Those who voted in the negative were:

Belanger	Knutson	Merriam	Ourada	Stevens
Dille	Kramer	Neuville	Robertson	
Johnson, D.E.	Larson	Oliver	Runbeck	
Johnston	Limmer	Olson	Scheevel	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 637.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 21, 1996

The following bill was read the first time and referred to the committee indicated.

H.F. No. 637: A bill for an act relating to taxation; property; allowing for a market value exclusion for electric power generation facilities based on facility efficiency; providing for an analysis of utility taxation; proposing coding for new law in Minnesota Statutes, chapter 272.

Mr. Moe, R.D. moved that H.F. No. 637 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Mrs. Fischbach moved that the name of Mr. Stevens be added as a co-author to Senate Resolution No. 117. The motion prevailed.

Ms. Ranum moved that S.F. No. 2489, No. 4 on General Orders, be stricken and returned to its author. The motion prevailed.

Ms. Ranum moved that S.F. No. 2331, No. 5 on General Orders,be stricken and returned to its author. The motion prevailed.

Ms. Ranum moved that S.F. No. 1966, No. 7 on General Orders, be stricken and returned to its author. The motion prevailed.

Ms. Ranum moved that S.F. No. 2450, No. 10 on General Orders, be stricken and returned to its author. The motion prevailed.

Ms. Ranum moved that S.F. No. 2357, No. 12 on General Orders, be stricken and returned to its author. The motion prevailed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 1:00 p.m. The motion prevailed.

The hour of 1:00 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

Mr. Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2856 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2856

A bill for an act relating to criminal justice; appropriating money for the judicial branch, public safety, corrections, criminal justice, crime prevention programs, and other related purposes; providing for community notification of the release of certain sex offenders, expanding the sex offender registration act; reconciling various provisions on criminal history background checks; implementing, clarifying, and modifying certain criminal and juvenile provisions; prohibiting the possession or use of tobacco by inmates of state correctional facilities; implementing, clarifying, and modifying certain penalty provisions; establishing and expanding pilot programs, grant programs, task forces, committees, and studies; providing for the retention of consultants; amending Minnesota Statutes 1994, sections 8.01; 15.86, by adding a subdivision; 84.91, by adding a subdivision; 86B.331, by adding a subdivision; 144A.46, subdivision 5; 168.041, subdivision 6; 168.042, subdivisions 8, 12, and by adding a subdivision; 169.121, subdivisions 2, 3, and 4; 169.123, subdivision 4; 171.17, subdivision 1; 171.29, subdivision 1; 171.30, subdivisions 1 and 2a; 181.9412; 244.17, subdivision 2, and by adding a subdivision; 244.172, subdivision 2; 268.30, subdivision 2; 299A.35, as amended; 609.115, by adding a subdivision; 609.52, subdivision 2; 611.271; 611A.25, subdivision 3; and 611A.361, subdivision 3; Minnesota Statutes 1995 Supplement, sections 16B.181; 144.057, subdivisions 1, 3, and 4; 171.29, subdivision 2; 243.166, subdivisions 1 and 7; 245A.04, subdivision 3; 299A.326, subdivision 1; 299C.67, subdivision 5; 299C.68, subdivisions 2, 5, and 6; and 609.2325, subdivision 3; Laws 1995, chapter 229, article 3, section 17; proposing coding for new law in Minnesota Statutes, chapters 15; 168; 168A; 243; 244; 299A; and 609.

March 21, 1996

The Honorable Allan H. Spear
President of the Senate

The Honorable Irv Anderson
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2856, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 2856 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [CRIMINAL JUSTICE APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this article, to be available for the fiscal years indicated for each purpose. The figures "1996" and "1997," where used in this article, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1996, or June 30, 1997, respectively.

SUMMARY BY FUND

	1996	1997	TOTAL
General	$ 764,000	$ 16,539,000	$ 17,303,000
Special Revenue	-0-	984,000	984,000

Trunk Highway	19,000	-0-	19,000
TOTAL	$ 783,000	$ 17,523,000	$ 18,306,000

	APPROPRIATIONS Available for the Year Ending June 30	
	1996	1997
Sec. 2. SUPREME COURT	$ -0-	$ 350,000

$350,000 is a one-time appropriation for civil legal services to low-income clients.

The conference of chief judges and board of public defense are requested to study ways to improve court appearance scheduling to maximize use of public defenders and minimize travel. The state court administrator is requested to report recommendations by January 15, 1997, to the committees on judiciary and judiciary finance in the house of representatives and the committee on crime prevention in the senate.

Sec. 3. BOARD OF JUDICIAL STANDARDS	100,000	-0-

This is a one-time appropriation.

Sec. 4. PUBLIC SAFETY

Subdivision 1. Total Appropriation	683,000	7,040,000

Summary by Fund

	1996	1997
General	664,000	7,040,000
Trunk Highway	19,000	-0-

$4,660,000 is a one-time appropriation for the purposes specified in this paragraph. Of this amount, 54.5 percent is for grants to hire new peace officers under Minnesota Statutes, section 299A.62; 21.5 percent is for grants to fund overtime for law enforcement officers under Minnesota Statutes, section 299A.62; 13 percent is for weed and seed grants; and 11 percent is for grants to local law enforcement agencies for law enforcement officers assigned to schools as school liaison officers.

The school liaison officer grants may be used to expand the assignment of law enforcement officers to middle schools, junior high schools, and high schools. The amount of the state grant must be matched by at least an equal amount of money from nonstate sources and may not exceed $250,000 for a single grant.

Subd. 2. Emergency Management

483,000	30,000

Summary by Fund

General	464,000	30,000
Trunk Highway	19,000	-0-

$464,000 from the general fund the first year and $30,000 the second year are for program administration and disaster relief for wind damage resulting from storms occurring in the summer of 1995.

$19,000 from the trunk highway fund the first year is for program administration and disaster relief for wind damage resulting from storms occurring in the summer of 1995.

Subd. 3. Criminal Apprehension

-0-	500,000

$450,000 is for four forensic scientists for enhanced laboratory services and four special agents.

$50,000 is a one-time appropriation for grants from the witness and victim protection fund described in Minnesota Statutes, section 299C.065, subdivision 1a.

$20,000 of the fiscal year 1997 appropriation for the school-related crime telephone line under Minnesota Statutes, section 299A.60, shall be transferred to be used for the antiviolence advertising campaign authorized in article 2.

The superintendent of the bureau of criminal apprehension shall convene a workgroup to study and make recommendations on criminal justice information access and retention issues including processes on expungement, correction of inaccurate records, destruction of records, and other matters relating to the privacy interests of individuals. The workgroup shall also address noncriminal justice agency access to records.

The workgroup shall include representatives of the criminal and juvenile justice information policy group and task force, the supreme court implementation committee on diversity and racial fairness, the department of human services, the department of administration, law enforcement, prosecuting authorities, public defenders, one member of each caucus in each house, and interest and advocacy groups.

The workgroup shall report to the committee on crime prevention in the senate and the committees on judiciary and judiciary finance in the house of representatives by January 15, 1997.

Subd. 4. Drug Policy and Violence Prevention

200,000 1,850,000

$1,775,000 is a one-time appropriation for community crime reduction grants under Minnesota Statutes, section 299A.35. Up to five percent of this appropriation may be used for administration and evaluation of the programs funded by this appropriation.

$75,000 is a one-time appropriation to fund the higher education center on violence and abuse under Minnesota Statutes, section 135A.153.

$200,000 is a one-time appropriation for a grant to the Council on Black Minnesotans to fund the Martin Luther King, Jr. nonviolent institutional child development pilot program. This sum is available the day following final enactment and is available until June 30, 1997.

Sec. 5. BOARD OF PUBLIC DEFENSE -0- 50,000

This amount is to the office of the state public defender to implement community notification for sex offenders. This amount shall be annualized and added to the base budget of the office of the state public defender for the 1998-1999 biennium.

Of the amount appropriated to the board of public defense in Laws 1995, chapter 226, article 1, section 10, subdivision 3, up to $100,000 in fiscal year 1996 and up to $100,000 in fiscal year 1997 may be used by the board for the operation of its management information system and administration. This transfer is effective the day following final enactment.

Sec. 6. CORRECTIONS

Subdivision 1. Total Appropriation -0- 7,069,000

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

During the biennium ending June 30, 1997, whenever offenders are assigned for the purpose of work under agreement with a state department or agency, local unit of government, or other government subdivision, the state department or agency, local unit of government, or other governmental subdivision must certify in writing to the appropriate bargaining agent that the work performed by inmates will not result in the displacement of currently employed workers or workers on seasonal layoff, including partial displacement such as reduction in hours of

nonovertime work, wages, or other employment benefits.

The commissioner shall attempt to maximize the use of inmate labor throughout the state by entering into negotiations and agreements, where feasible.

Subd. 2. Structural Deficiency

$6,000,000 is to maintain the current operations of the department's correctional facilities and community services programs.

Subd. 3. Correctional Institutions

-0-	345,000

$345,000 is to fund the additional employer contributions associated with changes in the membership of the correctional employees retirement plan.

The copayment required under Minnesota Statutes, section 243.212, is $3 and must be assessed each time medical, dental, or mental health care services are provided to an inmate at the initiation of an inmate. The copayment must be deducted from an inmate's account of earnings and other funds as provided under Minnesota Statutes, section 243.23, subdivision 3. If the funds in an inmate's account are insufficient to pay a copayment incurred, the copayment shall be a debt against the account, and paid when funds are available.

The commissioner shall develop a policy to implement the smoking prohibition under Minnesota Statutes, section 243.555. In developing the policy, the commissioner shall meet and confer with representatives of bargaining units to address employee concerns including, but not limited to, employee education on the smoking prohibition, control of tobacco and tobacco-related devices as contraband, and employee discipline and grievance procedures related to the smoking prohibition.

