53, is repealed.

14.9 **EFFECTIVE DATE.** This section is effective July 1, 2009.

### 14.10 ARTICLE 3

### 14.11 COURTS AND PUBLIC DEFENDER

14.12 Section 1. **[260B.002] POLICY ON DISPROPORTIONATE MINORITY**  
 14.13 **CONTACT.**

14.14 It is the policy of the state of Minnesota to identify and eliminate barriers to racial,  
 14.15 ethnic, and gender fairness within the criminal justice, juvenile justice, corrections, and  
 14.16 judicial systems, in support of the fundamental principle of fair and equitable treatment  
 14.17 under law.

14.18 Sec. 2. Minnesota Statutes 2008, section 484.91, subdivision 1, is amended to read:

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

14.23 Sec. 3. Minnesota Statutes 2008, section 491A.03, subdivision 1, is amended to read:

14.24 Subdivision 1. **Judges; referees.** The judges of district court ~~shall~~ may serve as  
 14.25 judges of conciliation court. ~~In the Second and Fourth Judicial Districts, a majority of~~  
 14.26 ~~the judges~~ The chief judge of the district may appoint one or more suitable persons to act  
 14.27 as referees in conciliation court; ~~a majority of the judges~~ the chief judge of the district  
 14.28 shall establish qualifications for the office, specify the duties and length of service of  
 14.29 referees, and fix their compensation ~~not to exceed an amount per day determined by the~~  
 14.30 ~~chief judge of the judicial district.~~

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

15.2 Sec. 4. Minnesota Statutes 2008, section 609.131, subdivision 1, is amended to read:

15.3 Subdivision 1. **General rule.** Except as provided in subdivision 2, an alleged  
 15.4 misdemeanor violation must be treated as a petty misdemeanor if the prosecuting attorney  
 15.5 believes that it is in the interest of justice that the defendant not be imprisoned if convicted  
 15.6 and certifies that belief to the court at or before the time of arraignment or pretrial  
 15.7 hearing, and the court approves of the certification motion. The defendant's consent to the  
 15.8 certification is ~~not~~ required. When an offense is certified as a petty misdemeanor under  
 15.9 this section, the defendant's eligibility for court-appointed counsel must be evaluated  
 15.10 as though the offense were a petty misdemeanor and the defendant will not be eligible  
 15.11 for the appointment of a public defender.

15.12 **EFFECTIVE DATE.** This section is effective July 1, 2009.

15.13 Sec. 5. Minnesota Statutes 2008, section 611.17, is amended to read:

15.14 **611.17 FINANCIAL INQUIRY; STATEMENTS; CO-PAYMENT;**  
 15.15 **STANDARDS FOR DISTRICT PUBLIC DEFENSE ELIGIBILITY.**

15.16 (a) Each judicial district must screen requests for representation by the district public  
 15.17 defender. A defendant is financially unable to obtain counsel if:

15.18 (1) ~~the defendant, or any dependent of the defendant who resides in the same~~  
 15.19 ~~household as the defendant, receives means-tested governmental benefits, or is charged~~  
 15.20 with a misdemeanor, has no liquid assets, and has an annual income not greater than 150  
 15.21 percent of the poverty guidelines updated periodically in the Federal Register by the  
 15.22 United States Department of Health and Human Services under the authority of United  
 15.23 States Code, title 42, section 9902(2);

15.24 (2) the defendant is charged with a gross misdemeanor, has no liquid assets, and  
 15.25 has an annual income not greater than 175 percent of the poverty guidelines updated  
 15.26 periodically in the Federal Register by the United States Department of Health and Human  
 15.27 Services under the authority of United States Code, title 42, section 9902(2);

15.28 (3) the defendant is charged with a felony, has no liquid assets, and has an annual  
 15.29 income not greater than 200 percent of the poverty guidelines updated periodically in the  
 15.30 Federal Register by the United States Department of Health and Human Services under  
 15.31 the authority of United States Code, title 42, section 9902(2); or

16.1           (4) the defendant, through any combination of liquid assets and current income,  
16.2 would be unable to pay the reasonable costs charged by private counsel in that judicial  
16.3 district for a defense of the same matter.

16.4           (b) Upon a request for the appointment of counsel, the court shall make appropriate  
16.5 inquiry into the financial circumstances of the applicant, who shall submit a financial  
16.6 statement under oath or affirmation setting forth the applicant's assets and liabilities,  
16.7 including the value of any real property owned by the applicant, whether homestead or  
16.8 otherwise, less the amount of any encumbrances on the real property, the source or sources  
16.9 of income, and any other information required by the court. The applicant shall be under  
16.10 a continuing duty while represented by a public defender to disclose any changes in the  
16.11 applicant's financial circumstances that might be relevant to the applicant's eligibility for a  
16.12 public defender. The state public defender shall furnish appropriate forms for the financial  
16.13 statements. The forms must contain conspicuous notice of the applicant's continuing duty  
16.14 to disclose to the court changes in the applicant's financial circumstances. The forms must  
16.15 also contain conspicuous notice of the applicant's obligation to make a co-payment for the  
16.16 services of the district public defender, as specified under paragraph (c). The information  
16.17 contained in the statement shall be confidential and for the exclusive use of the court  
16.18 and the public defender appointed by the court to represent the applicant except for any  
16.19 prosecution under section 609.48. A refusal to execute the financial statement or produce  
16.20 financial records constitutes a waiver of the right to the appointment of a public defender.  
16.21 The court shall not appoint a district public defender to a defendant who is financially able  
16.22 to retain private counsel but refuses to do so.

16.23           An inquiry to determine financial eligibility of a defendant for the appointment of  
16.24 the district public defender shall be made whenever possible prior to the court appearance  
16.25 and by such persons as the court may direct. This inquiry may be combined with the  
16.26 prerelease investigation provided for in Minnesota Rule of Criminal Procedure 6.02,  
16.27 subdivision 3. In no case shall the district public defender be required to perform this  
16.28 inquiry or investigate the defendant's assets or eligibility. The court has the sole duty to  
16.29 conduct a financial inquiry. The inquiry must include the following:

16.30           (1) the liquidity of real estate assets, including the defendant's homestead;  
16.31           (2) any assets that can be readily converted to cash or used to secure a debt;  
16.32           (3) the determination of whether the transfer of an asset is voidable as a fraudulent  
16.33 conveyance; and

16.34           (4) the value of all property transfers occurring on or after the date of the alleged  
16.35 offense. The burden is on the accused to show that he or she is financially unable to afford  
16.36 counsel. Defendants who fail to provide information necessary to determine eligibility



17.1 shall be deemed ineligible. The court must not appoint the district public defender as  
17.2 advisory counsel.

17.3 (c) Upon disposition of the case, an individual who has received public defender  
17.4 services shall pay to the court a \$28 co-payment for representation provided by a public  
17.5 defender, unless the co-payment is, or has been, waived by the court.

17.6 The co-payment must be credited to the general fund. If a term of probation is  
17.7 imposed as a part of an offender's sentence, the co-payment required by this section must  
17.8 not be made a condition of probation. The co-payment required by this section is a civil  
17.9 obligation and must not be made a condition of a criminal sentence.

17.10 **EFFECTIVE DATE.** This section is effective July 1, 2009.

17.11 Sec. 6. Minnesota Statutes 2008, section 611.18, is amended to read:

17.12 **611.18 APPOINTMENT OF PUBLIC DEFENDER.**

17.13 If it appears to a court that a person requesting the appointment of counsel satisfies  
17.14 the requirements of this chapter, the court shall order the appropriate public defender to  
17.15 represent the person ~~at all further stages of the proceeding through appeal, if any.~~ For a  
17.16 person appealing from a conviction, or a person pursuing a postconviction proceeding  
17.17 and who has not already had a direct appeal of the conviction, according to the standards  
17.18 of sections 611.14, clause (2), and 611.25, subdivision 1, paragraph (a), clause (2), the  
17.19 ~~state chief appellate~~ public defender shall be appointed. For a person covered by section  
17.20 611.14, clause (1), (3), or (4), a district public defender shall be appointed to represent  
17.21 that person. ~~If (a) conflicting interests exist, (b) the district public defender for any other~~  
17.22 ~~reason is unable to act, or (c) the interests of justice require, the state public defender~~  
17.23 ~~may be ordered to represent a person. When the state public defender is directed by a~~  
17.24 ~~court to represent a defendant or other person, the state public defender may assign the~~  
17.25 ~~representation to any district public defender.~~ If at any stage of the proceedings, ~~including~~  
17.26 ~~an appeal~~, the court finds that the defendant is financially unable to pay counsel whom the  
17.27 defendant had retained, the court may appoint the appropriate public defender to represent  
17.28 the defendant, as provided in this section. Prior to any court appearance, a public defender  
17.29 may represent a person accused of violating the law, who appears to be financially unable  
17.30 to obtain counsel, and shall continue to represent the person unless it is subsequently  
17.31 determined that the person is financially able to obtain counsel. The representation may  
17.32 be made available at the discretion of the public defender, upon the request of the person  
17.33 or someone on the person's behalf. Any law enforcement officer may notify the public  
17.34 defender of the arrest of any such person.

18.1 **EFFECTIVE DATE.** This section is effective July 1, 2009.

18.2 Sec. 7. Minnesota Statutes 2008, section 611.20, subdivision 3, is amended to read:

18.3 Subd. 3. **Reimbursement.** In each fiscal year, the commissioner of finance shall  
18.4 deposit the payments in the general fund and credit them to a separate account with the  
18.5 Board of Public Defense. The amount credited to this account is appropriated to the Board  
18.6 of Public Defense, except that reimbursements collected in the Fourth Judicial District  
18.7 shall be returned to Hennepin County to offset the county's contribution to pay for the  
18.8 public defender system under section 611.26, subdivision 3a, paragraph (c).

18.9 The balance of this account does not cancel but is available until expended.  
18.10 Expenditures by the board from this account for each judicial district public defense office  
18.11 must be based on the amount of the payments received by the state from the courts in  
18.12 each judicial district. A district public defender's office that receives money under this  
18.13 subdivision shall use the money to supplement office overhead payments to part-time  
18.14 attorneys providing public defense services in the district. By January 15 of each year,  
18.15 the Board of Public Defense shall report to the chairs and ranking minority members of  
18.16 the senate and house of representatives divisions having jurisdiction over criminal justice  
18.17 funding on the amount appropriated under this subdivision, the number of cases handled  
18.18 by each district public defender's office, the number of cases in which reimbursements  
18.19 were ordered, the average amount of reimbursement ordered, and the average amount of  
18.20 money received by part-time attorneys under this subdivision.

18.21 **EFFECTIVE DATE.** This section is effective July 1, 2009.

18.22 Sec. 8. Minnesota Statutes 2008, section 611.21, is amended to read:

18.23 **611.21 SERVICES OTHER THAN COUNSEL.**

18.24 (a) ~~Counsel~~ For purposes of this section, "counsel" means a public defender  
18.25 appointed by the court for an indigent defendant, or an attorney who is working for a  
18.26 public defense corporation under section 611.216 and is representing a defendant who, at  
18.27 the outset of the prosecution, has an annual income not greater than 125 percent of the  
18.28 poverty line established under United States Code, title 42, section 9902(2);

18.29 (b) ~~Counsel~~ may file an ex parte application requesting investigative, expert, or other  
18.30 services necessary to an adequate defense in the case. Upon finding, after appropriate  
18.31 inquiry in an ex parte proceeding, that the services are necessary and that the defendant is  
18.32 financially unable to obtain them, the court shall authorize counsel to obtain the services  
18.33 on behalf of the defendant. The court may establish a limit on the amount which may

19.1 be expended or promised for such services. The court may, in the interests of justice,  
19.2 and upon a finding that timely procurement of necessary services could not await prior  
19.3 authorization, ratify such services after they have been obtained, but such ratification shall  
19.4 be given only in unusual situations. The court shall determine reasonable compensation  
19.5 for the services and direct payment by the county in which the prosecution originated, to  
19.6 the organization or person who rendered them, upon the filing of a claim for compensation  
19.7 supported by an affidavit specifying the time expended, services rendered, and expenses  
19.8 incurred on behalf of the defendant, and the compensation received in the same case or for  
19.9 the same services from any other source.

19.10 ~~(b)~~ (c) The compensation to be paid to a person for such service rendered to a  
19.11 defendant under this section, or to be paid to an organization for such services rendered by  
19.12 an employee, may not exceed \$1,000, exclusive of reimbursement for expenses reasonably  
19.13 incurred, unless payment in excess of that limit is certified by the court as necessary to  
19.14 provide fair compensation for services of an unusual character or duration and the amount  
19.15 of the excess payment is approved by the chief judge of the district. The chief judge of the  
19.16 judicial district may delegate approval authority to an active district judge.

19.17 ~~(c)~~ (d) If the court denies authorizing counsel to obtain services on behalf of the  
19.18 defendant, the court shall make written findings of fact and conclusions of law that state  
19.19 the basis for determining that counsel may not obtain services on behalf of the defendant.  
19.20 When the court issues an order denying counsel the authority to obtain services, the  
19.21 defendant may appeal immediately from that order to the Court of Appeals and may  
19.22 request an expedited hearing.

19.23 **EFFECTIVE DATE.** This section is effective July 1, 2009.

19.24 Sec. 9. **[634.36] EVIDENCE OF VIDEOTAPES, AUDIOTAPES, OR OTHER**  
19.25 **RECORDINGS.**

19.26 In any hearing or trial of a criminal offense or petty misdemeanor or proceeding  
19.27 pursuant to section 169A.53, subdivision 3, evidence of a videotape, audiotape, or  
19.28 electronic or digital recording prepared by a peace officer, using recording equipment in a  
19.29 law enforcement vehicle while in the performance of official duties, shall not be excluded  
19.30 on the ground that a written transcript of the recording was not prepared and available at  
19.31 or prior to trial. As used in this section, "peace officer" has the meaning given in section  
19.32 169A.03, subdivision 18.

19.33 **EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to trials and  
19.34 hearings beginning on or after that date.

20.1       Sec. 10. **LICENSE REINSTATEMENT DIVERSION PILOT PROGRAM.**

20.2           Subdivision 1. **Establishment.** An eligible city may establish a license reinstatement  
20.3 diversion pilot program for holders of class D drivers' licenses who have been charged  
20.4 with violating Minnesota Statutes, section 171.24, subdivision 1 or 2, but have not yet  
20.5 entered a plea in the proceedings. An individual charged with driving after revocation  
20.6 under Minnesota Statutes, section 171.24, subdivision 2, is eligible for diversion only if  
20.7 the revocation was due to a violation of Minnesota Statutes, section 169.791; 169.797;  
20.8 169A.52; 169A.54; or 171.17, subdivision 1, paragraph (a), clause (6). An individual  
20.9 who is a holder of a commercial driver's license or who has committed an offense in a  
20.10 commercial motor vehicle is ineligible for participation in the diversion pilot program.

20.11           Subd. 2. **Eligible cities.** Each of the cities of Duluth, St. Paul, South St. Paul,  
20.12 West St. Paul, and Inver Grove Heights is eligible to establish the license reinstatement  
20.13 diversion pilot program within its city.

20.14           Subd. 3. **Contract.** Notwithstanding any law or ordinance to the contrary, an  
20.15 eligible city may contract with a third party to create and administer the diversion program.