The commissioner shall enter into a contract with a nonprofit correctional facility to house at least 200 inmates at the facility by April 1, 1997, if the cost does not exceed $55 per inmate per day.

Subd. 4. Community Services

-0-	720,000

$95,000 is a one-time appropriation for grants to aid in the establishment and implementation of family group conferencing programs in Dakota county and the first judicial district.

$225,000 is a one-time appropriation to establish and fund pilot programs to provide intensive monitoring in the community for juveniles who have committed or who are at risk to commit status offenses or juvenile acts. Not more than $12,000 of this appropriation may be used to prepare the required report. This sum is available until June 30, 1998.

$250,000 is a one-time appropriation to fund a collaborative project for at-risk juveniles to be established by the southwest and west central service cooperatives in the Willmar public schools and community in collaboration with the Willmar regional treatment center.

$150,000 is to implement community notification for sex offenders.

In fiscal year 1997, the commissioner shall distribute money appropriated for state and county probation officer caseload reduction, increased supervised release and probation services, and county probation officer reimbursement according to the formula contained in Minnesota Statutes, section 401.10. These appropriations may not be used to supplant existing state or county probation officer positions or existing correctional services or programs. The money appropriated under this provision is intended to reduce state and county probation officer workload overcrowding and to increase supervision of individuals sentenced to probation at the county level. This increased supervision may be accomplished through a variety of methods, including, but not limited to: (1) innovative technology services, such as automated probation reporting systems and electronic monitoring; (2) prevention and diversion programs; (3) intergovernmental cooperation agreements between local governments and appropriate community resources; and (4) traditional probation program services.

$75,000 of the fiscal year 1997 probation caseload reduction appropriation must be transferred to the director of the office of strategic and long-range planning to be used by the criminal justice center for the development of a weighted workload study to be used as a basis of distributing probation officer caseload reduction funding across all three probation delivery systems, based on uniform workload standards and level of risk of individual offenders. In conducting this study, the center shall consult with an advisory committee

appointed for this purpose by the commissioner and consisting of representatives of county commissioners, county corrections professionals, and the department of corrections. The center also may contract with national experts in the fields of community corrections and probation to conduct or assist in conducting the study. The center shall submit the study to the legislature by February 1, 1997, and shall include in it an addendum that summarizes the response received from interested community corrections agencies and organizations. In fiscal year 1998 and each subsequent year, subject to legislative approval, the commissioner shall distribute money appropriated for state and county probation officer caseload reduction according to this weighted workload study.

The chairs of the house judiciary finance committee and the senate crime prevention finance division or their designees shall convene a work group to review possible measures of probation officer travel time for inclusion in the community corrections funding formula defined in Minnesota Statutes, section 401.10. The work group shall complete its review by October 30, 1996, and shall present its recommendations to the 1997 legislature.

Notwithstanding Minnesota Statutes, section 401.10, in fiscal year 1997, the commissioner shall allocate $27,912,000 in community corrections act base funding so that no county receives less money in fiscal year 1997 than it received in fiscal year 1995.

All money received by the commissioner of corrections pursuant to the domestic abuse assessment fee under Minnesota Statutes, section 609.2244, shall be available for use by the commissioner and is hereby appropriated annually to the commissioner of corrections for costs related to conducting the assessments.

Subd. 5. Management Services

-0-	4,000

$4,000 is a one-time appropriation for the international women's shelter in Rochester, Minnesota for the purpose of researching, preparing, and translating into appropriate languages a brochure on laws concerning violence against women and children, including, but not limited to, laws on domestic abuse, child abuse, and female genital mutilation.

Notwithstanding the provisions of Laws 1995, chapter 226, article 1, section 22, the funds

appropriated under Laws 1995, chapter 226, article 1, for the fiscal year ending June 30, 1997, to the department of corrections for victim services, the department of public safety for crime victim services, and the supreme court for community dispute resolution are available.

The governor shall designate the department of corrections as the state agency authorized to receive and administer any funds made available through the STOP Violence Against Women Formula and Discretionary Grants Program of the United States Department of Justice under Code of Federal Regulations, title 28, chapter 1.

Subd. 6. Spending Cap

General fund spending by the department of corrections is limited to $614,000,000 in the biennium ending June 30, 1999.

The commissioner of corrections shall prepare and submit to the legislature by December 1, 1996, a proposal on how to limit the increase in general fund appropriations to the department of corrections from the 1996-1997 biennium to the 1998-1999 biennium so as not to exceed the spending cap. The commissioner may also submit alternative proposals to accomplish the same goal. The proposal or proposals must include the commissioner's recommendations for changes in administration, programming, staffing, and community services.

Sec. 7. HUMAN SERVICES -0- 404,000

Summary by Fund

	1996	1997
General	-0-	350,000
Special	-0-	54,000

$250,000 is a one-time appropriation for grants under Minnesota Statutes, section 256F.11. The grants must assist private and public agencies and organizations to provide crisis nurseries to offer temporary care to children who are abused or neglected, or who are at high risk of abuse or neglect; and children who are in families receiving child protective services.

$100,000 is a one-time appropriation for the following purposes: (1) $35,000 is for a grant to Hennepin county to establish a community-oriented chemical dependency pilot project. This money is available only upon approval by the governing board of Hennepin county under Minnesota Statutes, section 645.021; and (2) $65,000 is for chemical

dependency services for the population served by the pilot project. By May 1, 1997, the commissioner of human services shall determine whether the chemical dependency fund can absorb the cost of the services provided to this population. If the commissioner determines that the cost can be absorbed or if the additional cost does not exceed $65,000, then the remaining amount of this appropriation shall be transferred to Hennepin county to be used for the pilot project, upon approval by its governing board under Minnesota Statutes, section 645.021.

For the fiscal year ending June 30, 1997, $54,000 is appropriated from the state government special revenue fund to cover the costs of expanded criminal background checks required by Minnesota Statutes, sections 144.057 and 245A.04, subdivision 3. The commissioner shall charge fees to recover the cost of the expanded background checks and shall deposit the fees into the state government special revenue fund.

Sec. 8. CHILDREN, FAMILIES, AND LEARNING -0- 100,000

$100,000 is a one-time appropriation for violence prevention education grants under Minnesota Statutes, section 126.78. One hundred percent of this appropriation must be paid according to the process established in Minnesota Statutes, section 124.195, subdivision 9. Up to five percent of this appropriation may be used for auditing, monitoring, and administration of the programs funded by this appropriation.

Sec. 9. HEALTH -0- 310,000

$250,000 is a one-time appropriation for grants under Minnesota Statutes, section 145A.15. The grants must fund projects designed to prevent child abuse and neglect and reduce juvenile delinquency.

$30,000 is a one-time appropriation for a grant to the institute for child and adolescent sexual health for early age treatment programs for those children exhibiting sexual aggression who have not been adjudicated delinquent. "Early age" means an individual who is at least eight years of age but less than 11 years of age.

$30,000 is a one-time appropriation for a grant to the institute for child and adolescent sexual health to identify and provide leadership in resolving gaps and obstacles in the delivery of services to those children affected by sexual aggression by establishing a recognized network

between individuals who work with sexual abusers, victims of sexual aggression, and individuals who provide prevention oriented education including, but not limited to, the following groups: corrections, treatment facilities, the medical community, schools, academia, communities of faith, communities of color, and other invested individuals, families, and groups.

Sec. 10. ECONOMIC SECURITY	-0-	580,000

$240,000 is a one-time appropriation for grants to youth intervention programs under Minnesota Statutes, section 268.30. One-half of the appropriation shall be used for grants to programs operating within the seven-county metropolitan area and one-half of the appropriation shall be used for programs operating outside of the seven-county metropolitan area.

$340,000 is a one-time appropriation for grants to cities of the first class and counties containing cities of the first class that demonstrate a need for creating and expanding curfew enforcement, truancy prevention, and pretrial diversion programs. Programs funded under this provision must have clearly established neighborhood, community, and family measures of success and must report to the commissioner on the achievement of these outcomes on or before June 30, 1997.

Sec. 11. ADMINISTRATION	-0-	350,000

$218,000 is to conduct a systemwide evaluation of corrections in the state.

$132,000 is to retain a consultant to evaluate the operation of prison industries in the state.

Sec. 12. AUTOMOBILE THEFT PREVENTION BOARD	-0-	930,000

$930,000 from the special revenue fund is for program administration and vehicle theft prevention activities under Minnesota Statutes, section 168A.40.

Sec. 13. ATTORNEY GENERAL	-0-	340,000

$200,000 is for psychopathic personality and sexually dangerous person proceedings.

$140,000 is to implement community notification for sex offenders.

ARTICLE 2

CRIME PREVENTION AND COMMUNITY SAFETY PROGRAMS

Section 1. [168A.40] [AUTOMOBILE THEFT PREVENTION PROGRAM.]

Subdivision 1. [BOARD MEMBERSHIP.] An automobile theft prevention board consists of seven members appointed by the governor and shall include representatives of law enforcement, prosecuting attorneys, the department of public safety, automobile insurers, and the public. The board shall annually elect a chair from among its members. The board may employ professional, technical, consulting, and clerical service staff. The board is governed by section 15.0575 except that the terms of the members are two years. The commissioner of public safety shall provide office space and administrative support to the board.

Subd. 2. [PROGRAM DUTIES.] The automobile theft prevention board shall:

(1) develop and sponsor the implementation of statewide plans, programs, and strategies to combat automobile theft, improve the administration of the automobile theft laws, and provide a forum for identification of critical problems for those persons dealing with automobile theft;

(2) coordinate the development, adoption, and implementation of plans, programs, and strategies relating to interagency and intergovernmental cooperation with respect to automobile theft enforcement;

(3) audit at its own discretion the plans and programs that it has funded in whole or in part to evaluate the effectiveness of the plans and programs, and withdraw funding should the board determine that a plan or program is ineffective or is no longer in need of further financial support from the fund;

(4) develop a plan of operation including an assessment of the scope of the problem of automobile theft, including areas of the state where the problem is greatest; an analysis of various methods of combating the problem of automobile theft; a plan for providing financial support to combat automobile theft; a plan for eliminating car hijacking; and an estimate of the funds required to implement the plan; and

(5) distribute money from the automobile theft prevention special revenue account for automobile theft prevention activities, including:

(i) paying the administrative costs of the board;

(ii) providing financial support to the state patrol and local law enforcement agencies for automobile theft enforcement teams;

(iii) providing financial support to state or local law enforcement agencies for programs designed to reduce the incidence of automobile theft;

(iv) providing financial support to local prosecutors for programs designed to reduce the incidence of automobile theft;

(v) providing financial support to judicial agencies for programs designed to reduce the incidence of automobile theft;

(vi) providing financial support for neighborhood or community organizations or business organizations for programs designed to reduce the incidence of automobile theft;

(vii) providing financial support for automobile theft educational and training programs for state and local law enforcement officials, driver and vehicle services exam and inspections staff, and members of the judiciary; and

(viii) conducting educational programs designed to inform automobile owners of methods of preventing automobile theft and to provide equipment, for experimental purposes, to enable automobile owners to prevent automobile theft.

By January 15 of each year, the board shall report to the governor and legislature on its activities and expenditures in the preceding year.

Subd. 3. [SURCHARGE.] Each insurer engaged in the writing of policies of automobile

insurance shall collect a surcharge, at the rate of 50 cents per vehicle for every six months of coverage, on each policy of automobile insurance providing comprehensive insurance coverage issued or renewed in this state. The surcharge may not be considered premium for any purpose, including the computation of premium tax or agents' commissions. The amount of the surcharge must be separately stated on either a billing or policy declaration sent to an insured. Insurers shall remit the revenue derived from this surcharge at least quarterly to the board for purposes of the automobile theft prevention program. For purposes of this subdivision, "policy of automobile insurance" has the meaning given it in section 65B.14, except that no vehicle with a gross vehicle weight in excess of 10,000 pounds is included within this definition.

Subd. 4. [AUTOMOBILE THEFT PREVENTION ACCOUNT.] A special revenue account is created in the state treasury to be credited with the proceeds of the surcharge imposed under subdivision 3. Revenue in the account may be used only for the automobile theft prevention program. The board may not spend in any fiscal year more than ten percent of the money in the fund for its administrative and operating costs.

Sec. 2. Minnesota Statutes 1994, section 268.30, subdivision 2, is amended to read:

Subd. 2. [APPLICATIONS.] Applications for a grant-in-aid shall be made by the administering agency to the commissioner. The grant-in-aid is contingent upon the agency having obtained from the community in which the youth intervention program is established local matching money two times the amount of the grant that is sought.

The commissioner shall provide by rule the application form, procedures for making application form, criteria for review of the application, and kinds of contributions in addition to cash that qualify as local matching money. No grant to any agency ~~shall~~ may exceed ~~$25,000~~ $50,000.

Sec. 3. [299A.281] [SAFE HOUSE PROGRAM IN FERGUS FALLS.]

Notwithstanding section 299A.28, another similar safe house program, primarily focusing on the safety and protection of children, may be developed and operate in the city of Fergus Falls if the program members have completed a criminal background check satisfactory to the Fergus Falls police department. However, the commissioner of public safety is not required to perform the duties listed under 299A.28, subdivision 2, with respect to the program in Fergus Falls and is not accountable or liable for any act or failure to act by a member of that program.

Sec. 4. Minnesota Statutes 1995 Supplement, section 299A.326, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT; REQUIREMENTS.] The commissioner of public safety may establish ~~up to three~~ pilot projects at neighborhood centers serving youths between the ages of 11 to 21. The centers may offer recreational activities, social services, meals, job skills and career services, and provide referrals for youths to other available services outside the centers. The commissioner may consult with other appropriate agencies and, to the extent possible, use existing resources and staff in creating the programs. The commissioner shall ensure that the programs, if offered, are adequately staffed by specially trained personnel and outreach street workers. Each center may integrate community volunteers into the program's activities and services and cooperate with local law enforcement agencies. The centers must be open during hours convenient to youths including evenings, weekends, and extended summer hours. However, there may not be any conflicts with truancy laws. Each center must have a plan for evaluation designed to measure the program's effectiveness in aiding youths.

Sec. 5. Minnesota Statutes 1994, section 299A.35, as amended by Laws 1995, chapter 226, article 4, section 4, is amended to read:

299A.35 [COMMUNITY CRIME ~~REDUCTION~~ PREVENTION PROGRAMS; GRANTS.]

Subdivision 1. [PROGRAMS.] The commissioner shall, in consultation with the chemical abuse and violence prevention council, administer a grant program to fund community-based programs that are designed to enhance the community's sense of personal security and to assist the

community in its crime control and prevention efforts. Examples of qualifying programs include, but are not limited to, the following:

(1) ~~programs to provide security systems for residential buildings serving low-income persons, elderly persons, and persons who have physical or mental disabilities~~ community-based programs designed to provide services for children aged 8 to 13 who are juvenile offenders or who are at risk of becoming juvenile offenders. The programs must give priority to:

(i) juvenile restitution;

(ii) prearrest or pretrial diversion, including through mediation;

(iii) probation innovation;

(iv) teen courts, community service; or

(v) post incarceration alternatives to assist youth in returning to their communities;

(2) community-based programs designed to provide at-risk children and youth aged 8 to 13 with after-school and summer enrichment activities;

(3) community-based programs designed to discourage young people from involvement in unlawful drug or street gang activities such as neighborhood youth centers;

~~(3)~~ (4) neighborhood block clubs and innovative community-based crime ~~watch~~ prevention programs;

~~(4)~~ (5) community- and school-based programs designed to enrich the educational, cultural, or recreational opportunities of at-risk ~~elementary or secondary school age~~ children and youth, including programs designed to keep at-risk youth from dropping out of school and encourage school dropouts to return to school;

~~(5) support services for a municipal curfew enforcement program including, but not limited to, rent for drop-off centers, staff, supplies, equipment, and the referral of children who may be abused or neglected;~~

(6) community-based programs designed to intervene with juvenile offenders who are identified as likely to engage in repeated criminal activity in the future unless intervention is undertaken;

(7) ~~community-based collaboratives that coordinate five or more programs designed to enrich the educational, cultural, or recreational opportunities of at-risk elementary or secondary school age youth, including programs designed to keep at-risk youth from dropping out of school and to encourage school dropouts to return to school~~ community-based collaboratives that coordinate multiple programs and funding sources to address the needs of at-risk children and youth, including, but not limited to, collaboratives that address the continuum of services for juvenile offenders and those who are at risk of becoming juvenile offenders;

(8) programs that are proven successful at increasing the rate of ~~graduation from secondary~~ school ~~and~~ success or the rate of post-secondary education attendance for high-risk students;

(9) community-based programs that provide services to homeless youth; ~~and~~

(10) programs designed to reduce truancy; and

(11) other community- and school-based crime prevention programs that are innovative and encourage substantial involvement by members of the community served by the program.

Subd. 2. [GRANT PROCEDURE.] A local unit of government or a nonprofit community-based entity may apply for a grant by submitting an application with the commissioner. The applicant shall specify the following in its application:

(1) a description of each program for which funding is sought;

(2) ~~the amount of funding to be provided to the program~~ outcomes and performance indicators for the program;

(3) a description of the planning process that identifies local community needs, surveys existing programs, provides for coordination with existing programs, and involves all affected sectors of the community;

(4) the geographical area to be served by the program;

~~(4)~~ (5) statistical information as to the number of arrests in the geographical area for violent crimes and for crimes involving schedule I and II controlled substances. "Violent crime" includes a violation of or an attempt or conspiracy to violate any of the following laws: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; or any provision of chapter 152 that is punishable by a maximum sentence greater than ten years; and

~~(5)~~ (6) the number of economically disadvantaged youth in the geographical areas to be served by the program.

The commissioner shall give priority to funding community-based collaboratives, programs that demonstrate substantial involvement by members of the community served by the program and programs that either serve the geographical areas that have the highest crime rates, as measured by the data supplied under clause (4), or serve geographical areas that have the largest concentrations of economically disadvantaged youth. ~~The maximum amount that may be awarded to an applicant is $50,000; except that if the applicant is a community-based collaborative under subdivision 1, clause (7), the maximum amount that can be awarded is $50,000 for each program participating in the collaborative.~~ Up to 2.5 percent of the appropriation may be used by the commissioner to administer the program.

Subd. 3. [REPORT.] ~~An applicant that receives a grant under this section shall provide the commissioner with a summary of how the grant funds were spent and the extent to which the objectives of the program were achieved.~~ The commissioner shall submit a written report to the children's cabinet and chairs of the committees of the senate and house of representatives with jurisdiction over criminal justice policy and funding of crime prevention programs, by February 1 each year, based on the information provided by applicants under this subdivision.

Sec. 6. [299A.62] [COMMUNITY-ORIENTED POLICING (COPS) GRANT PROGRAM.]

Subdivision 1. [PROGRAM ESTABLISHED.] A community-oriented policing grant program is established under the administration of the commissioner of public safety. Grants may be awarded as provided in subdivision 2 for the following purposes:

(1) to enable local law enforcement agencies to hire law enforcement officers. The grants must be used by law enforcement agencies to increase the complement of officers in the agency by paying the salaries of new officers who replace an existing officer who has been reassigned primarily to investigate and prevent juvenile crime or to perform community-oriented policing duties; and

(2) to enable local law enforcement agencies to assign overtime officers to high crime areas within their jurisdictions.