20.16           Subd. 4. **Diversion of individual.** A prosecutor for a participating city may  
20.17 determine whether to accept an individual for diversion, and in doing so shall consider:

20.18           (1) whether the individual has a record of driving without a valid license or other  
20.19 criminal record, or has previously participated in a diversion program;

20.20           (2) the strength of the evidence against the individual, along with any mitigating  
20.21 factors; and

20.22           (3) the apparent ability and willingness of the individual to participate in the  
20.23 diversion program and comply with its requirements.

20.24           Subd. 5. **Diversion driver's license.** (a) Notwithstanding any law to the contrary,  
20.25 the commissioner of public safety may issue a diversion driver's license to a person who  
20.26 is a participant in a pilot program for diversion, following receipt of an application and  
20.27 payment of:

20.28           (1) the reinstatement fee under Minnesota Statutes, section 171.20, subdivision 4, by  
20.29 a participant whose driver's license has been suspended;

20.30           (2) the reinstatement fee under Minnesota Statutes, section 171.29, subdivision 2,  
20.31 paragraph (a), by a participant whose driver's license has been revoked under Minnesota  
20.32 Statutes, section 169.791; 169.797; or 171.17, subdivision 1, paragraph (a), clause (6); or

20.33           (3) the reinstatement fee under Minnesota Statutes, section 171.29, subdivision 2,  
20.34 paragraph (a), by a participant whose driver's license has been revoked under Minnesota  
20.35 Statutes, section 169A.52 or 169A.54. The reinstatement fee and surcharge, both of which

21.1 are provided under Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), also  
21.2 must be paid during the course of, and as a condition of, the diversion program.

21.3 The diversion driver's license may bear restrictions imposed by the commissioner suitable  
21.4 to the licensee's driving ability or other restrictions applicable to the licensee as the  
21.5 commissioner may determine to be appropriate to assure the safe operation of a motor  
21.6 vehicle by the licensee.

21.7 (b) Payments by participants in the diversion program of the reinstatement fee and  
21.8 surcharge under Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), must be  
21.9 applied first toward payment of the reinstatement fee, and after the reinstatement fee has  
21.10 been fully paid, toward payment of the surcharge. Each payment that is applied toward  
21.11 the reinstatement fee must be credited as provided in Minnesota Statutes, section 171.29,  
21.12 subdivision 2, paragraph (b), and each payment that is applied toward the surcharge must  
21.13 be credited as provided in Minnesota Statutes, section 171.29, subdivision 2, paragraphs  
21.14 (c) and (d).

21.15 Subd. 6. **Components of program.** (a) At a minimum, the diversion program  
21.16 must require individuals to:

21.17 (1) successfully attend and complete, at the individual's expense, educational classes  
21.18 that provide, among other things, information on drivers' licensure;

21.19 (2) pay, according to a schedule approved by the prosecutor, all required fees,  
21.20 finer, and charges, including applicable statutory license reinstatement fees and costs  
21.21 of participation in the program;

21.22 (3) comply with all traffic laws; and

21.23 (4) demonstrate compliance with vehicle insurance requirements.

21.24 (b) An individual who is accepted into the pilot program is eligible to apply for a  
21.25 diversion driver's license.

21.26 Subd. 7. **Termination of participation in diversion program.** (a) An individual's  
21.27 participation in the diversion program may terminate when:

21.28 (1) during participation in the program, the individual is guilty of a moving traffic  
21.29 violation or failure to provide vehicle insurance;

21.30 (2) the third-party administrator of the diversion program informs the court and the  
21.31 commissioner of public safety that the individual is no longer satisfying the conditions  
21.32 of the diversion; or

21.33 (3) the third-party administrator informs the court, the prosecutor, and the  
21.34 commissioner of public safety that the individual has met all conditions of the diversion  
21.35 program including, at a minimum, satisfactory fulfillment of the components in subdivision  
21.36 6, whereupon the court shall dismiss the charge or the prosecutor shall decline to prosecute.

22.1 (b) Upon termination of an individual's participation in the diversion program, the  
 22.2 commissioner shall cancel the individual's diversion driver's license.

22.3 (c) The original charge against the individual of a violation of Minnesota Statutes,  
 22.4 section 171.24, may be reinstated against an individual whose participation in the  
 22.5 diversion program terminates under paragraph (a), clause (1) or (2).

22.6 (d) The commissioner shall reinstate the driver's license of an individual whose  
 22.7 participation in the diversion program terminates under paragraph (a), clause (3).

22.8 Subd. 8. **Report.** (a) By February 1, 2011, the commissioner of public safety and  
 22.9 each eligible city that participates in the diversion program shall report to the legislative  
 22.10 committees with jurisdiction over transportation and the judiciary concerning the results  
 22.11 of the program. The report must include, without limitation, the effect of the program on:

22.12 (1) recidivism rates for participants in the diversion pilot program;

22.13 (2) the number of unlicensed drivers who continue to drive in violation of Minnesota  
 22.14 Statutes, section 171.24;

22.15 (3) payment of the fees and fines collected in the diversion pilot program to cities,  
 22.16 counties, and the state;

22.17 (4) educational support provided to participants in the diversion pilot program; and

22.18 (5) the total number of participants in the diversion pilot program and the number of  
 22.19 participants who have terminated from the pilot program under subdivision 7, paragraph  
 22.20 (a), clauses (1) to (3).

22.21 (b) The report must include recommendations regarding the future of the program  
 22.22 and any necessary legislative changes.

22.23 Subd. 9. **Sunset.** The pilot project under this section expires June 30, 2011.

22.24 **EFFECTIVE DATE.** This section is effective July 1, 2009.

22.25 Sec. 11. **REPEALER.**

22.26 Minnesota Statutes 2008, section 383B.65, subdivision 2, is repealed.

## 22.27 **ARTICLE 4**

### 22.28 **CORRECTIONS AND SENTENCING GUIDELINES**

22.29 Section 1. **[244.1951] COURT-ORDERED PROBATION OR PRETRIAL**  
 22.30 **RELEASE; SEARCHES AUTHORIZED.**

22.31 Subdivision 1. **Purpose.** The purpose of this section is to assist probation officers  
 22.32 and pretrial release agents in monitoring compliance with the conditions imposed on  
 22.33 persons placed upon court-ordered probation or pretrial release.

23.1            Subd. 2. **Condition of release.** A court may condition the release of a person placed  
23.2 upon court-ordered probation or pretrial release on the person's stipulation to submit  
23.3 to warrantless searches of the person or vehicle or any portion of a premises under the  
23.4 person's control by, or at the direction of, any probation officer or pretrial release agent  
23.5 for the purpose of determining compliance with the person's conditions of probation  
23.6 or pretrial release.

23.7            **EFFECTIVE DATE.** This section is effective July 1, 2009.

23.8            Sec. 2. Minnesota Statutes 2008, section 357.021, subdivision 6, is amended to read:

23.9            **Subd. 6. Surcharges on criminal and traffic offenders.** (a) Except as provided  
23.10 in this paragraph, the court shall impose and the court administrator shall collect a \$75  
23.11 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or  
23.12 petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle  
23.13 parking, for which there shall be a \$4 surcharge. In the Second Judicial District, the  
23.14 court shall impose, and the court administrator shall collect, an additional \$1 surcharge  
23.15 on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty  
23.16 misdemeanor offense, including a violation of a law or ordinance relating to vehicle  
23.17 parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The  
23.18 surcharge shall be imposed whether or not the person is sentenced to imprisonment or the  
23.19 sentence is stayed. The surcharge shall not be imposed when a person is convicted of a  
23.20 petty misdemeanor for which no fine is imposed.

23.21            (b) If the court fails to impose a surcharge as required by this subdivision, the court  
23.22 administrator shall show the imposition of the surcharge, collect the surcharge, and  
23.23 correct the record.

23.24            (c) The court may not waive payment of the surcharge required under this  
23.25 subdivision. Upon a showing of indigency or undue hardship upon the convicted person  
23.26 or the convicted person's immediate family, the sentencing court may authorize payment  
23.27 of the surcharge in installments.

23.28            (d) The court administrator or other entity collecting a surcharge shall forward it  
23.29 to the commissioner of finance.

23.30            (e) If the convicted person is sentenced to imprisonment and has not paid the  
23.31 surcharge before the term of imprisonment begins, the chief executive officer of the  
23.32 correctional facility in which the convicted person is incarcerated shall collect the  
23.33 surcharge from any earnings the inmate accrues from work performed in the facility  
23.34 or while on conditional release. The chief executive officer shall forward the amount

24.1 collected to the ~~commissioner of finance~~ court administrator or other entity collecting the  
24.2 surcharge imposed by the court.

24.3 **EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to  
24.4 surcharges collected by the chief executive officer of a correctional facility on or after  
24.5 that date.

24.6 Sec. 3. Minnesota Statutes 2008, section 401.025, subdivision 1, is amended to read:

24.7 Subdivision 1. **Peace officers and probation officers serving CCA counties.** (a)

24.8 When it appears necessary to enforce discipline or to prevent a person on conditional  
24.9 release from escaping or absconding from supervision, the chief executive officer or  
24.10 designee of a community corrections agency in a CCA county has the authority to issue  
24.11 a written order directing any peace officer ~~in the county~~ or any probation officer in the  
24.12 state serving the district and juvenile courts ~~of the county~~ to detain and bring the person  
24.13 before the court or the commissioner, whichever is appropriate, for disposition. This  
24.14 written order is sufficient authority for the peace officer or probation officer to detain the  
24.15 person for not more than 72 hours, excluding Saturdays, Sundays, and holidays, pending a  
24.16 hearing before the court or the commissioner.

24.17 (b) The chief executive officer or designee of a community corrections agency in a  
24.18 CCA county has the authority to issue a written order directing a peace officer or probation  
24.19 officer serving the district and juvenile courts ~~of the county~~ to release a person detained  
24.20 under paragraph (a) within 72 hours, excluding Saturdays, Sundays, and holidays, without  
24.21 an appearance before the court or the commissioner. This written order is sufficient  
24.22 authority for the peace officer or probation officer to release the detained person.

24.23 (c) The chief executive officer or designee of a community corrections agency in a  
24.24 CCA county has the authority to issue a written order directing any peace officer ~~in the~~  
24.25 ~~county~~ or any probation officer serving the district and juvenile courts ~~of the county~~ to  
24.26 detain any person on court-ordered pretrial release who absconds from pretrial release  
24.27 or fails to abide by the conditions of pretrial release. A written order issued under this  
24.28 paragraph is sufficient authority for the peace officer or probation officer to detain the  
24.29 person.

24.30 **EFFECTIVE DATE.** This section is effective July 1, 2009.

24.31 Sec. 4. Minnesota Statutes 2008, section 471.59, is amended by adding a subdivision  
24.32 to read:



25.1            Subd. 12b. **Correctional officers.** If there is an agreement, merger, or consolidation  
 25.2 between two or more local correctional or detention facilities, a correctional officer who  
 25.3 becomes employed by a new entity created by the agreement, merger, or consolidation  
 25.4 must receive credit for accumulated vacation and sick leave time earned by the correctional  
 25.5 officer during the officer's employment with a governmental unit immediately preceding  
 25.6 the creation of the new entity. If a correctional officer working pursuant to an agreement,  
 25.7 merger, or consolidation becomes employed by the new entity, the correctional officer is  
 25.8 considered to have begun employment with the new entity on the first day of employment  
 25.9 with the governmental unit employing the correctional officer immediately preceding the  
 25.10 creation of the new entity and must be credited with all previously accumulated vacation  
 25.11 and sick leave time.

25.12            **EFFECTIVE DATE.** This section is effective July 1, 2009.

25.13            Sec. 5. Minnesota Statutes 2008, section 629.34, subdivision 1, is amended to read:

25.14            Subdivision 1. **Peace officers.** (a) A peace officer, as defined in section 626.84,  
 25.15 subdivision 1, clause (c), who is on or off duty within the jurisdiction of the appointing  
 25.16 authority, or on duty outside the jurisdiction of the appointing authority pursuant to section  
 25.17 629.40, may arrest a person without a warrant as provided under paragraph (c).

25.18            (b) A part-time peace officer, as defined in section 626.84, subdivision 1, clause (d),  
 25.19 who is on duty within the jurisdiction of the appointing authority, or on duty outside the  
 25.20 jurisdiction of the appointing authority pursuant to section 629.40 may arrest a person  
 25.21 without a warrant as provided under paragraph (c).

25.22            (c) A peace officer or part-time peace officer who is authorized under paragraph (a)  
 25.23 or (b) to make an arrest without a warrant may do so under the following circumstances:

25.24            (1) when a public offense has been committed or attempted in the officer's presence;

25.25            (2) when the person arrested has committed a felony, although not in the officer's  
 25.26 presence;

25.27            (3) when a felony has in fact been committed, and the officer has reasonable cause  
 25.28 for believing the person arrested to have committed it;

25.29            (4) upon a charge based upon reasonable cause of the commission of a felony by  
 25.30 the person arrested;

25.31            (5) under the circumstances described in clause (2), (3), or (4), when the offense is a  
 25.32 gross misdemeanor violation of section 609.52, 609.595, 609.631, 609.749, or 609.821; ~~or~~

25.33            (6) under circumstances described in clause (2), (3), or (4), when the offense is a  
 25.34 nonfelony violation of a restraining order or no contact order previously issued by a  
 25.35 court; or

26.1 (7) under the circumstances described in clause (2), (3), or (4), when the offense is  
26.2 a gross misdemeanor violation of section 609.485 and the person arrested is a juvenile  
26.3 committed to the custody of the commissioner of corrections.

26.4 (d) To make an arrest authorized under this subdivision, the officer may break open  
26.5 an outer or inner door or window of a dwelling house if, after notice of office and purpose,  
26.6 the officer is refused admittance.

26.7 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to  
26.8 persons escaping from custody on or after that date.

26.9 Sec. 6. **SENTENCING GUIDELINES COMMISSION; CONSOLIDATION OF**  
26.10 **REPORTS.**

26.11 The Sentencing Guidelines Commission may consolidate legislatively mandated  
26.12 reports to achieve administrative efficiencies or fiscal savings or to reduce the burden of  
26.13 reporting requirements. The Sentencing Guidelines Commission may not eliminate a  
26.14 legislatively mandated reporting requirement without prior legislative approval.

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

26.16 Sec. 7. **STUDY OF EVIDENCE-BASED PRACTICES IN MINNESOTA;**  
26.17 **REPORT TO THE LEGISLATURE.**

26.18 Subdivision 1. **Direction.** The Department of Correction's Minnesota Information  
26.19 and Supervision Services Committee's Evidence-Based Practices Policy Team shall  
26.20 undertake an assessment of the use of evidence-based practices for community supervision  
26.21 in Minnesota and opportunities for greater implementation of evidence-based practices.

26.22 Subd. 2. **Subject matter.** (a) The policy team must review, assess, and make  
26.23 specific recommendations with regard to the following areas:

26.24 (1) implementation of evidence-based practices intended to reduce recidivism;

26.25 (2) improvement of policies and practices for crime victims;

26.26 (3) establishment of an earned compliance credit program;

26.27 (4) performance measures for community supervision agencies;

26.28 (5) potential performance incentives for community supervision agencies; and

26.29 (6) any other topic related to evidence-based practices that the committee deems  
26.30 appropriate for inclusion.