Subd. 2. [AWARDING GRANTS.] Grants under this section shall be awarded by the commissioner of public safety. Before any grants are awarded, a committee consisting of the attorney general, and representatives from the Minnesota chiefs of police association, the Minnesota sheriffs association, and the Minnesota police and peace officers association, shall evaluate the grant applications. Before grants are awarded, the commissioner shall meet and consult with the committee concerning its evaluation of and recommendations on grant proposals. A grant under subdivision 1, clause (1), may be awarded only to a law enforcement agency that demonstrates in its application that it currently has a need for an additional officer to be assigned

to: (i) community-oriented policing duties; or (ii) the investigation and prevention of juvenile crime, based on the juvenile crime rate in the area over which the agency has jurisdiction. More than one grant under subdivision 1, clause (1), may be awarded to an agency; however, each grant may fund only one position. At least 50 percent of the grants awarded under subdivision 1, clause (1), must be awarded to the cities of Minneapolis and St. Paul.

Subd. 3. [AMOUNT OF GRANTS TO HIRE OFFICERS.] A grant awarded under subdivision 1, clause (1), must reimburse up to 150 percent of the entry level salary and benefits of a law enforcement officer, not to exceed $75,000. However, the money may not be used to pay for equipment or uniforms for the officer. The grant is intended to be used for the salary of the officer over a three-year period.

Subd. 4. [CONDITIONS OF GRANTS TO HIRE OFFICERS.] Grant recipients who receive grants under subdivision 1, clause (1), shall continue to employ a law enforcement officer hired with money granted under this section for at least a three-year period. If for any reason during the three-year period the employment relationship ends, the agency shall hire an additional officer so that the total number of officers employed by the agency does not change. A law enforcement agency that fails to comply with this subdivision shall reimburse the commissioner as follows:

(1) if the failure occurs during the first year, the agency shall reimburse the full amount of the grant;

(2) if the failure occurs during the second year, the agency shall reimburse two-thirds of the grant; or

(3) if the failure occurs during the third year but prior to the three-year anniversary of the officer's hiring, the agency shall reimburse one-third of the grant.

The commissioner shall deposit the reimbursement in the state treasury and credit it to the general fund.

Sec. 7. [WEED AND SEED GRANT PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] A grant program is established under the administration of the commissioner of public safety to assist local communities in their efforts to eradicate violent crime, illegal drug activity, and illegal gang activity in targeted neighborhoods, and to revitalize these targeted neighborhoods economically and physically.

Subd. 2. [AWARDING GRANTS.] The commissioner of public safety shall act as fiscal agent for the grant program and shall be responsible for receiving applications for grants and awarding grants under this section. Before any grants are awarded, a committee consisting of the attorney general, and representatives from the Minnesota chiefs of police association, the Minnesota sheriffs association, and the Minnesota police and peace officers association, shall evaluate the grant applications. Before grants are awarded, the commissioner shall meet and consult with the committee concerning its evaluation of and recommendations on grant proposals. At least 50 percent of the grants awarded under this section must be awarded to the cities of Minneapolis and St. Paul.

Subd. 3. [GRANT PROCESS.] (a) A city may apply for a grant under this section by submitting an application to the commissioner of public safety on a form prescribed by the commissioner. The application shall:

(1) identify the neighborhood within the city that has been proposed by the city's mayor as a targeted site;

(2) describe the problems to be corrected within the targeted neighborhood and the strengths that make the targeted neighborhood a suitable candidate for funding; and

(3) contain the city's plan for use of the grant funds. This plan must:

(i) be prepared in consultation with residents of the targeted neighborhood;

(ii) describe the specific law enforcement, community policing, prevention, intervention, treatment, and neighborhood revitalization activities that the city intends to undertake; and

(iii) include a reporting and evaluation component.

(b) A city may apply for more than one grant under this section; however, each grant may target only one neighborhood.

Subd. 4. [ATTORNEY GENERAL DUTIES.] (a) The attorney general may assist cities and local law enforcement officials in developing and implementing anticrime and neighborhood community revitalization strategies and may assist local prosecutors in prosecuting crimes occurring in the targeted neighborhoods that receive funding under this section. Upon request of the local prosecuting authority, the attorney general may appear in court in those civil and criminal cases arising as a result of this section that the attorney general deems appropriate. For the purposes of this section, the attorney general may appear in court in nuisance actions under Minnesota Statutes, chapter 617, and misdemeanor prosecutions under Minnesota Statutes, chapter 609.

(b) The attorney general shall develop appropriate applications to the United States Department of Justice for federal weed and seed grants for use in conjunction with grants awarded under this section.

Sec. 8. [INTENSIVE JUVENILE MONITORING PILOT PROGRAM.]

(a) The commissioner of corrections shall establish at least four pilot programs to provide intensive monitoring in the community for juveniles who have committed or are at risk to commit status offenses or delinquent acts. A juvenile need not be adjudicated for an offense to be eligible for the program. The pilot programs shall provide a work experience for qualified upper division college and graduate students who are majoring in relevant disciplines to supervise and monitor juveniles referred to or placed in community corrections or court services programs. Referrals to the program may be made by peace officers, juvenile courts, and juvenile probation officers.

(b) The commissioner shall collaborate with appropriate faculty members and administrators at the University of Minnesota, the state universities, private colleges and universities, community corrections agencies, and court services agencies to establish general eligibility criteria for upper division college and graduate students to participate in the program and to specify the various ways by which students will be compensated through their college or university for their participation including, but not limited to, monetary compensation tuition payments, and related mileage and parking expenses. The compensation program shall allow for long-term placements and corrections experiences for students who are financially dependent on paid internships.

(c) The commissioner also shall collaborate with higher education experts, community corrections agencies, court services agencies, law enforcement agencies, and juvenile court judges to:

(1) establish general eligibility criteria for juveniles to be referred to or placed in the program;

(2) establish maximum caseloads for students, based on their experience and knowledge and on the characteristics of the juveniles to be supervised;

(3) specify the types of supervision and monitoring the college students may be expected to provide to the juveniles; and

(4) specify the manner in which the students' work and performance measures will be monitored and evaluated by relevant criminal justice and higher education professionals.

(d) At the end of the pilot programs, the commissioner of corrections shall report findings and recommendations to the chairs of the house and senate committees with jurisdiction over criminal justice and higher education issues.

Sec. 9. [PILOT PROJECT FOR FAMILY GROUP CONFERENCING IN DAKOTA COUNTY.]

Subdivision 1. [PILOT PROJECT ESTABLISHED.] By July 1, 1996, the commissioner of corrections shall establish a pilot project in Dakota county to provide assistance to counties, school districts, and cities in the first judicial district in establishing family group conferencing programs. The pilot project must be administered by a coordinator responsible for supervising and implementing the project. The coordinator shall cooperate with and provide necessary assistance and training to county attorneys, local law enforcement agencies, school districts, and community groups in establishing family group conferencing programs under subdivision 2.

Subd. 2. [FAMILY GROUP CONFERENCING PROGRAMS.] A county attorney, school district, or city in the first judicial district, in consultation with the coordinator and local law enforcement agencies, may establish a family group conferencing program. The program may provide forums where, as an alternative to prosecution, certain individuals accused of having committed crimes meet with the victim or victims of the alleged crime; family members of the victim or victims, if appropriate; family members of the offender, if appropriate; a law enforcement official or prosecutor; and members of the community. An individual properly trained in moderating a family group conference shall act as moderator of the conference. The conference must focus on the impact of the offense on the victim and the community and assign an appropriate sanction to the offender. An appropriate sanction may include reparation to the victim or community, specified community service, or other sanction agreed upon during the conference.

Subd. 3. [CONFERENCE PARAMETERS.] A county or city attorney, in consultation with the coordinator and local law enforcement agencies, shall establish parameters for the conferences. The parameters must specify the types of offenders and offenses eligible for the conferences and the nature and goals of the conferences. Only certain offenders deemed appropriate by the county attorney are eligible for the conferences. Decisions on eligibility shall be based on the criminal history of the offender, the nature of the offense, the danger posed by the offender to the victim and the community, and the best interests of the victim and community. Participation in the conference is voluntary, no offender or victim may be required to participate in a conference. A decision to prosecute an offender who has refused to participate in a conference may not be considered in determining the voluntariness of an offender's decision to participate.

A prosecutor who offers an offender the opportunity to participate in a conference retains the authority to prosecute the offender if the offender refuses to participate in the conference, chooses not to complete the conference, or fails to comply with sanctions imposed at the conference.

Subd. 4. [GRANTS AUTHORIZED.] The commissioner of corrections, in consultation with the coordinator, may award grants to aid in the establishment and implementation of family group conferencing programs in the first judicial district. The commissioner shall establish the criteria and procedure for the grants and shall require that any entity awarded a grant to establish a program have clearly established neighborhood, community, and family measures of success of the program and report to the commissioner on the achievement of these outcomes on or before December 31, 1998.

Subd. 5. [REPORT REQUIRED.] By January 15, 1999, the commissioner of corrections shall report to the chairs of the senate and house of representatives committees having jurisdiction over criminal justice policy on the effectiveness of the pilot project and any family group conferencing programs created under this section and the awarding of grants, if any, under subdivision 4.

Sec. 10. [ADVERTISING CAMPAIGN.]

The commissioner of public safety is authorized to contract with an advertising firm for a public advertising campaign designed to reduce violence and counteract the effect of violence in the media. The contracts for advertising must include provisions for evaluating the effectiveness of the campaign.

Sec. 11. [COMMUNITY-ORIENTED CHEMICAL DEPENDENCY PILOT PROJECT.]

Subdivision 1. [PILOT PROJECT ESTABLISHED.] Hennepin county, in conjunction with local neighborhoods, shall establish a community-oriented chemical dependency pilot project. The project must take a comprehensive public health approach to the problem of chemical dependency, including the problems associated with cocaine, as it impacts certain neighborhoods.

Subd. 2. [OUTREACH AND ASSESSMENT.] The pilot project must include a street outreach and assessment program that is coordinated with health workers, community policing teams, and neighborhood crime prevention units. The assessments must be conducted in accordance with the provisions that apply to chemical dependency care for public assistance recipients under rules promulgated by the commissioner of human services, except that the requirements of the compliance provisions that apply to an assessor under contract with a county that has a shared financial interest with a treatment provider does not apply to this pilot project. The assessor shall make a recommendation as to the duration and method of treatment.

Subd. 3. [CHEMICAL DEPENDENCY TREATMENT.] The pilot project must include efforts to direct persons into appropriate chemical dependency treatment using the criteria that apply to chemical dependency care for public assistance recipients under rules promulgated by the commissioner of human services. The project may require that all participating third-party payors, including medical assistance, accept the assessment conducted under subdivision 2 and accept the duration and method of treatment recommended by the assessor. The pilot project must include all measures to ensure that culturally appropriate treatment programs are utilized. The pilot project must include efforts to address the other needs of persons undergoing treatment that may interfere with their ability to receive effective treatment, including housing, child care, and referrals to the maternal child substance abuse project as appropriate.

Subd. 4. [AFTERCARE PROGRAM.] The pilot project must include an aftercare program, with home-based services and assistance with education, jobs, child care, transportation, and housing.

Subd. 5. [COORDINATION WITH DRUG COURT.] The pilot project must seek to coordinate efforts with the drug court initiatives being undertaken in Hennepin county.

Subd. 6. [EXPEDITED PROCESS.] The pilot project must work with appropriate law enforcement officials to expedite the process of getting persons into appropriate chemical dependency treatment.

Subd. 7. [CRITERIA FOR PARTICIPATION.] Hennepin county shall establish the criteria for determining the neighborhoods eligible to participate in the pilot project. Hennepin county shall consider factors in the neighborhood including crime reports, the number of repeat arrests, the number of arrests for narcotics laws violations, the number of drug-related homicides and violent crimes, the presence of community crime prevention block clubs, and the ability to work with the county.

Subd. 8. [FUNDING FOR TREATMENT.] A person participating in the pilot project under this section who requires chemical dependency treatment shall utilize reimbursement from any health coverage the person has. If the person does not have health coverage, the person shall be funded under Minnesota Statutes, chapter 254B, if eligible.

Subd. 9. [STATE-MANAGED CARE PROGRAMS.] (a) This section does not change eligibility requirements, payment rates, covered services, or administrative requirements for health plans under the prepaid medical assistance program and the MinnesotaCare managed care program, except that health plans must accept the assessor's recommendation regarding the need for treatment and the appropriate type and duration of treatment if the assessment was performed in compliance with the rules specified in subdivision 2. The assessor shall notify a health plan of the results of each assessment performed for a person covered by the health plan. The independent evaluation required under subdivision 10 must include an evaluation of the impact of the project on the costs incurred by each prepaid health plan participating in state health care programs. The evaluation must be based on reports submitted by prepaid health plans and other information obtained by the evaluator.

(b) If the commissioner of human services determines that a prepaid health plan incurred higher costs for a covered person served under the pilot project that are due to additional services that would not otherwise be covered under the prepaid medical assistance program, the commissioner of human services shall reimburse the prepaid health plan for the additional costs within 120 days after the conclusion of the pilot project.

Subd. 10. [EVALUATION.] The pilot project must include an independent evaluation of the effectiveness of the program established under the project. The evaluation must examine the effectiveness of the outreach and assessment procedures, the effectiveness of treatment methods including the impact on recidivism rates, the costs of treatment and other services provided, the impact on prepaid health plans serving public programs, a comparison of the methods used in the pilot project to other approaches to serving the target population, and other relevant matters.

Subd. 11. [REPORT.] By July 1, 1997, Hennepin county shall report to the chairs of the senate and house of representatives committees having jurisdiction over health and criminal justice policies on the status of the pilot project. The report must be compiled from information submitted by the neighborhoods participating in the pilot project. The report must include recommendations on whether some of the appropriations for the pilot project should be directed to the drug court being developed in Hennepin or other counties.

Sec. 12. [GRANT PROGRAMS AUDITED.]

The legislative audit commission is requested to direct the legislative auditor to analyze and report on grant programs administered by the departments of corrections; economic security; human services; public safety; health; children, families, and learning; and the office of strategic and long-range planning. The report must:

(1) describe each grant program contained in statute or session law;

(2) list the appropriations to the programs over the past five years and specify whether the appropriation was included in the department's base or was a separate appropriation;

(3) specify the percentages of each program's total appropriation used for actual grants compared with administrative expenses; and

(4) analyze the amount of duplication in the various grant programs.

If the commission directs the auditor to conduct this evaluation, the auditor shall report to the chairs of the senate and house of representatives committees having jurisdiction over criminal justice funding by February 15, 1997.

Sec. 13. [AUTHORIZATION FOR THE MARTIN LUTHER KING, JR. NONVIOLENT INSTITUTIONAL CHILD DEVELOPMENT PILOT PROGRAM.]

(a) The council on Black Minnesotans shall proceed with the planning, designing, and implementation of the Martin Luther King, Jr. nonviolent institutional child development pilot program which must provide:

(1) multi-institutional interdisciplinary community violence prevention programs; and

(2) multi-institutional interdisciplinary intervention programs.

(b) The pilot program may provide service to the following institutions:

(1) elementary and secondary schools;

(2) social service programs and agencies;

(3) youth programs and services;

(4) juvenile delinquency programs;

(5) residential treatment facilities;

(6) foster homes;

(7) law enforcement agencies;

(8) medical centers;

(9) mental health programs; and

(10) religious outreach programs.

(c) The program may include:

(1) development and implementation of each participating institution's long-range community violence prevention plan for school-age children;

(2) development and implementation of each participating institution's community violence intervention plan for children affected by violence in the community;

(3) identification and implementation of each participating institution's training and staffing needs;

(4) development and implementation of a network among participating institutions to coordinate services, share information, and develop common strategies for violence prevention and intervention; and

(5) funding for participating institution's violence prevention and intervention programs.

(d) The pilot program must be evaluated based on outcome evaluation criteria determined by the commissioner of public safety, in consultation with the executive director of the council on Black Minnesotans and a community-based advisory council before implementation of the program.

(e) The pilot program must start by January 2, 1997.

(f) The pilot program must be completed by the council on Black Minnesotans by July 1, 1998, and presented to the commissioners of human services, public safety, corrections, and children, families, and learning.

(g) Government data on individuals that is maintained under the program are confidential data on individuals as defined in Minnesota Statutes, section 13.02, subdivision 3, but may be shared among institutions participating in the program for purposes of providing services under the program.

Sec. 14. [INITIAL TERMS.]

Notwithstanding section 1, subdivision 1, in making the initial appointments to the automobile theft prevention board established by that subdivision, the governor shall appoint four members to two-year terms and three members to one-year terms.

Sec. 15. [COMMENCEMENT OF SURCHARGE.]

Each insurer governed by section 1, subdivision 3, shall begin to collect and remit the surcharge required by that subdivision on January 1, 1997.

Sec. 16. [REPEALER.]

(a) Minnesota Statutes 1994, section 299A.60, is repealed.

(b) Section 1 is repealed January 1, 2002.

Sec. 17. [EFFECTIVE DATE.]

Section 13 is effective the day following final enactment.

ARTICLE 3
GENERAL CRIME PROVISIONS

Section 1. Minnesota Statutes 1994, section 169.09, subdivision 14, is amended to read:

Subd. 14. [PENALTIES.] (a) ~~The driver of any vehicle who violates subdivision 1 or 6 and who caused the accident is punishable as follows:~~

~~(1) if the accident results in the death of any person, the driver is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $20,000, or both;~~

~~(2) if the accident results in great bodily harm to any person, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than five years, or to payment of a fine of not more than $10,000, or both; or~~

~~(3) if the accident results in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, the driver is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $5,000, or both.~~

~~(b)~~ The driver of any vehicle who violates subdivision 1 or 6 and who did not cause the accident is punishable as follows:

(1) if the accident results in the death of any person, the driver is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $5,000, or both;

(2) if the accident results in great bodily harm to any person, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than $4,000, or both; or

(3) if the accident results in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, the driver may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $3,000, or both.

~~(c)~~ (b) The driver of any vehicle involved in an accident not resulting in substantial bodily harm or death who violates subdivision 1 or 6 may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $3,000, or both.

~~(d)~~ (c) Any person who violates subdivision 2, 3, 4, 5, 7, 8, 10, 11, or 12 is guilty of a misdemeanor.

The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

Sec. 2. Minnesota Statutes 1994, section 169.791, subdivision 2a, is amended to read:

Subd. 2a. [LATER PRODUCTION OF PROOF BY DRIVER WHO IS OWNER.] A driver who is the owner of the vehicle may, ~~within ten days after the demand~~ no later than the date and time specified in the citation for the driver's first court appearance, produce proof of insurance stating that security had been provided for the vehicle that was being operated at the time of the demand to the court administrator. The required proof of insurance may be sent by mail by the driver as long as it is received ~~within ten days~~ no later than the date and time specified in the citation for the driver's first court appearance. If a citation is issued, no person shall be convicted of violating this section if the court administrator receives the required proof of insurance ~~within ten days of the issuance of the citation~~ no later than the date and time specified in the citation for the driver's first court appearance. If the charge is made other than by citation, no person shall be convicted of violating this section if the person presents the required proof of insurance at the person's first court appearance after the charge is made.