26.31 (b) In assessing the topics listed in paragraph (a), the policy team must address  
26.32 the following:

26.33 (1) the extent to which evidence-based practices are currently used in Minnesota;

27.1 (2) fiscal barriers to further implementation of evidence-based practices;  
 27.2 (3) structural barriers to further implementation of evidence-based practices;  
 27.3 (4) statutory barriers to further implementation of evidence-based practices;  
 27.4 (5) potential solutions that address the identified barriers; and  
 27.5 (6) any other factor that the committee deems necessary to fully assess the state  
 27.6 of evidence-based practices in Minnesota.

27.7 Subd. 3. **Report to legislature.** The policy team shall report its findings  
 27.8 and recommendations to the chairs and ranking minority members of the house of  
 27.9 representatives and senate committees and divisions with jurisdiction over criminal justice  
 27.10 policy and funding by January 15, 2011.

27.11 **EFFECTIVE DATE.** This section is effective July 1, 2009.

27.12 **Sec. 8. REPEALER.**

27.13 Minnesota Statutes 2008, sections 260B.199, subdivision 2; and 260B.201,  
 27.14 subdivision 3, are repealed.

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

27.16 **ARTICLE 5**  
 27.17 **PUBLIC SAFETY**

27.18 Section 1. Minnesota Statutes 2008, section 12.03, is amended by adding a subdivision  
 27.19 to read:

27.20 Subd. 9b. **Specialized emergency response team.** "Specialized emergency  
 27.21 response team" means a team that has been approved by the state director of the Division  
 27.22 of Homeland Security and Emergency Management for the purpose of supplementing  
 27.23 state or local resources for responding to an emergency or disaster.

27.24 **EFFECTIVE DATE.** This section is effective August 1, 2009.

27.25 **Sec. 2. [12.351] SPECIALIZED EMERGENCY RESPONSE TEAM.**

27.26 The state director of the Division of Homeland Security and Emergency Management  
 27.27 shall determine if, in response to an emergency or disaster, activation of a specialized  
 27.28 emergency response team for deployment to any political subdivision is in the public  
 27.29 interest. If so, the state director may activate a team. When activated by the state director,  
 27.30 team members not employed by any political subdivision struck by the emergency or  
 27.31 disaster are deemed employees of the state for purposes of workers' compensation and tort

28.1 claim defense and indemnification. The provisions of chapter 176 and other applicable  
28.2 statutes must be followed for purposes of calculating workers' compensation benefits.

28.3 **EFFECTIVE DATE.** This section is effective August 1, 2009.

28.4 Sec. 3. Minnesota Statutes 2008, section 152.02, subdivision 6, is amended to read:

28.5 Subd. 6. **Schedule V; restrictions on methamphetamine precursor drugs.** (a) As  
28.6 used in this subdivision, the following terms have the meanings given:

28.7 (1) "methamphetamine precursor drug" means any compound, mixture, or  
28.8 preparation intended for human consumption containing ephedrine or pseudoephedrine as  
28.9 its sole active ingredient or as one of its active ingredients; and

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

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

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

28.17 (i) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100  
28.18 grams;

28.19 (ii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100  
28.20 grams;

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

28.23 (iv) not more than 15 milligrams of anhydrous morphine per 100 milliliters or per  
28.24 100 grams; and

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

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

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

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

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

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

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

29.10 (2) to sign a written or electronic document detailing the date of the sale, the name  
29.11 of the buyer, and the amount of the drug sold.

29.12 A document described under clause (2) must be retained by the establishment for  
29.13 at least five years and must at all reasonable times be open to the inspection of any law  
29.14 enforcement agency.

29.15 Nothing in this paragraph requires the buyer to obtain a prescription for the drug's  
29.16 purchase.

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

29.19 (g) No person may sell in an over-the-counter sale a methamphetamine precursor  
29.20 drug to a person under the age of 18 years. It is an affirmative defense to a charge under  
29.21 this paragraph if the defendant proves by a preponderance of the evidence that the  
29.22 defendant reasonably and in good faith relied on proof of age as described in section  
29.23 340A.503, subdivision 6.

29.24 (h) A person who knowingly violates paragraph (c), (d), (e), (f), or (g) is guilty of  
29.25 a misdemeanor and may be sentenced to imprisonment for not more than 90 days, or to  
29.26 payment of a fine of not more than \$1,000, or both.

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

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

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

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

30.7 (k) Paragraphs (b) to (j) do not apply to:

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

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

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

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

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

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

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

30.26 **EFFECTIVE DATE.** This section is effective August 1, 2009.

30.27 Sec. 4. Minnesota Statutes 2008, section 152.02, subdivision 12, is amended to read:

30.28 Subd. 12. **Coordination of controlled substance regulation with federal law and**  
30.29 **state statute.** If any substance is designated, rescheduled, or deleted as a controlled  
30.30 substance under federal law and notice thereof is given to the state Board of Pharmacy, the  
30.31 state Board of Pharmacy shall similarly control the substance under this chapter, after the  
30.32 expiration of 30 days from publication in the Federal Register of a final order designating  
30.33 a substance as a controlled substance or rescheduling or deleting a substance. Such order  
30.34 shall be filed with the secretary of state. If within that 30-day period, the state Board of  
30.35 Pharmacy objects to inclusion, rescheduling, or deletion, it shall publish the reasons for

31.1 objection and afford all interested parties an opportunity to be heard. At the conclusion of  
31.2 the hearing, the state Board of Pharmacy shall publish its decision, which shall be subject  
31.3 to the provisions of chapter 14.

31.4 In exercising the authority granted by this chapter, the state Board of Pharmacy shall  
31.5 be subject to the provisions of chapter 14. The state Board of Pharmacy shall provide  
31.6 copies of any proposed rule under this chapter to the advisory council on controlled  
31.7 substances at least 30 days prior to any hearing required by section 14.14, subdivision 1.  
31.8 The state Board of Pharmacy shall consider the recommendations of the advisory council  
31.9 on controlled substances, which may be made prior to or at the hearing.

31.10 The state Board of Pharmacy shall annually submit a report to the legislature on or  
31.11 before December 1 that specifies what changes the board made to the controlled substance  
31.12 schedules maintained by the board in Minnesota Rules, parts 6800.4210 to 6800.4250, in  
31.13 the preceding 12 months. The report must include specific recommendations for amending  
31.14 the controlled substance schedules contained in subdivisions 2 to 6, so that they conform  
31.15 with the controlled substance schedules maintained by the board in Minnesota Rules,  
31.16 parts 6800.4210 to 6800.4250.

31.17 **EFFECTIVE DATE.** This section is effective August 1, 2009.

31.18 Sec. 5. Minnesota Statutes 2008, section 152.027, is amended by adding a subdivision  
31.19 to read:

31.20 Subd. 5. **Sale and possession of salvia divinorum.** (a) A person who unlawfully  
31.21 sells any amount of salvia divinorum is guilty of a gross misdemeanor.

31.22 (b) A person who unlawfully possesses any amount of salvia divinorum is guilty  
31.23 of a misdemeanor.

31.24 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
31.25 committed on or after that date.

31.26 Sec. 6. Minnesota Statutes 2008, section 169.71, subdivision 1, is amended to read:

31.27 Subdivision 1. **Prohibitions generally; exceptions.** (a) A person shall not drive or  
31.28 operate any motor vehicle with:

31.29 (1) a windshield cracked or discolored to an extent to limit or obstruct proper vision;

31.30 (2) any objects suspended between the driver and the windshield, other than:

31.31 (i) sun visors ~~and~~;

31.32 (ii) rearview mirrors;

32.1 (iii) global positioning systems or navigation systems when mounted or located near  
 32.2 the bottommost portion of the windshield; and

32.3 (iv) electronic toll collection devices; or

32.4 (3) any sign, poster, or other nontransparent material upon the front windshield,  
 32.5 sidewings, or side or rear windows of the vehicle, other than a certificate or other paper  
 32.6 required to be so displayed by law or authorized by the state director of the Division of  
 32.7 Emergency Management or the commissioner of public safety.

32.8 (b) Paragraph (a), clauses (2) and (3), do not apply to law enforcement vehicles.

32.9 (c) Paragraph (a), clause (2), does not apply to authorized emergency vehicles.

32.10 **Sec. 7. [169A.701] DRIVING RECORD PRIVATE AFTER TEN YEARS.**

32.11 (a) Notwithstanding any provision of chapter 171 to the contrary, upon the date ten  
 32.12 years following a person's most recent driver's license revocation or cancellation for  
 32.13 violation of this chapter or section 609.21, the driver's license record or records pertaining  
 32.14 to prior impaired driving related violations by the person are classified as private data on  
 32.15 individuals according to section 13.02, subdivision 12.

32.16 (b) Notwithstanding paragraph (a), upon revocation or cancellation of a person's  
 32.17 driver's license record under section 169A.54 or section 609.21, any driving record  
 32.18 or records classified as private data on individuals in accordance with paragraph (a)  
 32.19 and section 13.02, subdivision 12, must be reclassified as public data on individuals in  
 32.20 accordance with section 13.02, subdivision 15.

32.21 **EFFECTIVE DATE.** This section is effective July 1, 2009, for violations on drivers  
 32.22 license records on or after that date.

32.23 Sec. 8. Minnesota Statutes 2008, section 299A.681, is amended to read:

32.24 **299A.681 FINANCIAL CRIMES ~~OVERSIGHT COUNCIL~~ ADVISORY**  
 32.25 **BOARD AND TASK FORCE.**

32.26 Subdivision 1. ~~**Oversight council Advisory board.**~~ The Minnesota Financial  
 32.27 Crimes ~~Oversight Council~~ Advisory Board shall provide ~~guidance~~ advice to the  
 32.28 commissioner of public safety related to the investigation and prosecution of identity  
 32.29 theft and financial crime.

32.30 Subd. 2. **Membership.** The ~~oversight council~~ advisory board consists of the  
 32.31 following individuals, or their designees:

32.32 (1) the commissioner of public safety;

32.33 (2) the attorney general;



- 33.1 (3) two chiefs of police, selected by the Minnesota Chiefs of Police Association  
 33.2 ~~from police departments that participate in the Minnesota Financial Crimes Task Force;~~  
 33.3 (4) two sheriffs, selected by the Minnesota Sheriffs Association ~~from sheriff~~  
 33.4 ~~departments that participate in the task force;~~  
 33.5 (5) the United States attorney for the district of Minnesota;  
 33.6 (6) a county attorney, selected by the Minnesota County Attorneys Association;  
 33.7 ~~(7) a representative from the United States Postal Inspector's Office, selected by the~~  
 33.8 ~~oversight council;~~  
 33.9 ~~(8) a representative from a not-for-profit retail merchants industry, selected by the~~  
 33.10 ~~oversight council;~~  
 33.11 ~~(9) a representative from a not-for-profit banking and credit union industry, selected~~  
 33.12 ~~by the oversight council;~~  
 33.13 ~~(10) a representative from a not-for-profit association representing senior citizens,~~  
 33.14 ~~selected by the oversight council;~~  
 33.15 (7) a representative from the Board of Public Defense, selected by that board;  
 33.16 (8) a representative from a federal law enforcement agency, selected by the advisory  
 33.17 board;  
 33.18 (9) a representative from the retail merchants industry, selected by the advisory  
 33.19 board;  
 33.20 (10) a representative from the banking and credit union industry, selected by the  
 33.21 advisory board;  
 33.22 (11) a representative on behalf of senior citizens, selected by the advisory board;  
 33.23 ~~(11)~~ (12) the statewide commander of the task force;  
 33.24 ~~(12) a representative from the Board of Public Defense, selected by the board;~~  
 33.25 (13) two additional members selected by the ~~oversight council~~ advisory board;  
 33.26 (14) a senator who serves on the committee having jurisdiction over criminal justice  
 33.27 policy, chosen by the Subcommittee on Committees of the senate Committee on Rules  
 33.28 and Administration; and  
 33.29 (15) a representative who serves on the committee having jurisdiction over criminal  
 33.30 justice policy, chosen by the speaker of the house.

33.31 The ~~oversight council~~ advisory board may adopt procedures to govern its conduct and  
 33.32 shall select a chair from among its members. The legislative members of the ~~council~~  
 33.33 advisory board may not vote on matters before the ~~council~~ board.

33.34 Subd. 3. **Duties.** The ~~oversight council shall develop~~ advisory board shall offer  
 33.35 advice to the commissioner on the development of an overall strategy to ameliorate the  
 33.36 harm caused to the public by identity theft and financial crime within Minnesota. The

34.1 strategy may include the development of protocols and procedures to investigate financial  
 34.2 crimes and a structure for best addressing these issues on a statewide basis and in a  
 34.3 multijurisdictional manner. ~~Additionally, the oversight council~~ The commissioner shall:

34.4 (1) establish a multijurisdictional statewide Minnesota Financial Crimes Task Force  
 34.5 to investigate major financial crimes;

34.6 (2) with advice from the advisory board, select a statewide commander of the task  
 34.7 force who serves at the pleasure of the ~~oversight council~~ commissioner;

34.8 (3) ~~assist the Department of Public Safety in developing~~ develop an objective grant  
 34.9 review application process that is free from conflicts of interest;

34.10 (4) ~~make funding recommendations to the commissioner of public safety on~~ with  
 34.11 advice from the advisory board, issue grants to support efforts to combat identity theft  
 34.12 and financial crime;

34.13 (5) with advice from the advisory board, assist law enforcement agencies and victims  
 34.14 in developing a process to collect and share information to improve the investigation and  
 34.15 prosecution of identity theft and financial crime;

34.16 (6) with advice from the advisory board, develop and approve an operational budget  
 34.17 for the office of the statewide commander and the ~~oversight council~~ Minnesota Financial  
 34.18 Crimes Task Force; and

34.19 (7) enter into any contracts necessary to establish and maintain a relationship with  
 34.20 retailers, financial institutions, and other businesses to deal effectively with identity theft  
 34.21 and financial crime.

34.22 The task force described in clause (1) may consist of members from local law enforcement  
 34.23 agencies, federal law enforcement agencies, state and federal prosecutors' offices, ~~the~~  
 34.24 ~~Board of Public Defense,~~ and representatives from ~~elderly victims,~~ retail businesses,  
 34.25 financial institutions, and not-for-profit organizations.

34.26 Subd. 4. **Statewide commander.** (a) ~~The Minnesota Financial Crimes Task Force~~  
 34.27 ~~commander under Minnesota Statutes 2004, section 299A.68, shall oversee the transition~~  
 34.28 ~~of that task force into the task force described in subdivision 3 and remain in place as its~~  
 34.29 ~~commander until July 1, 2008. On that date,~~ The commissioner of public safety shall  
 34.30 appoint as a statewide commander ~~the individual selected by the oversight council under~~  
 34.31 ~~subdivision 3.~~

34.32 (b) The commander shall:

34.33 (1) coordinate and monitor all multijurisdictional identity theft and financial crime  
 34.34 enforcement activities;

34.35 (2) facilitate local efforts and ensure statewide coordination with efforts to combat  
 34.36 identity theft and financial crime;

- 35.1 (3) facilitate training for law enforcement and other personnel;
- 35.2 (4) monitor compliance with investigative protocols;
- 35.3 (5) implement an outcome evaluation and data quality control process;
- 35.4 (6) be responsible for the selection and for cause removal of assigned task force
- 35.5 investigators who are designated participants under a memorandum of understanding or
- 35.6 who receive grant funding;
- 35.7 (7) provide supervision of assigned task force investigators;
- 35.8 (8) submit a task force operational budget to the ~~oversight council~~ commissioner of
- 35.9 public safety for approval; and
- 35.10 (9) submit quarterly task force activity reports to the ~~oversight council~~ advisory
- 35.11 board.