Sec. 3. Minnesota Statutes 1994, section 169.791, subdivision 3, is amended to read:

Subd. 3. [LATER PRODUCTION OF INFORMATION BY DRIVER WHO IS NOT OWNER.] If the driver is not the owner of the vehicle, the driver shall, ~~within ten days of the officer's demand~~ no later than the date and time specified in the citation for the driver's first court appearance, provide the district court administrator with proof of insurance or the name and address of the owner. Upon receipt of the name and address of the owner, the district court administrator shall communicate the information to the law enforcement agency.

Sec. 4. Minnesota Statutes 1994, section 169.791, subdivision 4, is amended to read:

Subd. 4. [REQUIREMENT FOR OWNER WHO IS NOT DRIVER.] If the driver is not the owner of the vehicle, the officer may send or provide a notice to the owner of the vehicle requiring the owner to produce proof of insurance for the vehicle that was being operated at the time of the demand. Notice by mail is presumed to be received five days after mailing and shall be sent to the owner's current address or the address listed on the owner's driver's license. Within ten days after receipt of the notice, the owner shall produce the required proof of insurance to the place stated in the notice received by the owner. The required proof of insurance may be sent by mail by the owner as long as it is received within ten days. Any owner who fails to produce proof of insurance within ten days of an officer's request under this subdivision is guilty of a misdemeanor. The peace officer may mail the citation to the owner's current address or address stated on the owner's driver's license. It is an affirmative defense to a charge against the owner that the driver used the owner's vehicle without consent, if insurance would not have been required in the absence of the unauthorized use by the driver. It is not a defense that a person failed to notify the department of public safety of a change of name or address as required under section 171.11. The citation may be sent after the ten-day period.

Sec. 5. Minnesota Statutes 1994, section 169.792, subdivision 1, is amended to read:

Subdivision 1. [IMPLIED CONSENT.] Any driver or owner of a vehicle consents, subject to the provisions of this section and section 169.791, to the requirement of having possession of proof of insurance, and to the revocation of the person's license if the driver or owner does not produce the required proof of insurance ~~within ten days of an officer's demand~~ no later than the date and time specified in the citation for the driver's first court appearance, if a citation is issued, or within ten days of receipt of a written notice, if a written notice is sent or given. Any driver of a vehicle who is not the owner of the vehicle consents, subject to the provisions of this section and section 169.791, to providing to the officer the name and address of the owner of the vehicle.

Sec. 6. Minnesota Statutes 1994, section 169.792, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENT FOR DRIVER WHETHER OR NOT OWNER.] Except as provided in subdivision 3, every driver of a vehicle shall, ~~within ten days after~~ upon the demand of a peace officer, produce proof of insurance in force for the vehicle that was being operated at the time of the demand, to the district court administrator no later than the date and time specified in the citation for the driver's first court appearance. The required proof of insurance may be sent by the driver by mail as long as it is received ~~within ten days~~ no later than the date and time specified in the citation for the driver's first court appearance. A driver who is not the owner does not violate this section unless the driver knew or had reason to know that the owner did not have proof of insurance required by this section, provided that the driver provides the officer with the owner's name and address at the time of the demand or complies with subdivision 3.

Sec. 7. Minnesota Statutes 1994, section 169.792, subdivision 3, is amended to read:

Subd. 3. [REQUIREMENT FOR DRIVER WHO IS NOT OWNER.] If the driver is not the owner of the vehicle, then the driver shall provide the officer with the name and address of the owner at the time of the demand or shall ~~within ten days of the officer's demand~~, no later than the date and time specified in the citation for the driver's first court appearance, provide the district court administrator with proof of insurance or the name and address of the owner. Upon receipt of the owner's name and address, the district court administrator shall forward the information to the law enforcement agency. If the name and address received from the driver do not match information available to the district court administrator, the district court administrator shall notify the law enforcement agency of the discrepancy.

Sec. 8. Minnesota Statutes 1994, section 169.792, subdivision 5, is amended to read:

Subd. 5. [WRITTEN NOTICE.] (a) When proof of insurance is demanded and none is in possession, the law enforcement agency may send or give the driver written notice as provided ~~herein~~ in this subdivision, unless the officer issues a citation to the driver under section 169.791 or 169.797. If the driver is not the owner and does not produce the required proof of insurance within ten days of the demand, the law enforcement agency may send or give written notice to the owner of the vehicle.

(b) Within ten days after receipt of the notice, if given, the driver or owner shall produce the required proof of insurance to the place stated in the notice. Notice to the driver or owner by mail is presumed to be received within five days after mailing. It is not a defense that a person failed to notify the department of public safety of a change of name or address as required under section 171.11.

(c) The department of public safety shall prescribe a form setting forth the written notice to be provided to the driver or owner. The department shall, upon request, provide a sample of the form to any law enforcement agency. The notice shall provide that the driver or owner must produce the proof of insurance to the law enforcement agency, at the place specified in the notice. The notice shall also state:

(1) that Minnesota law requires every driver and owner to produce an insurance identification card, insurance policy, or written statement indicating that the vehicle had insurance at the time of an officer's demand ~~within ten days of the demand~~, no later than the date and time specified in the citation for the driver's first court appearance, if a citation is issued, or within ten days of receipt of the written notice if a written notice is sent or given, provided, however, that a driver who does not own the vehicle shall provide the name and address of the owner;

(2) that if the driver fails to produce the information within ~~ten days from the date of demand~~ the required time or if the owner fails to produce the information within ten days of receipt of the notice from the peace officer, the commissioner of public safety shall revoke the person's driver's license or permit to drive for a minimum of 30 days, and shall revoke the registration of the vehicle;

(3) that any person who displays or causes another to display an insurance identification card, insurance policy, or written statement, knowing that the insurance is not in force, is guilty of a misdemeanor; and

(4) that any person who alters or makes a fictitious identification card, insurance policy, or written statement, or knowingly displays an altered or fictitious identification card, insurance policy, or written statement, is guilty of a misdemeanor.

Sec. 9. Minnesota Statutes 1994, section 169.792, subdivision 6, is amended to read:

Subd. 6. [REPORT TO COMMISSIONER OF PUBLIC SAFETY.] If a driver fails to produce the required proof of insurance or name and address of the owner ~~within ten days of the demand~~ no later than the date and time specified in the citation for the driver's first court appearance, the district court administrator shall report the failure to the commissioner. If an owner who is not the driver fails to produce the required proof of insurance, or if a driver to whom a citation has not been issued does not provide proof of insurance or the owner's name and address, within ten days of receipt of the notice, the law enforcement agency shall report the failure to the commissioner. Failure to produce proof of insurance or the owner's name and address as required by this section must be reported to the commissioner promptly regardless of the status or disposition of any related criminal charges.

Sec. 10. [171.174] REVOCATION; FLEEING PEACE OFFICER OFFENSE.]

The commissioner of public safety shall revoke the driver's license of a person upon receipt of a certificate of conviction showing that the person has in a motor vehicle violated section 609.487, subdivision 3 or 4, or an ordinance in conformity with those subdivisions. The commissioner shall revoke the driver's license as follows:

(1) for the first offense under section 609.487, subdivision 3, for not less than one year;

(2) for the second offense or subsequent offenses under section 609.487, subdivision 3, for not less than three years;

(3) for an offense under section 609.487, subdivision 4, clause (a), for not less than ten years;

(4) for an offense under section 609.487, subdivision 4, clause (b), for not less than seven years; and

(5) for an offense under section 609.487, subdivision 4, clause (c), for not less than five years.

A limited license under section 171.30 may not be issued for one-half of the revocation period specified in clauses (1) to (5) and after that period is over only upon and as recommended by the adjudicating court.

Sec. 11. Minnesota Statutes 1994, section 244.09, subdivision 5, is amended to read:

Subd. 5. The commission shall, on or before January 1, 1980, promulgate sentencing guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:

(1) The circumstances under which imprisonment of an offender is proper; and

(2) A presumptive, fixed sentence for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. The guidelines may provide for an increase or decrease of up to 15 percent in the presumptive, fixed sentence.

The sentencing guidelines promulgated by the commission may also establish appropriate sanctions for offenders for whom imprisonment is not proper. Any guidelines promulgated by the commission establishing sanctions for offenders for whom imprisonment is not proper shall make specific reference to noninstitutional sanctions, including but not limited to the following: payment of fines, day fines, restitution, community work orders, work release programs in local facilities, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation and the conditions thereof.

In establishing and modifying the sentencing guidelines, the primary consideration of the commission shall be public safety. The commission shall also consider current sentencing and release practices ~~and~~; correctional resources, including but not limited to the capacities of local and state correctional facilities; and the long-term negative impact of the crime on the community.

The provisions of sections 14.001 to 14.69 do not apply to the promulgation of the sentencing guidelines, and the sentencing guidelines, including severity levels and criminal history scores, are not subject to review by the legislative commission to review administrative rules. However, on or before January 1, 1986, the commission shall adopt rules pursuant to sections 14.001 to 14.69 which establish procedures for the promulgation of the sentencing guidelines, including procedures for the promulgation of severity levels and criminal history scores, and these rules shall be subject to review by the legislative commission to review administrative rules.

Sec. 12. Minnesota Statutes 1994, section 609.06, is amended to read:

609.06 [AUTHORIZED USE OF FORCE.]