35.12 Subd. 5. **Participating officers; employment status.** All law enforcement officers

35.13 selected to participate in the task force must be licensed peace officers as defined in section

35.14 626.84, subdivision 1, or qualified federal law enforcement officers as defined in section

35.15 626.8453. Participating officers remain employees of the same entity that employed them

35.16 before joining any multijurisdictional entity established under this section. Participating

35.17 officers are not employees of the state.

35.18 Subd. 6. **Jurisdiction and powers.** Law enforcement officers participating in any

35.19 multijurisdictional entity established under this section have statewide jurisdiction to

35.20 conduct criminal investigations and have the same powers of arrest as those possessed

35.21 by a sheriff. ~~The task force shall retain from its predecessor the assigned originating~~

35.22 ~~reporting number for case reporting purposes.~~

35.23 Subd. 7. **Grants authorized.** The commissioner of public safety, ~~upon~~

35.24 ~~recommendation of the oversight council~~ with advice from the advisory board, shall

35.25 make grants to state and local units of government to combat identity theft and financial

35.26 crime. The commander, as funding permits, may prepare a budget to establish four

35.27 regional districts and funding grant allocations programs outside the counties of Hennepin,

35.28 Ramsey, Anoka, Washington, and Dakota. The budget must be reviewed and approved by

35.29 the ~~oversight council and recommended to the~~ commissioner to support these efforts.

35.30 Subd. 8. **Victims assistance program.** (a) The ~~oversight council~~ commissioner

35.31 may establish a victims' assistance program to assist victims of economic crimes and

35.32 provide prevention and awareness programs. The ~~oversight council~~ commissioner may

35.33 retain the services of not-for-profit organizations to assist in the development and delivery

35.34 systems in aiding victims of financial crime. The program may not provide any financial

35.35 assistance to victims, but may assist victims in obtaining police assistance and advise

35.36 victims in how to protect personal accounts and identities. Services may include a victim

36.1 toll-free telephone number, fax number, Web site, Monday through Friday telephone  
 36.2 service, e-mail response, and interfaces to other helpful Web sites. Victims' information  
 36.3 compiled are governed under chapter 13.

36.4 (b) The ~~oversight council~~ commissioner may post or communicate through public  
 36.5 service announcements in newspapers, radio, television, cable access, billboards, Internet,  
 36.6 Web sites, and other normal advertising channels, a financial reward of up to \$2,000 for  
 36.7 tips leading to the apprehension and successful prosecution of individuals committing  
 36.8 economic crime. All rewards must ~~meet the oversight council's standards~~ be approved by  
 36.9 the commissioner. The release of funds must be made to an individual whose information  
 36.10 leads to the apprehension and prosecution of offenders committing economic or financial  
 36.11 crimes against citizens or businesses in Minnesota. All rewards paid to an individual must  
 36.12 be reported to the Department of Revenue along with the individual's Social Security  
 36.13 number.

36.14 Subd. 9. ~~Oversight council~~ **Advisory board and task force are permanent.**  
 36.15 Notwithstanding section 15.059, this section does not expire.

36.16 Subd. 10. **Funding.** The ~~oversight council~~ commissioner may accept lawful grants  
 36.17 and in-kind contributions from any federal, state, or local source or legal business or  
 36.18 individual not funded by this section for general operation support, including personnel  
 36.19 costs. These grants or in-kind contributions are not to be directed toward the case of a  
 36.20 particular victim or business. The ~~oversight council's~~ task force's fiscal agent shall handle  
 36.21 all funds approved by the ~~oversight council~~ commissioner, including in-kind contributions.

36.22 Subd. 11. **Forfeiture.** Property seized by the task force is subject to forfeiture  
 36.23 pursuant to sections 609.531, 609.5312, 609.5313, and 609.5315 if ownership cannot be  
 36.24 established. The ~~council~~ task force shall receive the proceeds from the sale of all property  
 36.25 properly seized and forfeited.

36.26 ~~Subd. 12. **Transfer equipment from current task force.** All equipment possessed~~  
 36.27 ~~by the task force described in Minnesota Statutes 2004, section 299A.68, is transferred to~~  
 36.28 ~~the oversight council for use by the task force described in this section.~~

36.29 Subd. 13. **Report required.** By February 1 of each year, the ~~oversight council~~  
 36.30 commissioner shall report to the chairs and ranking minority members of the senate and  
 36.31 house of representatives committees and divisions having jurisdiction over criminal  
 36.32 justice policy and funding on the activities of the ~~council and~~ task force. At a minimum,  
 36.33 this annual report must include:

36.34 (1) a description of the ~~council's and~~ task force's goals for the previous year and  
 36.35 for the coming year;

37.1 (2) a description of the outcomes the ~~council and~~ task force achieved or did not  
 37.2 achieve during the preceding year and a description of the outcomes they will seek to  
 37.3 achieve during the coming year;

37.4 (3) any legislative recommendations the ~~council or task force~~ advisory board or  
 37.5 commissioner has including, where necessary, a description of the specific legislation  
 37.6 needed to implement the recommendations;

37.7 (4) a detailed accounting of how appropriated money, grants, and in-kind  
 37.8 contributions were spent; and

37.9 (5) a detailed accounting of the grants awarded under this section.

37.10 **EFFECTIVE DATE.** This section is effective July 1, 2009.

37.11 Sec. 9. Minnesota Statutes 2008, section 299C.17, is amended to read:

37.12 **299C.17 REPORT BY COURT ADMINISTRATOR.**

37.13 (a) The superintendent shall ~~have power to~~ require the district court administrator  
 37.14 of ~~any~~ each county to file with the department, at such time as the superintendent may  
 37.15 designate, a report, upon such form as the superintendent may prescribe, furnishing  
 37.16 such information as the superintendent may require with regard to the prosecution and  
 37.17 disposition of criminal cases. A copy of the report shall be kept on file in the office of  
 37.18 the court administrator.

37.19 (b) If a district court administrator neglects or refuses to comply with paragraph  
 37.20 (a), the bureau, in writing, must notify the state court administrator. Upon the receipt of  
 37.21 the notice, the state court administrator must withhold the salary or other compensation  
 37.22 accruing to the district court administrator for the period of 30 days thereafter until  
 37.23 notified by the bureau that such suspension has been released by the performance of the  
 37.24 required duty.

37.25 (c) A district court administrator who knowingly fails to comply with paragraph  
 37.26 (a) shall be liable in a civil suit for any actual damages suffered by a person or persons  
 37.27 resulting from the malfeasance and for any punitive damages set by the court or jury,  
 37.28 plus costs and reasonable attorney fees.

37.29 **EFFECTIVE DATE.** This section is effective July 1, 2009.

37.30 Sec. 10. Minnesota Statutes 2008, section 299C.21, is amended to read:

37.31 **299C.21 PENALTY ON LOCAL OFFICER REFUSING INFORMATION.**

37.32 (a) If any public official charged with the duty of furnishing to the bureau fingerprint  
 37.33 records, biological specimens, reports, or other information required by sections 299C.06,

38.1 299C.10, 299C.105, 299C.11, or 299C.17, shall neglect or refuse to comply with such  
 38.2 requirement, the bureau, in writing, shall notify the state, county, or city officer charged  
 38.3 with the issuance of a warrant for the payment of the salary of such official. Upon the  
 38.4 receipt of the notice the state, county, or city official ~~shall~~ must withhold the issuance of a  
 38.5 warrant for the payment of the salary or other compensation accruing to such officer for  
 38.6 the period of 30 days thereafter until notified by the bureau that such suspension has been  
 38.7 released by the performance of the required duty.

38.8 (b) A person with the duty of furnishing to the bureau fingerprint records, biological  
 38.9 specimens, reports, or other information required by sections 299C.06, 299C.10,  
 38.10 299C.105, 299C.11, or 299C.17, who knowingly fails to provide the required information  
 38.11 is guilty of a misdemeanor and shall be liable in a civil suit for any actual damages  
 38.12 suffered by a person or persons resulting from the malfeasance and for any punitive  
 38.13 damages set by the court or jury, plus costs and reasonable attorney fees.

38.14 **EFFECTIVE DATE.** This section is effective July 1, 2009.

38.15 Sec. 11. Minnesota Statutes 2008, section 299C.40, subdivision 2, is amended to read:

38.16 Subd. 2. **Purpose.** CIBRS is a statewide system containing data from law  
 38.17 enforcement agencies. Data in CIBRS must be made available to law enforcement  
 38.18 agencies ~~in order~~ to:

38.19 (1) prepare a case against a person, whether known or unknown, for the commission  
 38.20 of a crime or other offense for which the agency has investigative authority, ~~or for~~  
 38.21 purposes of;

38.22 (2) serve process in a criminal case;

38.23 (3) inform law enforcement officers of possible safety issues prior to service of  
 38.24 process;

38.25 (4) enforce no contact orders;

38.26 (5) locate missing persons; or

38.27 (6) conduct background investigations required by section 626.87.

38.28 **EFFECTIVE DATE.** This section is effective July 1, 2009.

38.29 Sec. 12. **[325F.135] UNSAFE RECALLED TOYS; PROHIBITION ON SALE.**

38.30 (a) No commercial retailer shall sell in this state a toy that the commercial retailer  
 38.31 knows at the time of the sale has been recalled for any safety-related reason by an agency  
 38.32 of the federal government or by the toy's manufacturer, wholesaler, distributor, or importer.

39.1 (b) For purposes of this section, "toy" means an item designed primarily for the  
 39.2 purpose of play activity by children under the age of 12 years and "recalled" excludes  
 39.3 corrective actions that involve safety alerts, parts replacement, or consumer repairs.

39.4 (c) This section shall be enforced under sections 325F.14 to 325F.16.

39.5 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to  
 39.6 violations occurring on or after that date.

39.7 Sec. 13. Minnesota Statutes 2008, section 343.31, subdivision 1, is amended to read:

39.8 Subdivision 1. **Penalty for animal fighting; attending animal fight.** (a) Whoever  
 39.9 does any of the following is guilty of a felony:

39.10 (1) promotes, engages in, or is employed in the activity of cockfighting, dogfighting,  
 39.11 or violent pitting of one pet or companion animal as defined in section 346.36 , subdivision  
 39.12 6, against another of the same or a different kind;

39.13 (2) receives money for the admission of a person to a place used, or about to be  
 39.14 used, for that activity;

39.15 (3) willfully permits a person to enter or use for that activity premises of which the  
 39.16 permitter is the owner, agent, or occupant; or

39.17 (4) uses, trains, or possesses a dog or other animal for the purpose of participating  
 39.18 in, engaging in, or promoting that activity.

39.19 (b) Whoever purchases a ticket of admission or otherwise gains admission to the  
 39.20 activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as  
 39.21 defined in section 346.36, subdivision 6, against another of the same or a different kind is  
 39.22 guilty of a gross misdemeanor.

39.23 (c) Whoever possesses any device or substance with intent to use or permit the use  
 39.24 of the same to enhance an animal's ability to fight is guilty of a gross misdemeanor.

39.25 ~~(e)~~ (d) This subdivision shall not apply to the taking of a wild animal by hunting.

39.26 Sec. 14. **[364.021] PUBLIC EMPLOYMENT; CONSIDERATION OF**  
 39.27 **CRIMINAL RECORDS.**

39.28 (a) A public employer may not inquire into or consider the criminal record or  
 39.29 criminal history of an applicant for public employment until the applicant has been  
 39.30 selected for an interview by the employer.

39.31 (b) This section does not apply to the Department of Corrections or to public  
 39.32 employers who have a statutory duty to conduct a criminal history background check  
 39.33 or otherwise take into consideration a potential employee's criminal history during the  
 39.34 hiring process.

40.1 (c) This section does not prohibit a public employer from notifying applicants that  
40.2 law or the employer's policy will disqualify an individual with a particular criminal history  
40.3 background from employment in particular positions.

40.4 Sec. 15. Minnesota Statutes 2008, section 471.59, is amended by adding a subdivision  
40.5 to read:

40.6 Subd. 12a. **Joint exercise of police power; employees.** If an agreement,  
40.7 merger, or consolidation authorizes the exercise of peace officer or police powers by an  
40.8 officer appointed by one of the governmental units within the jurisdiction of the other  
40.9 governmental unit, a peace officer or public safety dispatcher, working pursuant to or as a  
40.10 result of that agreement, merger, or consolidation, must receive credit for accumulated  
40.11 vacation and sick leave time earned within the governmental unit employing the peace  
40.12 officer or public safety dispatcher immediately preceding the agreement, merger, or  
40.13 consolidation. If a peace officer or public safety dispatcher working pursuant to an  
40.14 agreement, merger, or consolidation becomes employed by the new entity, that peace  
40.15 officer or public safety dispatcher is considered to have begun employment with the new  
40.16 entity on the first day of employment by the governmental unit employing the peace  
40.17 officer or public safety dispatcher immediately preceding the creation of the new entity  
40.18 and must be credited with all previously accumulated vacation and sick leave time.

40.19 **EFFECTIVE DATE.** This section is effective July 1, 2009.

40.20 Sec. 16. Minnesota Statutes 2008, section 609.2231, is amended by adding a  
40.21 subdivision to read:

40.22 Subd. 8. **Public utility employees and contractors.** (a) A person is guilty of a  
40.23 gross misdemeanor who:

40.24 (1) assaults an employee or contractor of a utility while the employee or contractor  
40.25 is engaged in the performance of the employee's or contractor's duties;

40.26 (2) knows that the victim is a utility employee or contractor (i) performing duties of  
40.27 the victim's employment or (ii) fulfilling the victim's contractual obligations; and

40.28 (3) inflicts demonstrable bodily harm.

40.29 (b) As used in this subdivision, "utility" has the meaning given it in section 609.594,  
40.30 subdivision 1, clause (3).

40.31 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
40.32 committed on or after that date.



41.1 Sec. 17. Minnesota Statutes 2008, section 609.605, subdivision 1, is amended to read:

41.2 Subdivision 1. **Misdemeanor.** (a) The following terms have the meanings given  
41.3 them for purposes of this section.

41.4 (1) "Premises" means real property and any appurtenant building or structure.

41.5 (2) "Dwelling" means the building or part of a building used by an individual as a  
41.6 place of residence on either a full-time or a part-time basis. A dwelling may be part of a  
41.7 multidwelling or multipurpose building, or a manufactured home as defined in section  
41.8 168.002, subdivision 16.

41.9 (3) "Construction site" means the site of the construction, alteration, painting, or  
41.10 repair of a building or structure.

41.11 (4) "Owner or lawful possessor," as used in paragraph (b), clause (9), means the  
41.12 person on whose behalf a building or dwelling is being constructed, altered, painted, or  
41.13 repaired and the general contractor or subcontractor engaged in that work.

41.14 (5) "Posted," as used:

41.15 (i) in paragraph (b), clause (9), means the placement of a sign at least 11 inches  
41.16 square in a conspicuous place on the exterior of the building that is under construction,  
41.17 alteration, or repair, and additional signs in at least two conspicuous places for each ten  
41.18 acres being protected. The sign must carry an appropriate notice and the name of the  
41.19 person giving the notice, followed by the word "owner" if the person giving the notice  
41.20 is the holder of legal title to the land on which the construction site is located or by the  
41.21 word "occupant" if the person giving the notice is not the holder of legal title but is a  
41.22 lawful occupant of the land; and

41.23 (ii) in paragraph (b), clause (10), means the placement of signs that:

41.24 (A) state "no trespassing" or similar terms;

41.25 (B) display letters at least two inches high;

41.26 (C) state that Minnesota law prohibits trespassing on the property; and

41.27 (D) are posted in a conspicuous place and at intervals of 500 feet or less.

41.28 (6) "Business licensee," as used in paragraph (b), clause (9), includes a representative  
41.29 of a building trades labor or management organization.

41.30 (7) "Building" has the meaning given in section 609.581, subdivision 2.

41.31 (b) A person is guilty of a misdemeanor if the person intentionally:

41.32 (1) permits domestic animals or fowls under the actor's control to go on the land  
41.33 of another within a city;

41.34 (2) interferes unlawfully with a monument, sign, or pointer erected or marked to  
41.35 designate a point of a boundary, line or a political subdivision, or of a tract of land;

42.1 (3) trespasses on the premises of another and, without claim of right, refuses to  
42.2 depart from the premises on demand of the lawful possessor;

42.3 (4) occupies or enters the dwelling or locked or posted building of another, without  
42.4 claim of right or consent of the owner or the consent of one who has the right to give  
42.5 consent, except in an emergency situation;

42.6 (5) enters the premises of another with intent to take or injure any fruit, fruit trees, or  
42.7 vegetables growing on the premises, without the permission of the owner or occupant;

42.8 (6) enters or is found on the premises of a public or private cemetery without  
42.9 authorization during hours the cemetery is posted as closed to the public;

42.10 (7) returns to the property of another with the intent to abuse, disturb, or cause  
42.11 distress in or threaten another, after being told to leave the property and not to return, if the  
42.12 actor is without claim of right to the property or consent of one with authority to consent;

42.13 (8) returns to the property of another within one year after being told to leave the  
42.14 property and not to return, if the actor is without claim of right to the property or consent  
42.15 of one with authority to consent;

42.16 (9) enters the locked or posted construction site of another without the consent of the  
42.17 owner or lawful possessor, unless the person is a business licensee; ~~or~~

42.18 (10) enters the locked or posted aggregate mining site of another without the consent  
42.19 of the owner or lawful possessor, unless the person is a business licensee; or

42.20 (11) crosses into or enters any public or private area lawfully cordoned off by or at  
42.21 the direction of a peace officer engaged in the performance of official duties. As used in  
42.22 this clause: (i) an area may be "cordoned off" through the use of tape, barriers, or other  
42.23 means conspicuously placed and identifying the area as being restricted by the police;  
42.24 and (ii) "peace officer" has the meaning given in section 626.84, subdivision 1. It is an  
42.25 affirmative defense to a charge under this clause that a peace officer permitted entry into  
42.26 the restricted area.

42.27 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
42.28 committed on or after that date.

42.29 Sec. 18. Minnesota Statutes 2008, section 626.843, subdivision 1, is amended to read:

42.30 Subdivision 1. **Rules required.** The board shall adopt rules with respect to:

42.31 (1) the certification of ~~peace officer training schools, programs, or courses including~~  
42.32 ~~training schools for the Minnesota State Patrol. Such schools, programs and courses~~  
42.33 ~~shall include those administered by the state, county, school district, municipality, or~~  
42.34 ~~joint or contractual combinations thereof, and shall include preparatory instruction in~~

- 43.1 ~~law enforcement and minimum basic training courses~~ postsecondary schools to provide  
43.2 programs of professional peace officer education;
- 43.3 (2) ~~minimum courses of study, attendance requirements,~~ and equipment and facilities  
43.4 to be required at each certified ~~peace officers training~~ school ~~located~~ within the state;
- 43.5 (3) minimum qualifications for coordinators and instructors at certified ~~peace officer~~  
43.6 ~~training~~ schools offering a program of professional peace officer education located within  
43.7 this state;
- 43.8 (4) minimum standards of physical, mental, and educational fitness which shall  
43.9 govern the ~~recruitment~~ admission to professional peace officer education programs and  
43.10 the licensing of peace officers within the state, by any state, county, municipality, or joint  
43.11 or contractual combination thereof, including members of the Minnesota State Patrol;
- 43.12 (5) board-approved continuing education courses that ensure professional  
43.13 competence of peace officers and part-time peace officers;
- 43.14 (6) minimum standards of conduct which would affect the individual's performance  
43.15 of duties as a peace officer. These standards shall be established and published. The  
43.16 board shall review the minimum standards of conduct described in this clause for possible  
43.17 modification in 1998 and every three years after that time;
- 43.18 ~~(6) minimum basic training which peace officers appointed to temporary or~~  
43.19 ~~probationary terms shall complete before being eligible for permanent appointment,~~  
43.20 ~~and the time within which such basic training must be completed following any such~~  
43.21 ~~appointment to a temporary or probationary term;~~
- 43.22 ~~(7) minimum specialized training which part-time peace officers shall complete in~~  
43.23 ~~order to be eligible for continued employment as a part-time peace officer or permanent~~  
43.24 ~~employment as a peace officer, and the time within which the specialized training must~~  
43.25 ~~be completed;~~
- 43.26 ~~(8) content of minimum basic training courses required of graduates of certified law~~  
43.27 ~~enforcement training schools or programs. Such courses shall not duplicate the content~~  
43.28 ~~of certified academic or general background courses completed by a student but shall~~  
43.29 ~~concentrate on practical skills deemed essential for a peace officer. Successful completion~~  
43.30 ~~of such a course~~ (7) a set of educational learning objectives that must be met within a  
43.31 certified school's professional peace officer education program. These learning objectives  
43.32 must concentrate on the knowledge, skills, and abilities deemed essential for a peace  
43.33 officer. Education in these learning objectives shall be deemed ~~satisfaction~~ satisfactory for  
43.34 the completion of the minimum basic training requirement;
- 43.35 (9) ~~grading, reporting, attendance and other records, and certificates of attendance~~  
43.36 ~~or accomplishment;~~

44.1 ~~(10) the procedures to be followed by a part-time peace officer for notifying~~  
 44.2 ~~the board of intent to pursue the specialized training for part-time peace officers who~~  
 44.3 ~~desire to become peace officers pursuant to clause (7), and section 626.845, subdivision~~  
 44.4 ~~1, clause (7);~~

44.5 ~~(11)~~ (8) the establishment and use by any political subdivision or state law  
 44.6 enforcement agency ~~which~~ that employs persons licensed by the board of procedures for  
 44.7 investigation and resolution of allegations of misconduct by persons licensed by the board.  
 44.8 The procedures shall be in writing and shall be established on or before October 1, 1984;

44.9 ~~(12)~~ (9) the issues that must be considered by each political subdivision and state  
 44.10 law enforcement agency that employs persons licensed by the board in establishing  
 44.11 procedures under section 626.5532 to govern the conduct of peace officers who are in  
 44.12 pursuit of a vehicle being operated in violation of section 609.487, and requirements for  
 44.13 the training of peace officers in conducting pursuits. The adoption of specific procedures  
 44.14 and requirements is within the authority of the political subdivision or agency;

44.15 ~~(13)~~ (10) supervision of part-time peace officers and requirements for documentation  
 44.16 of hours worked by a part-time peace officer who is on active duty. These rules shall be  
 44.17 adopted by December 31, 1993;

44.18 ~~(14)~~ (11) citizenship requirements for ~~full-time peace officers~~ and part-time peace  
 44.19 officers;

44.20 ~~(15)~~ (12) driver's license requirements for ~~full-time peace officers~~ and part-time  
 44.21 peace officers; and

44.22 ~~(16)~~ (13) such other matters as may be necessary consistent with sections 626.84 to  
 44.23 626.863. Rules promulgated by the attorney general with respect to these matters may be  
 44.24 continued in force by resolution of the board if the board finds the rules to be consistent  
 44.25 with sections 626.84 to 626.863.

44.26 **EFFECTIVE DATE.** This section is effective August 1, 2009.

44.27 Sec. 19. Minnesota Statutes 2008, section 626.843, subdivision 3, is amended to read:

44.28 Subd. 3. **Board authority.** The board may, in addition:

44.29 (1) recommend studies, surveys, and reports to be made by the executive director  
 44.30 regarding the carrying out of the objectives and purposes of sections 626.841 to 626.863;

44.31 (2) visit and inspect any ~~peace officer training~~ certified school ~~approved by the~~  
 44.32 ~~executive director~~ that offers the professional peace officer education program or for  
 44.33 which application for ~~such approval~~ certification has been made;

45.1 (3) make recommendations, from time to time, to the executive director, attorney  
 45.2 general, and the governor regarding the carrying out of the objectives and purposes of  
 45.3 sections 626.841 to 626.863;

45.4 (4) perform such other acts as may be necessary or appropriate to carry out the  
 45.5 powers and duties of the board ~~as set forth in~~ under sections 626.841 to 626.863; and

45.6 (5) cooperate with and receive financial assistance from and join in projects or  
 45.7 enter into contracts with the federal government or its agencies for the furtherance of  
 45.8 the purposes of Laws 1977, chapter 433.

45.9 **EFFECTIVE DATE.** This section is effective August 1, 2009.

45.10 Sec. 20. Minnesota Statutes 2008, section 626.845, subdivision 1, is amended to read:

45.11 Subdivision 1. **Powers and duties.** The board shall have the following powers  
 45.12 and duties:

45.13 (1) to certify ~~peace officers' training schools or programs administered by state,~~  
 45.14 ~~county and municipalities located within this state in whole or in part no later than 90~~  
 45.15 ~~days after receipt of an application for certification. The reasons for noncertification of~~  
 45.16 ~~any school or program or part thereof shall be transmitted to the school within 90 days~~  
 45.17 ~~and shall contain a detailed explanation of the reasons for which the school or program~~  
 45.18 ~~was disapproved and an explanation of what supporting material or other requirements~~  
 45.19 ~~are necessary for the board to reconsider. Disapproval of a school or program shall~~  
 45.20 ~~not preclude the reapplication for certification of the school or program~~ postsecondary  
 45.21 schools to provide programs of professional peace officer education based on a set of  
 45.22 board-approved professional peace officer education learning objectives;

45.23 (2) to issue certificates to postsecondary schools, and to revoke ~~such~~ certification  
 45.24 when necessary to maintain the objectives and purposes of sections 626.841 to 626.863;

45.25 ~~(3) to certify, as qualified, instructors at peace officer training schools, and to issue~~  
 45.26 ~~appropriate certificates to such instructors;~~

45.27 ~~(4) (3) to license peace officers who have satisfactorily completed certified~~  
 45.28 ~~basic training programs, met the education and experience requirements and passed~~  
 45.29 examinations as required by the board;

45.30 (4) to develop and administer licensing examinations based on the board's learning  
 45.31 objectives;

45.32 ~~(5) to cause studies and surveys to be made relating to the establishment, operation,~~  
 45.33 ~~and approval of state, county, and municipal peace officer training schools;~~

46.1 ~~(6)~~ (5) to consult and cooperate with ~~state, county, and municipal peace officer~~  
 46.2 ~~training schools~~ continuing education providers for the development of in-service training  
 46.3 programs for peace officers;

46.4 ~~(7)~~ (6) to consult and cooperate with ~~universities, colleges, and technical colleges~~  
 46.5 ~~postsecondary schools~~ for the development of ~~specialized courses of instruction and study~~  
 46.6 ~~in the state for peace officers and part-time peace officers in police science and police~~  
 46.7 ~~administration~~ and improvement of professional peace officer education;

46.8 ~~(8)~~ (7) to consult and cooperate with other departments and agencies of the state and  
 46.9 federal government concerned with peace officer standards and training;

46.10 ~~(9)~~ (8) to perform such other acts as may be necessary and appropriate to carry out  
 46.11 the powers and duties ~~as set forth in the provisions~~ of sections 626.841 to 626.863;

46.12 ~~(10)~~ to coordinate the provision, on a regional basis, of ~~skills-oriented basic training~~  
 46.13 ~~courses to graduates of certified law enforcement training schools or programs~~;

46.14 ~~(11)~~ (9) to obtain criminal conviction data for persons seeking a license to be issued  
 46.15 or possessing a license issued by the board. The board shall have authority to obtain  
 46.16 criminal conviction data to the full extent that any other law enforcement agency, as that  
 46.17 term is defined by state or federal law, has to obtain the data;

46.18 ~~(12)~~ (10) to prepare and transmit annually to the governor a report of its activities  
 46.19 with respect to allocation of ~~moneys~~ money appropriated to it for peace officers training,  
 46.20 including the name ~~and address~~ of each recipient of money for that purpose; and the  
 46.21 amount awarded; ~~and the purpose of the award~~; and

46.22 ~~(13)~~ (11) to assist and cooperate with any political subdivision or state law  
 46.23 enforcement agency ~~which~~ that employs persons licensed by the board to establish written  
 46.24 ~~procedures for the investigation and resolution of allegations of misconduct of~~ policies as  
 46.25 mandated by the state pertaining to persons licensed by the board, and to enforce licensing  
 46.26 sanctions for failure to implement ~~such procedures~~ these policies.

46.27 In addition, the board may maintain data received from law enforcement agencies  
 46.28 under section 626.87, subdivision 5, provide the data to requesting law enforcement  
 46.29 agencies who are conducting background investigations, and maintain data on applicants  
 46.30 and licensees as part of peace officer license data. The data that may be maintained  
 46.31 include the name of the law enforcement agency conducting the investigation and data on  
 46.32 the candidate provided under section 626.87, subdivision 5, clauses (1) and (2).

46.33 **EFFECTIVE DATE.** This section is effective August 1, 2009.

47.1 Sec. 21. Minnesota Statutes 2008, section 626.863, is amended to read:

47.2 **626.863 UNAUTHORIZED PRACTICE.**

47.3 (a) A person who is not a peace officer or part-time peace officer is guilty of a  
47.4 misdemeanor if the person: (1) makes a representation of being a peace officer or part-time  
47.5 peace officer, or (2) performs or attempts to perform an act, duty, or responsibility reserved  
47.6 by law for licensed peace officers and part-time peace officers.

47.7 (b) A peace officer who authorizes or knowingly allows a person to violate paragraph  
47.8 (a) is guilty of a misdemeanor.

47.9 (c) The board shall designate the appropriate law enforcement agency to investigate  
47.10 violations of this section. The attorney general shall prosecute violations of this section.

47.11 (d) A person who violates this section and who has previously been convicted of a  
47.12 violation of this section is guilty of a gross misdemeanor.

47.13 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
47.14 committed on or after that date.