Subdivision 1. [WHEN AUTHORIZED.] Except as otherwise provided in subdivision 2, reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:

(1) when used by a public officer or one assisting a public officer under the public officer's direction:

(a) in effecting a lawful arrest; or

(b) in the execution of legal process; or

(c) in enforcing an order of the court; or

(d) in executing any other duty imposed upon the public officer by law; or

(2) when used by a person not a public officer in arresting another in the cases and in the manner provided by law and delivering the other to an officer competent to receive the other into custody; or

(3) when used by any person in resisting or aiding another to resist an offense against the person; or

(4) when used by any person in lawful possession of real or personal property, or by another assisting the person in lawful possession, in resisting a trespass upon or other unlawful interference with such property; or

(5) when used by any person to prevent the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime; or

(6) when used by a parent, guardian, teacher or other lawful custodian of a child or pupil, in the exercise of lawful authority, to restrain or correct such child or pupil; or

(7) when used by a school employee or school bus driver, in the exercise of lawful authority, to restrain a child or pupil, or to prevent bodily harm or death to another; or

(8) when used by a common carrier in expelling a passenger who refuses to obey a lawful requirement for the conduct of passengers and reasonable care is exercised with regard to the passenger's personal safety; or

(9) when used to restrain a mentally ill or mentally defective person from self-injury or injury to another or when used by one with authority to do so to compel compliance with reasonable requirements for the person's control, conduct or treatment; or

(10) when used by a public or private institution providing custody or treatment against one lawfully committed to it to compel compliance with reasonable requirements for the control, conduct or treatment of the committed person.

Subd. 2. [DEADLY FORCE USED AGAINST PEACE OFFICERS.] Deadly force may not be used against peace officers who have announced their presence and are performing official duties at a location where a person is committing a crime or an act that would be a crime if committed by an adult.

Sec. 13. Minnesota Statutes 1995 Supplement, section 609.20, is amended to read:

609.20 [MANSLAUGHTER IN THE FIRST DEGREE.]

Whoever does any of the following is guilty of manslaughter in the first degree and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both:

(1) intentionally causes the death of another person in the heat of passion provoked by such words or acts of another as would provoke a person of ordinary self-control under like circumstances, provided that the crying of a child does not constitute provocation;

(2) violates section 609.224 and causes the death of another or causes the death of another in committing or attempting to commit a misdemeanor or gross misdemeanor offense with such force and violence that death of or great bodily harm to any person was reasonably foreseeable, and murder in the first or second degree was not committed thereby;

(3) intentionally causes the death of another person because the actor is coerced by threats made by someone other than the actor's coconspirator and which cause the actor reasonably to believe that the act performed by the actor is the only means of preventing imminent death to the actor or another;

(4) proximately causes the death of another, without intent to cause death by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a controlled substance classified in schedule III, IV, or V; or

(5) causes the death of another in committing or attempting to commit a violation of section 609.377 (malicious punishment of a child), and murder in the first, second, or third degree is not committed thereby.

As used in this section, a "person of ordinary self-control" does not include a person under the influence of intoxicants or a controlled substance.

Sec. 14. Minnesota Statutes 1994, section 609.21, subdivision 1, is amended to read:

Subdivision 1. [CRIMINAL VEHICULAR HOMICIDE.] Whoever causes the death of a human being not constituting murder or manslaughter as a result of operating a motor vehicle,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more; ~~or~~

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving~~,~~; or

(5) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6,

is guilty of criminal vehicular homicide resulting in death and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Sec. 15. Minnesota Statutes 1994, section 609.21, subdivision 2, is amended to read:

Subd. 2. [RESULTING IN GREAT BODILY HARM.] Whoever causes great bodily harm to another, not constituting attempted murder or assault, as a result of operating a motor vehicle,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more; ~~or~~

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving~~,~~; or

(5) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6,

is guilty of criminal vehicular operation resulting in great bodily harm and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Sec. 16. Minnesota Statutes 1994, section 609.21, subdivision 2a, is amended to read:

Subd. 2a. [RESULTING IN SUBSTANTIAL BODILY HARM.] Whoever causes substantial bodily harm to another, as a result of operating a motor vehicle,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more; ~~or~~

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving~~,~~; or

(5) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6,

is guilty of criminal vehicular operation resulting in substantial bodily harm and may be sentenced

to imprisonment for not more than three years or to payment of a fine of not more than $10,000, or both.

Sec. 17. Minnesota Statutes 1994, section 609.21, subdivision 3, is amended to read:

Subd. 3. [RESULTING IN DEATH TO AN UNBORN CHILD.] Whoever causes the death of an unborn child as a result of operating a motor vehicle,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more; ~~or~~

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving~~,~~; or

(5) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6,

is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 18. Minnesota Statutes 1994, section 609.21, subdivision 4, is amended to read:

Subd. 4. [RESULTING IN INJURY TO UNBORN CHILD.] Whoever causes great bodily harm to an unborn child who is subsequently born alive, as a result of operating a motor vehicle,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more; ~~or~~

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving~~,~~; or

(5) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6,

is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 19. Minnesota Statutes 1994, section 609.2231, subdivision 2, is amended to read:

Subd. 2. [FIREFIGHTERS AND EMERGENCY MEDICAL PERSONNEL.] Whoever assaults any of the following persons and inflicts demonstrable bodily harm is guilty of a ~~gross misdemeanor~~ felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both:

(1) a member of a municipal or volunteer fire department or emergency medical services personnel unit in the performance of the member's duties; or

(2) a physician, nurse, or other person providing health care services in a hospital emergency department~~; or~~

~~(3) an employee of the department of natural resources who is engaged in forest fire activities.~~

Sec. 20. Minnesota Statutes 1994, section 609.2231, is amended by adding a subdivision to read:

Subd. 2a. [CERTAIN DEPARTMENT OF NATURAL RESOURCES EMPLOYEES.] Whoever assaults and inflicts demonstrable bodily harm on an employee of the department of natural resources who is engaged in forest fire activities is guilty of a gross misdemeanor.

Sec. 21. Minnesota Statutes 1995 Supplement, section 609.224, subdivision 2, is amended to read:

Subd. 2. [GROSS MISDEMEANOR.] (a) Whoever violates the provisions of subdivision 1 against the same victim during the time period between a previous conviction under this section, sections 609.221 to 609.2231, 609.2242, 609.342 to 609.345, or 609.713, or any similar law of another state, and the end of the five years following discharge from sentence for that conviction, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) Whoever violates the provisions of subdivision 1 within two years of a previous conviction under this section or sections 609.221 to 609.2231, 609.2242, or 609.713 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(c) A caregiver, as defined in section 609.232, who is an individual and who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Sec. 22. Minnesota Statutes 1994, section 609.224, subdivision 4, is amended to read:

Subd. 4. [FELONY.] (a) Whoever violates the provisions of subdivision 1 against the same victim during the time period between the first of two or more previous convictions under this section or sections 609.221 to 609.2231, 609.2242, 609.342 to 609.345, or 609.713, and the end of the five years following discharge from sentence for that conviction is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than $10,000, or both.

(b) Whoever violates the provisions of subdivision 1 within three years of the first of two or more previous convictions under this section or sections 609.221 to 609.2231, 609.2242, or 609.713 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Sec. 23. [609.2243] [SENTENCING; REPEAT DOMESTIC ASSAULT.]

Subdivision 1. [GROSS MISDEMEANOR.] A person convicted of gross misdemeanor domestic assault under section 609.2242, subdivision 2, shall be sentenced to a minimum of 20 days imprisonment, at least 96 hours of which must be served consecutively. The court may stay execution of the minimum sentence required under this subdivision on the condition that the person sentenced complete anger therapy or counseling and fulfill any other condition, as ordered by the court; provided, however, that the court shall revoke the stay of execution and direct the person to be taken into immediate custody if it appears that the person failed to attend or complete the ordered therapy or counseling, or violated any other condition of the stay of execution. If the court finds at the revocation hearing required under section 609.14, subdivision 2, that the person failed to attend or complete the ordered therapy, or violated any other condition of the stay of execution, the court shall order execution of the sentence previously imposed.

Subd. 2. [FELONY.] (a) Except as otherwise provided in paragraph (b), in determining an appropriate disposition for felony domestic assault under section 609.2242, subdivision 4, the court shall presume that a stay of execution with at least a 45-day period of incarceration as a condition of probation shall be imposed. If the court imposes a stay of execution with a period of incarceration as a condition of probation, at least 15 days must be served consecutively.

(b) If the defendant's criminal history score, determined according to the sentencing guidelines, indicates a presumptive executed sentence, that sentence shall be imposed unless the court departs from the sentencing guidelines pursuant to section 244.10. A stay of imposition of sentence under this paragraph may be granted only if accompanied by a statement on the record of the reasons for it.

Sec. 24. [609.2244] [DOMESTIC ABUSE ASSESSMENTS.]

Subdivision 1. [DOMESTIC ABUSE ASSESSMENT.] A domestic abuse assessment must be conducted and an assessment report submitted to the court by the county agency responsible for administering the assessment when:

(1) a defendant is convicted of an offense described in section 518B.01, subdivision 2; or

(2) a defendant is arrested for committing an offense described in section 518B.01, subdivision 2, but is convicted of another offense arising out of the same circumstances surrounding the arrest.

Subd. 2. [REPORT.] (a) The assessment report must contain an evaluation of the convicted defendant including the circumstances of the offense, impact on the victim, the defendant's prior record, characteristics and history of alcohol and chemical use problems, and amenability to domestic abuse counseling programs. The report is classified as private data on individuals as defined in section 13.02, subdivision 12.

(b) The assessment report must include:

(1) a recommendation on any limitations on contact with the victim;

(2) a recommendation for the defendant to enter and successfully complete domestic abuse counseling and any aftercare found necessary by the assessment;

(3) a recommendation for chemical dependency evaluation and treatment as determined by the evaluation whenever alcohol or drugs were found to be a contributing factor to the offense;

(4) recommendations for other appropriate remedial action or care, which may consist of educational programs, one-on-one counseling, a program or type of treatment that addresses mental health concerns, or a specific explanation why no level of care or action is recommended; and

(5) consequences for failure to abide by conditions set up by the court.