47.15 Sec. 22. **STATE BOARD OF PHARMACY; REPORT TO THE LEGISLATURE.**

47.16 As part of the 2009 report to the legislature mandated by Minnesota Statutes,  
47.17 section 152.02, subdivision 12, the state Board of Pharmacy shall specify all instances  
47.18 where the controlled substance schedules contained in Minnesota Rules, parts 6800.4210  
47.19 to 6800.4250, differ from the controlled substance schedules contained in Minnesota  
47.20 Statutes, section 152.02, subdivisions 2 to 6.

47.21 **EFFECTIVE DATE.** This section is effective August 1, 2009.

47.22 **ARTICLE 6**

47.23 **EMERGENCY COMMUNICATIONS**

47.24 Section 1. Minnesota Statutes 2008, section 13.87, subdivision 1, is amended to read:

47.25 Subdivision 1. **Criminal history data.** (a) **Definition.** For purposes of this  
47.26 subdivision, "criminal history data" means all data maintained in criminal history  
47.27 records compiled by the Bureau of Criminal Apprehension ~~and disseminated through~~  
47.28 ~~the criminal justice information system~~, including, but not limited to fingerprints,  
47.29 photographs, identification data, arrest data, prosecution data, criminal court data, custody  
47.30 and supervision data.

47.31 (b) **Classification.** Criminal history data maintained by agencies, political  
47.32 subdivisions and statewide systems are classified as private, pursuant to section 13.02,  
47.33 subdivision 12, except that data created, collected, or maintained by the Bureau of

48.1 Criminal Apprehension that identify an individual who was convicted of a crime, the  
48.2 offense of which the individual was convicted, associated court disposition and sentence  
48.3 information, controlling agency, and confinement information are public data for 15 years  
48.4 following the discharge of the sentence imposed for the offense. If an individual's name  
48.5 or other identifying information is erroneously associated with a criminal history and a  
48.6 determination is made through a fingerprint verification that the individual is not the  
48.7 subject of the criminal history, the name or other identifying information must be redacted  
48.8 from the public criminal history data. The name and other identifying information must be  
48.9 retained in the criminal history and are classified as private data.

48.10 The Bureau of Criminal Apprehension shall provide to the public at the central office  
48.11 of the bureau the ability to inspect in person, at no charge, through a computer monitor the  
48.12 criminal conviction data classified as public under this subdivision.

48.13 (c) **Limitation.** Nothing in paragraph (a) or (b) shall limit public access to data  
48.14 made public by section 13.82.

48.15 **EFFECTIVE DATE.** This section is effective August 1, 2009.

48.16 Sec. 2. Minnesota Statutes 2008, section 122A.18, subdivision 8, is amended to read:

48.17 Subd. 8. **Background checks.** (a) The Board of Teaching and the commissioner  
48.18 of education must request a criminal history background check from the superintendent  
48.19 of the Bureau of Criminal Apprehension on all applicants for initial licenses under their  
48.20 jurisdiction. An application for a license under this section must be accompanied by:

48.21 (1) an executed criminal history consent form, including fingerprints; and

48.22 (2) a money order or cashier's check payable to the Bureau of Criminal Apprehension  
48.23 for the fee for conducting the criminal history background check.

48.24 (b) The superintendent of the Bureau of Criminal Apprehension shall perform  
48.25 the background check required under paragraph (a) by retrieving criminal history data  
48.26 ~~maintained in the criminal justice information system computers~~ as defined in section  
48.27 13.87 and shall also conduct a search of the national criminal records repository, ~~including~~  
48.28 ~~the criminal justice data communications network~~. The superintendent is authorized to  
48.29 exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal  
48.30 history check. The superintendent shall recover the cost to the bureau of a background  
48.31 check through the fee charged to the applicant under paragraph (a).

48.32 (c) The Board of Teaching or the commissioner of education may issue a license  
48.33 pending completion of a background check under this subdivision, but must notify  
48.34 the individual that the individual's license may be revoked based on the result of the  
48.35 background check.



49.1 **EFFECTIVE DATE.** This section is effective August 1, 2009.

49.2 Sec. 3. Minnesota Statutes 2008, section 123B.03, subdivision 1, is amended to read:

49.3 Subdivision 1. **Background check required.** (a) A school hiring authority shall  
49.4 request a criminal history background check from the superintendent of the Bureau of  
49.5 Criminal Apprehension on all individuals who are offered employment in a school and  
49.6 on all individuals, except enrolled student volunteers, who are offered the opportunity to  
49.7 provide athletic coaching services or other extracurricular academic coaching services to a  
49.8 school, regardless of whether any compensation is paid. In order for an individual to be  
49.9 eligible for employment or to provide the services, the individual must provide an executed  
49.10 criminal history consent form and a money order or check payable to either the Bureau of  
49.11 Criminal Apprehension or the school hiring authority, at the discretion of the school hiring  
49.12 authority, in an amount equal to the actual cost to the Bureau of Criminal Apprehension  
49.13 and the school district of conducting the criminal history background check. A school  
49.14 hiring authority deciding to receive payment may, at its discretion, accept payment in the  
49.15 form of a negotiable instrument other than a money order or check and shall pay the  
49.16 superintendent of the Bureau of Criminal Apprehension directly to conduct the background  
49.17 check. The superintendent of the Bureau of Criminal Apprehension shall conduct the  
49.18 background check by retrieving criminal history data ~~maintained in the criminal justice~~  
49.19 ~~information system computers~~ as defined in section 13.87. A school hiring authority,  
49.20 at its discretion, may decide not to request a criminal history background check on an  
49.21 individual who holds an initial entrance license issued by the State Board of Teaching or  
49.22 the commissioner of education within the 12 months preceding an offer of employment.

49.23 (b) A school hiring authority may use the results of a criminal background check  
49.24 conducted at the request of another school hiring authority if:

49.25 (1) the results of the criminal background check are on file with the other school  
49.26 hiring authority or otherwise accessible;

49.27 (2) the other school hiring authority conducted a criminal background check within  
49.28 the previous 12 months;

49.29 (3) the individual who is the subject of the criminal background check executes a  
49.30 written consent form giving a school hiring authority access to the results of the check; and

49.31 (4) there is no reason to believe that the individual has committed an act subsequent  
49.32 to the check that would disqualify the individual for employment.

49.33 (c) A school hiring authority may, at its discretion, request a criminal history  
49.34 background check from the superintendent of the Bureau of Criminal Apprehension on  
49.35 any individual who seeks to enter a school or its grounds for the purpose of serving as a

50.1 school volunteer or working as an independent contractor or student employee. In order  
50.2 for an individual to enter a school or its grounds under this paragraph when the school  
50.3 hiring authority decides to request a criminal history background check on the individual,  
50.4 the individual first must provide an executed criminal history consent form and a money  
50.5 order, check, or other negotiable instrument payable to the school district in an amount  
50.6 equal to the actual cost to the Bureau of Criminal Apprehension and the school district  
50.7 of conducting the criminal history background check. Notwithstanding section 299C.62,  
50.8 subdivision 1, the cost of the criminal history background check under this paragraph is  
50.9 the responsibility of the individual.

50.10 (d) For all nonstate residents who are offered employment in a school, a school  
50.11 hiring authority shall request a criminal history background check on such individuals  
50.12 from the superintendent of the Bureau of Criminal Apprehension and from the government  
50.13 agency performing the same function in the resident state or, if no government entity  
50.14 performs the same function in the resident state, from the Federal Bureau of Investigation.  
50.15 Such individuals must provide an executed criminal history consent form and a money  
50.16 order, check, or other negotiable instrument payable to the school hiring authority in an  
50.17 amount equal to the actual cost to the government agencies and the school district of  
50.18 conducting the criminal history background check. Notwithstanding section 299C.62,  
50.19 subdivision 1, the cost of the criminal history background check under this paragraph is  
50.20 the responsibility of the individual.

50.21 (e) At the beginning of each school year or when a student enrolls, a school hiring  
50.22 authority must notify parents and guardians about the school hiring authority's policy  
50.23 requiring a criminal history background check on employees and other individuals who  
50.24 provide services to the school, and identify those positions subject to a background check  
50.25 and the extent of the hiring authority's discretion in requiring a background check. The  
50.26 school hiring authority may include the notice in the student handbook, a school policy  
50.27 guide, or other similar communication. Nothing in this paragraph affects a school hiring  
50.28 authority's ability to request a criminal history background check on an individual under  
50.29 paragraph (c).

50.30 **EFFECTIVE DATE.** This section is effective August 1, 2009.

50.31 Sec. 4. Minnesota Statutes 2008, section 246.13, subdivision 2, is amended to read:

50.32 Subd. 2. **Definitions; risk assessment and management.** (a) As used in this  
50.33 section:

50.34 (1) "appropriate and necessary medical and other records" includes patient medical  
50.35 records and other protected health information as defined by Code of Federal Regulations,

51.1 title 45, section 164.501, relating to a patient in a state-operated services facility including,  
51.2 but not limited to, the patient's treatment plan and abuse prevention plan that is pertinent  
51.3 to the patient's ongoing care, treatment, or placement in a community-based treatment  
51.4 facility or a health care facility that is not operated by state-operated services, and  
51.5 includes information describing the level of risk posed by a patient when the patient  
51.6 enters the facility;

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

51.9 (3) "criminal history data" means those data maintained or used by the Departments  
51.10 of Corrections and Public Safety and by the supervisory authorities listed in section  
51.11 13.84, subdivision 1, that relate to an individual's criminal history or propensity for  
51.12 violence, including data in the Corrections Offender Management System (COMS) and  
51.13 Statewide Supervision System (S3) maintained by the Department of Corrections; ~~the~~  
51.14 ~~Criminal Justice Information System (CJIS)~~ criminal history data as defined in section  
51.15 13.87, integrated search service as defined in section 13.873, and the Predatory Offender  
51.16 Registration (POR) system maintained by the Department of Public Safety; and the  
51.17 ~~CrimNet system;~~

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

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

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

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

51.24 (b) To promote public safety and for the purposes and subject to the requirements of  
51.25 this paragraph, the commissioner or the commissioner's designee shall have access to, and  
51.26 may review and disclose, medical and criminal history data as provided by this section, as  
51.27 necessary to comply with Minnesota Rules, part 1205.0400:

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

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

51.33 (3) to prepare, amend, or revise the abuse prevention plans required under section  
51.34 626.557, subdivision 14, and individual patient treatment plans required under section  
51.35 253B.03, subdivision 7;

52.1 (4) to facilitate the custody, supervision, and transport of individuals transferred  
52.2 between the Department of Corrections and the Department of Human Services; or

52.3 (5) to effectively monitor and supervise individuals who are under the authority of  
52.4 the Department of Corrections, the Department of Human Services, and the supervisory  
52.5 authorities listed in section 13.84, subdivision 1.

52.6 (c) The state-operated services treatment facility must make a good faith effort  
52.7 to obtain written authorization from the patient before releasing information from the  
52.8 patient's medical record.

52.9 (d) If the patient refuses or is unable to give informed consent to authorize the  
52.10 release of information required above, the chief executive officer for state-operated  
52.11 services shall provide the appropriate and necessary medical and other records. The chief  
52.12 executive officer shall comply with the minimum necessary requirements.

52.13 (e) The commissioner may have access to the National Crime Information Center  
52.14 (NCIC) database, through the Department of Public Safety, in support of the law  
52.15 enforcement functions described in paragraph (b).

52.16 **EFFECTIVE DATE.** This section is effective August 1, 2009.

52.17 Sec. 5. Minnesota Statutes 2008, section 253B.141, subdivision 1, is amended to read:

52.18 Subdivision 1. **Report of absence.** (a) If a patient committed under this chapter or  
52.19 detained under a judicial hold is absent without authorization, and either: (1) does not  
52.20 return voluntarily within 72 hours of the time the unauthorized absence began; or (2) is  
52.21 considered by the head of the treatment facility to be a danger to self or others, then the  
52.22 head of the treatment facility shall report the absence to the local law enforcement agency.  
52.23 The head of the treatment facility shall also notify the committing court that the patient is  
52.24 absent and that the absence has been reported to the local law enforcement agency. The  
52.25 committing court may issue an order directing the law enforcement agency to transport the  
52.26 patient to an appropriate facility.

52.27 (b) Upon receiving a report that a patient subject to this section is absent without  
52.28 authorization, the local law enforcement agency shall enter information on the patient  
52.29 ~~through the criminal justice information system~~ into the missing persons file of the  
52.30 National Crime Information Center computer according to the missing persons practices.

52.31 **EFFECTIVE DATE.** This section is effective August 1, 2009.

52.32 Sec. 6. Minnesota Statutes 2008, section 299C.115, is amended to read:

52.33 **299C.115 WARRANT INFORMATION PROVIDED TO STATE.**

53.1 (a) By January 1, 1996, every county shall, in the manner provided in either clause  
 53.2 (1) or (2), make warrant information available to other users of the ~~Minnesota criminal~~  
 53.3 ~~justice information system~~ criminal justice data communications network as defined  
 53.4 in section 299C.46:

53.5 (1) the county shall enter the warrant information in the warrant file ~~of the Minnesota~~  
 53.6 ~~criminal justice information system~~ maintained by the Bureau of Criminal Apprehension  
 53.7 in the Department of Public Safety; or

53.8 (2) the county, at no charge to the state, shall make the warrant information that  
 53.9 is maintained in the county's computer accessible by means of a single query ~~to the~~  
 53.10 ~~Minnesota criminal justice information system~~ made through the Bureau of Criminal  
 53.11 Apprehension in the Department of Public Safety.

53.12 (b) As used in this section, "warrant information" means information on all  
 53.13 outstanding felony, gross misdemeanor, and misdemeanor warrants for adults and  
 53.14 juveniles that are issued within the county.

53.15 **EFFECTIVE DATE.** This section is effective August 1, 2009.

53.16 Sec. 7. Minnesota Statutes 2008, section 299C.40, subdivision 1, is amended to read:

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

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

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

53.28 **EFFECTIVE DATE.** This section is effective August 1, 2009.

53.29 Sec. 8. Minnesota Statutes 2008, section 299C.46, subdivision 1, is amended to read:

53.30 Subdivision 1. **Establishment; interconnection.** The commissioner of public  
 53.31 safety shall establish a criminal justice data communications network which will enable  
 53.32 the interconnection of the criminal justice agencies within the state ~~into a unified criminal~~  
 53.33 ~~justice information system.~~ The commissioner of public safety is authorized to lease

54.1 or purchase facilities and equipment as may be necessary to establish and maintain the  
54.2 data communications network.

54.3 **EFFECTIVE DATE.** This section is effective August 1, 2009.

54.4 Sec. 9. Minnesota Statutes 2008, section 299C.52, subdivision 1, is amended to read:

54.5 Subdivision 1. **Definitions.** As used in sections 299C.52 to 299C.56, the following  
54.6 terms have the meanings given them:

54.7 (a) "Child" means any person under the age of 18 years or any person certified or  
54.8 known to be mentally incompetent.

54.9 ~~(b) "CJS" means Minnesota criminal justice information system.~~

54.10 ~~(c)~~ (b) "Missing" means the status of a child after a law enforcement agency that  
54.11 has received a report of a missing child has conducted a preliminary investigation and  
54.12 determined that the child cannot be located.

54.13 ~~(d)~~ (c) "NCIC" means National Crime Information Center.

54.14 ~~(e)~~ (d) "Endangered" means that a law enforcement official has received sufficient  
54.15 evidence that the child is with a person who presents a threat of immediate physical injury  
54.16 to the child or physical or sexual abuse of the child.

54.17 **EFFECTIVE DATE.** This section is effective August 1, 2009.

54.18 Sec. 10. Minnesota Statutes 2008, section 299C.52, subdivision 3, is amended to read:

54.19 Subd. 3. **Computer equipment and programs.** The commissioner shall provide  
54.20 the necessary computer hardware and computer programs to enter, modify, and cancel  
54.21 information on missing children in the NCIC computer ~~through the CJS~~. These programs  
54.22 must provide for search and retrieval of information using the following identifiers:  
54.23 physical description, name and date of birth, name and Social Security number, name  
54.24 and driver's license number, vehicle license number, and vehicle identification number.  
54.25 The commissioner shall also provide a system for regional, statewide, multistate, and  
54.26 nationwide broadcasts of information on missing children. These broadcasts shall be  
54.27 made by local law enforcement agencies where possible or, in the case of statewide or  
54.28 nationwide broadcasts, by the Bureau of Criminal Apprehension upon request of the local  
54.29 law enforcement agency.

54.30 **EFFECTIVE DATE.** This section is effective August 1, 2009.

54.31 Sec. 11. Minnesota Statutes 2008, section 299C.52, subdivision 4, is amended to read:

55.1 Subd. 4. **Authority to enter or retrieve information.** Only law enforcement  
55.2 agencies may enter missing child information ~~through the CJS~~ into the NCIC computer or  
55.3 retrieve information ~~through the CJS~~ from the NCIC computer.

55.4 **EFFECTIVE DATE.** This section is effective August 1, 2009.

55.5 Sec. 12. Minnesota Statutes 2008, section 299C.53, subdivision 1, is amended to read:

55.6 Subdivision 1. **Investigation and entry of information.** Upon receiving a report  
55.7 of a child believed to be missing, a law enforcement agency shall conduct a preliminary  
55.8 investigation to determine whether the child is missing. If the child is initially determined  
55.9 to be missing and endangered, the agency shall immediately consult the Bureau of  
55.10 Criminal Apprehension during the preliminary investigation, in recognition of the fact  
55.11 that the first two hours are critical. If the child is determined to be missing, the agency  
55.12 shall immediately enter identifying and descriptive information about the child ~~through~~  
55.13 ~~the CJS~~ into the NCIC computer. Law enforcement agencies having direct access to ~~the~~  
55.14 ~~CJS~~ and the NCIC computer shall enter and retrieve the data directly and shall cooperate  
55.15 in the entry and retrieval of data on behalf of law enforcement agencies which do not  
55.16 have direct access to the systems.

55.17 **EFFECTIVE DATE.** This section is effective August 1, 2009.

55.18 Sec. 13. Minnesota Statutes 2008, section 299C.62, subdivision 1, is amended to read:

55.19 Subdivision 1. **Generally.** The superintendent shall develop procedures to enable a  
55.20 children's service provider to request a background check to determine whether a children's  
55.21 service worker is the subject of any reported conviction for a background check crime.  
55.22 The superintendent shall perform the background check by retrieving and reviewing data  
55.23 on background check crimes ~~maintained in the CJS computers~~. The superintendent is  
55.24 authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes  
55.25 of a criminal history check. The superintendent shall recover the cost of a background  
55.26 check through a fee charged the children's service provider.

55.27 **EFFECTIVE DATE.** This section is effective August 1, 2009.

55.28 Sec. 14. Minnesota Statutes 2008, section 299C.65, subdivision 1, is amended to read:

55.29 Subdivision 1. **Membership, duties.** (a) The Criminal and Juvenile Justice  
55.30 Information Policy Group consists of the commissioner of corrections, the commissioner  
55.31 of public safety, the state chief information officer, the commissioner of finance, four  
55.32 members of the judicial branch appointed by the chief justice of the Supreme Court,

56.1 and the chair and first vice-chair of the Criminal and Juvenile Justice Information Task  
56.2 Force. The policy group may appoint additional, nonvoting members as necessary from  
56.3 time to time.

56.4 (b) The commissioner of public safety is designated as the chair of the policy group.  
56.5 The commissioner and the policy group have overall responsibility for the ~~successful~~  
56.6 ~~completion~~ integration of statewide criminal justice information ~~system integration~~  
56.7 ~~(CriMNet)~~ systems. This integration effort shall be known as CriMNet. The policy group  
56.8 may hire an executive director to manage the CriMNet projects and to be responsible for  
56.9 the day-to-day operations of CriMNet. The executive director shall serve at the pleasure  
56.10 of the policy group in unclassified service. The policy group must ensure that generally  
56.11 accepted project management techniques are utilized for each CriMNet project, including:

- 56.12 (1) clear sponsorship;
- 56.13 (2) scope management;
- 56.14 (3) project planning, control, and execution;
- 56.15 (4) continuous risk assessment and mitigation;
- 56.16 (5) cost management;
- 56.17 (6) quality management reviews;
- 56.18 (7) communications management;
- 56.19 (8) proven methodology; and
- 56.20 (9) education and training.

56.21 (c) Products and services for CriMNet project management, system design,  
56.22 implementation, and application hosting must be acquired using an appropriate  
56.23 procurement process, which includes:

- 56.24 (1) a determination of required products and services;
- 56.25 (2) a request for proposal development and identification of potential sources;
- 56.26 (3) competitive bid solicitation, evaluation, and selection; and
- 56.27 (4) contract administration and close-out.

56.28 (d) The policy group shall study and make recommendations to the governor, the  
56.29 Supreme Court, and the legislature on:

56.30 (1) a framework for integrated criminal justice information systems, including the  
56.31 development and maintenance of a community data model for state, county, and local  
56.32 criminal justice information;

56.33 (2) the responsibilities of each entity within the criminal and juvenile justice systems  
56.34 concerning the collection, maintenance, dissemination, and sharing of criminal justice  
56.35 information with one another;



- 57.1 (3) actions necessary to ensure that information maintained in the criminal justice  
57.2 information systems is accurate and up-to-date;
- 57.3 (4) the development of an information system containing criminal justice  
57.4 information on gross misdemeanor-level and felony-level juvenile offenders that is part of  
57.5 the integrated criminal justice information system framework;
- 57.6 (5) the development of an information system containing criminal justice  
57.7 information on misdemeanor arrests, prosecutions, and convictions that is part of the  
57.8 integrated criminal justice information system framework;
- 57.9 (6) comprehensive training programs and requirements for all individuals in criminal  
57.10 justice agencies to ensure the quality and accuracy of information in those systems;
- 57.11 (7) continuing education requirements for individuals in criminal justice agencies  
57.12 who are responsible for the collection, maintenance, dissemination, and sharing of  
57.13 criminal justice data;
- 57.14 (8) a periodic audit process to ensure the quality and accuracy of information  
57.15 contained in the criminal justice information systems;
- 57.16 (9) the equipment, training, and funding needs of the state and local agencies that  
57.17 participate in the criminal justice information systems;
- 57.18 (10) the impact of integrated criminal justice information systems on individual  
57.19 privacy rights;
- 57.20 (11) the impact of proposed legislation on the criminal justice system, including any  
57.21 fiscal impact, need for training, changes in information systems, and changes in processes;
- 57.22 (12) the collection of data on race and ethnicity in criminal justice information  
57.23 systems;
- 57.24 (13) the development of a tracking system for domestic abuse orders for protection;
- 57.25 (14) processes for expungement, correction of inaccurate records, destruction of  
57.26 records, and other matters relating to the privacy interests of individuals; and
- 57.27 (15) the development of a database for extended jurisdiction juvenile records and  
57.28 whether the records should be public or private and how long they should be retained.

57.29 **EFFECTIVE DATE.** This section is effective August 1, 2009.

57.30 Sec. 15. Minnesota Statutes 2008, section 299C.65, subdivision 5, is amended to read:

57.31 Subd. 5. **Review of funding and grant requests.** (a) The Criminal and Juvenile  
57.32 Justice Information Policy Group shall review the funding requests for criminal justice  
57.33 information systems from state, county, and municipal government agencies. The  
57.34 policy group shall review the requests for compatibility to statewide criminal justice  
57.35 information system standards. The review shall be forwarded to the chairs and ranking

58.1 minority members of the house of representatives and senate committees and divisions  
58.2 with jurisdiction over criminal justice funding and policy.

58.3 (b) The ~~CrimNet program office~~ executive director, in consultation with the  
58.4 Criminal and Juvenile Justice Information Task Force and with the approval of the policy  
58.5 group, shall create the requirements for any grant request and determine the integration  
58.6 priorities for the grant period. The ~~CrimNet program office~~ executive director shall also  
58.7 review the requests submitted for compatibility to statewide criminal justice information  
58.8 systems standards.

58.9 (c) The task force shall review funding requests for criminal justice information  
58.10 systems grants and make recommendations to the policy group. The policy group shall  
58.11 review the recommendations of the task force and shall make a final recommendation  
58.12 for criminal justice information systems grants to be made by the commissioner of  
58.13 public safety. Within the limits of available state appropriations and federal grants, the  
58.14 commissioner of public safety shall make grants for projects that have been recommended  
58.15 by the policy group.

58.16 (d) The policy group may approve grants only if the applicant provides an  
58.17 appropriate share of matching funds as determined by the policy group to help pay up to  
58.18 one-half of the costs of the grant request. The matching requirement must be constant for  
58.19 all applicants within each grant offering. The policy group shall adopt policies concerning  
58.20 the use of in-kind resources to satisfy the match requirement and the sources from which  
58.21 matching funds may be obtained. Local operational or technology staffing costs may be  
58.22 considered as meeting this match requirement. Each grant recipient shall certify to the  
58.23 policy group that it has not reduced funds from local, county, federal, or other sources  
58.24 which, in the absence of the grant, would have been made available to the grant recipient  
58.25 to improve or integrate criminal justice technology.

58.26 (e) All grant recipients shall submit to the ~~CrimNet program office~~ executive  
58.27 director all requested documentation including grant status, financial reports, and a final  
58.28 report evaluating how the grant funds improved the agency's criminal justice integration  
58.29 priorities. The ~~CrimNet program office~~ executive director shall establish the recipient's  
58.30 reporting dates at the time funds are awarded.

58.31 **EFFECTIVE DATE.** This section is effective August 1, 2009.

58.32 Sec. 16. Minnesota Statutes 2008, section 299C.68, subdivision 2, is amended to read:

58.33 Subd. 2. **Procedures.** The superintendent shall develop procedures to enable an  
58.34 owner to request a background check to determine whether a manager is the subject of  
58.35 a reported conviction for a background check crime. The superintendent shall perform

59.1 the background check by retrieving and reviewing data on background check crimes  
 59.2 ~~maintained in the CJS computers~~. The superintendent shall notify the owner in writing  
 59.3 of the results of the background check. If the manager has resided in Minnesota for  
 59.4 less than ten years or upon request of the owner, the superintendent shall also either:  
 59.5 (1) conduct a search of the national criminal records repository, including the criminal  
 59.6 justice data communications network; or (2) conduct a search of the criminal justice data  
 59.7 communications network records in the state or states where the manager has resided  
 59.8 for the preceding ten years. The superintendent is authorized to exchange fingerprints  
 59.9 with the Federal Bureau of Investigation for purposes of the criminal history check.  
 59.10 The superintendent shall recover the cost of a background check through a fee charged  
 59.11 to the owner.

59.12 **EFFECTIVE DATE.** This section is effective August 1, 2009.

59.13 Sec. 17. Minnesota Statutes 2008, section 388.24, subdivision 4, is amended to read:

59.14 Subd. 4. **Reporting of data to ~~criminal justice information system (CJIS)~~**  
 59.15 **Bureau of Criminal Apprehension.** Effective August 1, 1997, every county attorney who  
 59.16 establishes a diversion program under this section shall report the following information  
 59.17 to the Bureau of Criminal Apprehension:

59.18 (1) the name and date of birth of each diversion program participant and any other  
 59.19 identifying information the superintendent considers necessary;

59.20 (2) the date on which the individual began to participate in the diversion program;

59.21 (3) the date on which the individual is expected to complete the diversion program;

59.22 (4) the date on which the individual successfully completed the diversion program,  
 59.23 where applicable; and

59.24 (5) the date on which the individual was removed from the diversion program for  
 59.25 failure to successfully complete the individual's goals, where applicable.

59.26 The superintendent shall cause the information described in this subdivision to be  
 59.27 entered into and maintained in the criminal history file ~~of the Minnesota Criminal Justice~~  
 59.28 ~~Information System~~ as defined in section 13.87.

59.29 **EFFECTIVE DATE.** This section is effective August 1, 2009.

59.30 Sec. 18. Minnesota Statutes 2008, section 401.065, subdivision 3a, is amended to read:

59.31 Subd. 3a. **Reporting of data to ~~criminal justice information system (CJIS)~~**  
 59.32 **Bureau of Criminal Apprehension.** (a) Every county attorney who establishes a

60.1 diversion program under this section shall report the following information to the Bureau  
60.2 of Criminal Apprehension:

60.3 (1) the name and date of birth of each diversion program participant and any other  
60.4 identifying information the superintendent considers necessary;

60.5 (2) the date on which the individual began to participate in the diversion program;

60.6 (3) the date on which the individual is expected to complete the diversion program;

60.7 (4) the date on which the individual successfully completed the diversion program,  
60.8 where applicable; and

60.9 (5) the date on which the individual was removed from the diversion program for  
60.10 failure to successfully complete the individual's goals, where applicable.

60.11 The superintendent shall cause the information described in this subdivision to be  
60.12 entered into and maintained in the criminal history file ~~of the Minnesota criminal justice~~  
60.13 ~~information system~~ as defined in section 13.87.

60.14 (b) Effective August 1, 1997, the reporting requirements of this subdivision shall  
60.15 apply to misdemeanor offenses.

60.16 **EFFECTIVE DATE.** This section is effective August 1, 2009.

60.17 Sec. 19. Minnesota Statutes 2008, section 403.36, is amended by adding a subdivision  
60.18 to read:

60.19 Subd. 1g. **State Interoperability Executive Committee.** (a) In addition to  
60.20 responsibilities provided for in subdivision 1e, the Statewide Radio Board is designated as  
60.21 Minnesota's State Interoperability Executive Committee.

60.22 (b) As Minnesota's State Interoperability Executive Committee, the Statewide  
60.23 Radio Board shall:

60.24 (1) develop and maintain a statewide plan for local and private public safety  
60.25 communications interoperability that integrates with the Minnesota emergency operation  
60.26 plan;

60.27 (2) develop and adopt guidelines and operational standards for local and private  
60.28 public safety communications interoperability within Minnesota;

60.29 (3) promote coordination and cooperation among local, state, federal, and  
60.30 tribal public safety agencies in addressing statewide public safety communications  
60.31 interoperability within Minnesota;

60.32 (4) advise the commissioner of the Department of Public Safety on public safety  
60.33 communications interoperability and on the allocation and use of funds made available to  
60.34 Minnesota to support public safety communications interoperability;

61.1 (5) to the extent permitted by federal law, Federal Communications Commission  
 61.2 regulations, and the National Telecommunications and Information Administration,  
 61.3 develop guidelines and standards for the efficient use of interoperability frequencies on all  
 61.4 frequency spectrums assigned to public safety users; and

61.5 (6) to the extent permitted by federal law and treaties with Canada, develop  
 61.6 guidelines and standards that support interoperability with adjoining states and provinces  
 61.7 of Canada along Minnesota's northern border.

61.8 **EFFECTIVE DATE.** This section is effective August 1, 2009.

61.9 Sec. 20. Minnesota Statutes 2008, section 403.36, subdivision 2, is amended to read:

61.10 Subd. 2. **Plan contents.** (a) The statewide, shared radio and communication system  
 61.11 project plan must include:

61.12 (1) standards, guidelines, and comprehensive design for the system, including use  
 61.13 and integration of existing public and private communications infrastructure;

61.14 (2) proposed project implementation schedule, phases, and estimated costs for each  
 61.15 phase of the plan;

61.16 (3) recommended statutory changes required for effective implementation and  
 61.17 administration of the statewide, shared trunked radio and communication system; ~~and~~

61.18 (4) an interoperability committee to make recommendations on the statewide plan  
 61.19 for local and private public safety communications interoperability and on guidelines and  
 61.20 operational standards necessary to promote public safety communications interoperability  
 61.21 within Minnesota; and

61.22 ~~(4)~~ (5) a policy for the lease of excess space or capacity on systems constructed under  
 61.23 the project plan, consistent with section 174.70, subdivision 2, with priority given first to  
 61.24 local units of government for public safety communication transmission needs and second  
 61.25 to any other communications transmission needs of either the public or private sector.

61.26 (b) The Statewide Radio Board must ensure that generally accepted project  
 61.27 management techniques are utilized for each project or phase of the backbone of the  
 61.28 statewide, shared radio and communication system consistent with guidelines of the  
 61.29 Project Management Office of the Office of Enterprise Technology:

61.30 (1) clear sponsorship;

61.31 (2) scope management;

61.32 (3) project planning, control, and execution;

61.33 (4) continuous risk assessment and mitigation;

61.34 (5) cost management;

61.35 (6) quality management reviews;

62.1 (7) communications management; and

62.2 (8) proven methodology.

62.3 **EFFECTIVE DATE.** This section is effective August 1, 2009.

62.4 Sec. 21. Minnesota Statutes 2008, section 480.23, is amended to read:

62.5 **480.23 COMPUTER ACQUISITION BY COURTS.**

62.6 In order to facilitate the effective management and coordination of the Minnesota  
62.7 courts system, an appropriate official of any court or of a local governmental unit in  
62.8 providing services to any court, if authorized by the state court administrator and with the  
62.9 concurrence of the contracting vendor, may acquire electronic data processing equipment  
62.10 or services through an existing contract originated by the Supreme Court. The state court  
62.11 administrator shall grant this authority only pursuant to the implementation of justice  
62.12 information systems compatible with systems ~~participating on the Minnesota Criminal~~  
62.13 ~~Justice Information Systems Communications Network~~ administered by the Bureau of  
62.14 Criminal Apprehension in the Department of Public Safety.

62.15 **EFFECTIVE DATE.** This section is effective August 1, 2009.

62.16 Sec. 22. Minnesota Statutes 2008, section 518.165, subdivision 5, is amended to read:

62.17 Subd. 5. **Procedure, criminal history, and maltreatment records background**  
62.18 **study.** (a) When the court requests a background study under subdivision 4, paragraph  
62.19 (a), the request shall be submitted to the Department of Human Services through the  
62.20 department's electronic online background study system.

62.21 (b) When the court requests a search of the National Criminal Records Repository,  
62.22 the court must provide a set of classifiable fingerprints of the subject of the study on a  
62.23 fingerprint card provided by the commissioner of human services.

62.24 (c) The commissioner of human services shall provide the court with ~~information~~  
62.25 criminal history data as defined in section 13.87 from the Bureau of Criminal  
62.26 ~~Apprehension's Criminal Justice Information System~~ Apprehension in the Department of  
62.27 Public Safety, other criminal history data held by the commissioner of human services,  
62.28 and data regarding substantiated maltreatment of a minor under section 626.556, and  
62.29 substantiated maltreatment of a vulnerable adult under section 626.557, within 15  
62.30 working days of receipt of a request. If the subject of the study has been determined by  
62.31 the Department of Human Services or the Department of Health to be the perpetrator  
62.32 of substantiated maltreatment of a minor or vulnerable adult in a licensed facility, the  
62.33 response must include a copy of the public portion of the investigation memorandum

63.1 under section 626.556, subdivision 10f, or the public portion of the investigation  
63.2 memorandum under section 626.557, subdivision 12b. When the background study shows  
63.3 that the subject has been determined by a county adult protection or child protection  
63.4 agency to have been responsible for maltreatment, the court shall be informed of the  
63.5 county, the date of the finding, and the nature of the maltreatment that was substantiated.  
63.6 The commissioner shall provide the court with information from the National Criminal  
63.7 Records Repository within three working days of the commissioner's receipt of the data.  
63.8 When the commissioner finds no criminal history or substantiated maltreatment on a  
63.9 background study subject, the commissioner shall make these results available to the court  
63.10 electronically through the secure online background study system.

63.11 (d) Notwithstanding section 626.556, subdivision 10f, or 626.557, subdivision  
63.12 12b, if the commissioner or county lead agency has information that a person on whom  
63.13 a background study was previously done under this section has been determined to be a  
63.14 perpetrator of maltreatment of a minor or vulnerable adult, the commissioner or the county  
63.15 may provide this information to the court that requested the background study.

63.16 **EFFECTIVE DATE.** This section is effective August 1, 2009.

63.17 Sec. 23. Minnesota Statutes 2008, section 524.5-118, subdivision 2, is amended to read:

63.18 Subd. 2. **Procedure; criminal history and maltreatment records background**  
63.19 **check.** (a) The court shall request the commissioner of human services to complete a  
63.20 background study under section 245C.32. The request must be accompanied by the  
63.21 applicable fee and the signed consent of the subject of the study authorizing the release of  
63.22 the data obtained to the court. If the court is requesting a search of the National Criminal  
63.23 Records Repository, the request must be accompanied by a set of classifiable fingerprints  
63.24 of the subject of the study. The fingerprints must be recorded on a fingerprint card  
63.25 provided by the commissioner of human services.

63.26 (b) The commissioner of human services shall provide the court with ~~information~~  
63.27 criminal history data as defined in section 13.87 from the Bureau of Criminal  
63.28 ~~Apprehension's criminal justice information system~~ Apprehension in the Department of  
63.29 Public Safety, other criminal history data held by the commissioner of human services,  
63.30 and data regarding substantiated maltreatment of vulnerable adults under section 626.557  
63.31 and substantiated maltreatment of minors under section 626.556 within 15 working days  
63.32 of receipt of a request. If the subject of the study has been the perpetrator of substantiated  
63.33 maltreatment of a vulnerable adult or minor, the response must include a copy of the  
63.34 public portion of the investigation memorandum under section 626.557, subdivision  
63.35 12b, or the public portion of the investigation memorandum under section 626.556,

64.1 subdivision 10f. If the court did not request a search of the National Criminal Records  
64.2 Repository and information from the Bureau of Criminal Apprehension indicates that the  
64.3 subject is a multistate offender or that multistate offender status is undetermined, the  
64.4 response must include this information. The commissioner shall provide the court with  
64.5 information from the National Criminal Records Repository within three working days  
64.6 of the commissioner's receipt of the data.

64.7 (c) Notwithstanding section 626.557, subdivision 12b, or 626.556, subdivision 10f, if  
64.8 the commissioner of human services or a county lead agency has information that a person  
64.9 on whom a background study was previously done under this section has been determined  
64.10 to be a perpetrator of maltreatment of a vulnerable adult or minor, the commissioner or the  
64.11 county may provide this information to the court that requested the background study. The  
64.12 commissioner may also provide the court with additional criminal history or substantiated  
64.13 maltreatment information that becomes available after the background study is done.

64.14 **EFFECTIVE DATE.** This section is effective August 1, 2009.

64.15 Sec. 24. Minnesota Statutes 2008, section 611.272, is amended to read:

64.16 **611.272 ACCESS TO GOVERNMENT DATA.**

64.17 The district public defender, the state public defender, or an attorney working for  
64.18 a public defense corporation under section 611.216 has access to the criminal justice  
64.19 data communications network described in section 299C.46, as provided in this section.  
64.20 Access to data under this section is limited to data necessary to prepare criminal cases in  
64.21 which the public defender has been appointed as follows:

64.22 (1) access to data about witnesses in a criminal case shall be limited to records of  
64.23 criminal convictions; and

64.24 (2) access to data regarding the public defender's own client which includes, but  
64.25 is not limited to, criminal history data under section 13.87; juvenile offender data under  
64.26 section 299C.095; warrant information data under section 299C.115; incarceration data  
64.27 under section 299C.14; conditional release data under section 241.065; and diversion  
64.28 program data under section 299C.46, subdivision 5.

64.29 The public defender has access to data under this section, whether accessed via ~~CrimNet~~  
64.30 the integrated search service as defined in section 13.873 or other methods. The public  
64.31 defender does not have access to law enforcement active investigative data under section  
64.32 13.82, subdivision 7; data protected under section 13.82, subdivision 17; confidential  
64.33 arrest warrant indices data under section 13.82, subdivision 19; or data systems maintained  
64.34 by a prosecuting attorney. The public defender has access to the data at no charge, except



65.1 for the monthly network access charge under section 299C.46, subdivision 3, paragraph  
 65.2 (b), and a reasonable installation charge for a terminal. Notwithstanding section 13.87,  
 65.3 subdivision 3; 299C.46, subdivision 3, paragraph (b); 299C.48, or any other law to the  
 65.4 contrary, there shall be no charge to public defenders for Internet access to the criminal  
 65.5 justice data communications network.

65.6 **EFFECTIVE DATE.** This section is effective August 1, 2009.

65.7 Sec. 25. Minnesota Statutes 2008, section 628.69, subdivision 6, is amended to read:

65.8 Subd. 6. **Reporting of data to ~~criminal justice information system (CJIS)~~**

65.9 **Bureau of Criminal Apprehension.** Every county attorney who has established a pretrial  
 65.10 diversion program under this section shall report the following information to the Bureau  
 65.11 of Criminal Apprehension:

65.12 (1) the name and date of birth of each diversion program participant, and any other  
 65.13 identifying information the superintendent considers necessary;

65.14 (2) the date on which the individual began to participate in the diversion program;

65.15 (3) the date on which the individual is expected to complete the diversion program;

65.16 (4) the date on which the individual successfully completed the diversion program,

65.17 where applicable; and

65.18 (5) the date on which the individual was removed from the diversion program for  
 65.19 failure to successfully complete the individual's goals, where applicable.

65.20 The superintendent shall cause the information described in this subdivision to be  
 65.21 entered into and maintained in the criminal history file ~~of the Minnesota Criminal Justice~~  
 65.22 ~~Information System~~ as defined in section 13.87.

65.23 **EFFECTIVE DATE.** This section is effective August 1, 2009.

65.24 Sec. 26. **REPEALER.**

65.25 Minnesota Statutes 2008, sections 299C.61, subdivision 8; 299C.67, subdivision 3;  
 65.26 and 403.36, subdivision 1f, are repealed.

65.27 **EFFECTIVE DATE.** This section is effective August 1, 2009.

## 65.28 **ARTICLE 7**

### 65.29 **CHEMICAL TESTING DEVICE; REPLACEMENT**

65.30 Section 1. **CHEMICAL TESTING DEVICE; REPLACEMENT.**

66.1 By September 15, 2009, the commissioner of public safety shall issue a request for  
66.2 proposals for the replacement of the state inventory of breath testing devices used for  
66.3 making evidentiary level alcohol concentration breath tests in accordance with Minnesota  
66.4 Statutes, section 169A.51, and by January 15, 2010, the commissioner shall report to the  
66.5 legislative chairs and ranking minority members of the house of representatives and senate  
66.6 committees with responsibility for public safety and transportation regarding the results of  
66.7 that request for proposals, including recommendations for legislative action on the matter.

66.8 The request for proposal must indicate that any proposal must, among any other  
66.9 features determined by the commissioner, describe the ways in which the proposed  
66.10 replacement device is superior to the testing device currently in use within the state,  
66.11 and must require that the vendor be willing to conveniently share the computer source  
66.12 code employed by the proposed device with litigants in impaired driving cases involving  
66.13 evidence obtained by utilizing the device.

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

APPENDIX  
Article locations in h1301-2

ARTICLE 1	PREDATORY OFFENDERS .....	Page.Ln 2.4
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ARTICLE 3	COURTS AND PUBLIC DEFENDER .....	Page.Ln 14.10
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ARTICLE 5	PUBLIC SAFETY .....	Page.Ln 27.16
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**260B.199 PLACEMENT OF JUVENILE OFFENDERS AT MINNESOTA CORRECTIONAL FACILITY-RED WING.**

Subd. 2. **Report required.** (a) A court that places a child in an out-of-state facility shall report the following information to the Sentencing Guidelines Commission:

- (1) the out-of-state facility the child was placed at and the reasons for this placement;
- (2) the in-state facilities at which placement was considered;
- (3) the reasons for not choosing an in-state facility;
- (4) the reasons why the child did not meet the established admissions criteria for the Minnesota Correctional Facility-Red Wing, if applicable; and
- (5) if the child met the admissions criteria, the reasons why the safety of the child or the safety of the community could not be met at the Minnesota Correctional Facility-Red Wing.

(b) By February 15 of each year, the commission shall forward a summary of the reports received from courts under this subdivision for the preceding year 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.

**260B.201 MANDATORY COMMITMENT TO COMMISSIONER OF CORRECTIONS.**

Subd. 3. **Report required.** A court ordering an alternative placement under subdivision 2, paragraph (c), shall report to the Sentencing Guidelines Commission on the placement ordered and the reasons for not committing the child to the custody of the commissioner of corrections. If the alternative placement is to an out-of-state facility, the report must include specific information that the safety of the child or the safety of the community can best be met by placement in an out-of-state facility or that the out-of-state facility is located closer to the child's home. By February 15 of each year, the commission shall summarize the reports received from courts under this paragraph for the preceding year and forward this summary 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.

**299C.61 DEFINITIONS.**

Subd. 8. **CJIS.** "CJIS" means the Minnesota criminal justice information system.

**299C.67 DEFINITIONS.**

Subd. 3. **CJIS.** "CJIS" means the Minnesota criminal justice information system.

**383B.65 CONTRACTS, LEASES WITH BLOOMINGTON FOR COURT SPACE.**

Subd. 2. **May relocate Bloomington court.** Notwithstanding the provisions of section 488A.01, subdivision 9, the county of Hennepin may relocate the 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.

**403.36 STATEWIDE RADIO BOARD.**

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 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;

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- (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.

APPENDIX

Repealed Minnesota Session Laws: H1301-2

*Laws 2002, chapter 266, section 1, as amended by Laws 2004, chapter 290, section 38; as amended by Laws 2006, chapter 260, article 5, section 53*

Sec. 38. Laws 2002, chapter 266, section 1, 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. 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.