Subd. 3. [ASSESSOR STANDARDS; RULES; ASSESSMENT TIME LIMITS.] A domestic abuse assessment required by this section must be conducted by an assessor approved by the court, the local corrections department, or the commissioner of corrections. The assessor shall have access to any police reports, or other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. An assessor providing an assessment under this section may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. An appointment for the defendant to undergo the assessment shall be made by the court, a court services probation officer, or court administrator as soon as possible but in no case more than one week after the defendant's court appearance. The assessment must be completed no later than three weeks after the defendant's court date.

Subd. 4. [DOMESTIC ABUSE ASSESSMENT FEE.] When the court sentences a person convicted of an offense described in section 518B.01, subdivision 2, the court shall impose a domestic abuse assessment fee of $125. This fee must be imposed whether the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the fee in installments unless it makes written findings on the record that the convicted person is indigent or that the fee would create undue hardship for the convicted person or that person's immediate family. The person convicted of the offense and ordered to pay the fee shall pay the fee to the county corrections department or other designated agencies conducting the assessment.

Sec. 25. [609.2246] [TATTOOS; MINORS.]

Subdivision 1. [REQUIREMENTS.] No person under the age of 18 may receive a tattoo unless the person provides written parental consent to the tattoo. The consent must include both the custodial and noncustodial parents, where applicable.

Subd. 2. [DEFINITION.] For the purposes of this section, "tattoo" means an indelible mark or figure fixed on the body by insertion of pigment under the skin or by production of scars.

Subd. 3. [PENALTY.] A person who provides a tattoo to a minor in violation of this section is guilty of a misdemeanor.

Sec. 26. Minnesota Statutes 1995 Supplement, section 609.3451, subdivision 1, is amended to read:

Subdivision 1. [CRIME DEFINED.] A person is guilty of criminal sexual conduct in the fifth degree:

(1) if the person engages in nonconsensual sexual contact; or

(2) the person engages in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16, knowing or having reason to know the minor is present.

For purposes of this section, "sexual contact" has the meaning given in section 609.341, subdivision 11, paragraph (a), clauses (i) and (iv), but does not include the intentional touching of the clothing covering the immediate area of the buttocks. Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant's intimate parts or undergarments, and the nonconsensual touching by the complainant of the actor's intimate parts, effected by the actor, if the action is performed with sexual or aggressive intent.

Sec. 27. Minnesota Statutes 1994, section 609.3451, is amended by adding a subdivision to read:

Subd. 3. [FELONY.] A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person violates subdivision 1, clause (2), after having been previously convicted of or adjudicated delinquent for violating subdivision 1, clause (2); section 617.23, paragraph (b), clause (1); or a statute from another state in conformity with subdivision 1, clause (2), or section 617.23, paragraph (b), clause (1).

Sec. 28. Minnesota Statutes 1995 Supplement, section 609.485, subdivision 2, is amended to read:

Subd. 2. [ACTS PROHIBITED.] Whoever does any of the following may be sentenced as provided in subdivision 4:

(1) escapes while held in lawful custody on a charge or conviction of a crime, or while held in lawful custody on an allegation or adjudication of a delinquent act ~~while 18 years of age~~;

(2) transfers to another, who is in lawful custody on a charge or conviction of a crime, or introduces into an institution in which the latter is confined, anything usable in making such escape, with intent that it shall be so used;

(3) having another in lawful custody on a charge or conviction of a crime, intentionally permits the other to escape;

(4) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a. Notwithstanding section 609.17, no person may be charged with or convicted of an attempt to commit a violation of this clause; or

(5) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order under section 253B.185 or 526.10.

For purposes of clause (1), "escapes while held in lawful custody" includes absconding from electronic monitoring or absconding after removing an electronic monitoring device from the person's body.

Sec. 29. Minnesota Statutes 1995 Supplement, section 609.485, subdivision 4, is amended to read:

Subd. 4. [SENTENCE.] (a) Except as otherwise provided in subdivision 3a, whoever violates this section may be sentenced as follows:

(1) if the person who escapes is in lawful custody on a charge or conviction of a felony, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) if the person who escapes is in lawful custody after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a, or pursuant to a court commitment order under section 253B.185 or 526.10, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both; or

(3) if such charge or conviction is for a gross misdemeanor or misdemeanor, or if the person who escapes is in lawful custody on an allegation or adjudication of a delinquent act ~~while 18 years of age~~, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) If the escape was a violation of subdivision 2, clause (1), (2), or (3), and was effected by violence or threat of violence against a person, the sentence may be increased to not more than twice those permitted in paragraph (a), clauses (1) and (3).

(c) Unless a concurrent term is specified by the court, a sentence under this section shall be consecutive to any sentence previously imposed or which may be imposed for any crime or offense for which the person was in custody when the person escaped.

(d) Notwithstanding paragraph (c), if a person who was committed to the commissioner of corrections under section 260.185 escapes from the custody of the commissioner while 18 years of age, the person's sentence under this section shall commence on the person's 19th birthday or on the person's date of discharge by the commissioner of corrections, whichever occurs first. However, if the person described in this clause is convicted under this section after becoming 19 years old and after having been discharged by the commissioner, the person's sentence shall commence upon imposition by the sentencing court.

(e) Notwithstanding paragraph (c), if a person who is in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age escapes from a local juvenile correctional facility, the person's sentence under this section begins on the person's 19th birthday or on the person's date of discharge from the jurisdiction of the juvenile court, whichever occurs first. However, if the person described in this paragraph is convicted after becoming 19 years old and after discharge from the jurisdiction of the juvenile court, the person's sentence begins upon imposition by the sentencing court.

Sec. 30. Minnesota Statutes 1994, section 609.487, is amended by adding a subdivision to read:

Subd. 5. [REVOCATION; FLEEING PEACE OFFICER OFFENSE.] When a person is convicted of operating a motor vehicle in violation of subdivision 3 or 4, or an ordinance in conformity with those subdivisions, the court shall notify the commissioner of public safety and order the commissioner to revoke the driver's license of the person.

Sec. 31. Minnesota Statutes 1995 Supplement, section 609.52, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] In this section:

(1) "Property" means all forms of tangible property, whether real or personal, without limitation

including documents of value, electricity, gas, water, corpses, domestic animals, dogs, pets, fowl, and heat supplied by pipe or conduit by municipalities or public utility companies and articles, as defined in clause (4), representing trade secrets, which articles shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any trade secret represented by the article.

(2) "Movable property" is property whose physical location can be changed, including without limitation things growing on, affixed to, or found in land.

(3) "Value" means the retail market value at the time of the theft, or if the retail market value cannot be ascertained, the cost of replacement of the property within a reasonable time after the theft, or in the case of a theft or the making of a copy of an article representing a trade secret, where the retail market value or replacement cost cannot be ascertained, any reasonable value representing the damage to the owner which the owner has suffered by reason of losing an advantage over those who do not know of or use the trade secret. For a check, draft, or other order for the payment of money, "value" means the amount of money promised or ordered to be paid under the terms of the check, draft, or other order. For a theft committed within the meaning of subdivision 2, clause (5), (a) and (b), if the property has been restored to the owner, "value" means the value of the use of the property or the damage which it sustained, whichever is greater, while the owner was deprived of its possession, but not exceeding the value otherwise provided herein.

(4) "Article" means any object, material, device or substance, including any writing, record, recording, drawing, sample specimen, prototype, model, photograph, microorganism, blueprint or map, or any copy of any of the foregoing.

(5) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(6) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing, or sketch made of or from an article while in the presence of the article.

(8) "Property of another" includes property in which the actor is coowner or has a lien, pledge, bailment, or lease or other subordinate interest, property transferred by the actor in circumstances which are known to the actor and which make the transfer fraudulent as defined in section 513.44, and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife. It does not include property in which the actor asserts in good faith a claim as a collection fee or commission out of property or funds recovered, or by virtue of a lien, setoff, or counterclaim.

(9) "Services" include but are not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment services, advertising services, telecommunication services, and the supplying of equipment for use.

(10) "Motor vehicle" means a self-propelled device for moving persons or property or pulling implements from one place to another, whether the device is operated on land, rails, water, or in the air.

Sec. 32. Minnesota Statutes 1994, section 609.52, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING THEFT.] Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession

of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody, or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(a) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(b) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(c) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(d) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 which intentionally and falsely states the costs of or actual treatment or supplies provided; or

(e) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 for treatment or supplies that the provider knew were medically unnecessary, inappropriate, or excessive; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and:

(a) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

(b) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(c) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof, or any lessee of the property who sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof. Evidence that a lessee used a false or fictitious name or address in obtaining the property or fails or refuses to return the property to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property ~~with knowledge~~ knowing or having reason to know that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by:

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection, or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law Number 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio, or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(i) made or was aware of the connection; and

(ii) was aware that the connection was unauthorized; or

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it; or

(17) intentionally takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner.

Sec. 33. Minnesota Statutes 1994, section 609.583, is amended to read:

609.583 [SENTENCING; FIRST BURGLARY OF A DWELLING.]

Except as provided in section 609.582, subdivision 1a, in determining an appropriate disposition for a first offense of burglary of a dwelling, the court shall presume that a stay of execution with at least a 90-day period of incarceration as a condition of probation shall be imposed unless the defendant's criminal history score determined according to the sentencing guidelines indicates a presumptive executed sentence, in which case the presumptive executed sentence shall be imposed unless the court departs from the sentencing guidelines pursuant to section 244.10. A stay of imposition of sentence may be granted only if accompanied by a statement on the record of the reasons for it. The presumptive period of incarceration may be waived in whole or in part by the court if the defendant provides restitution or performs community work service.

Sec. 34. [609.586] [POSSESSION OF CODE GRABBING DEVICES; PENALTY.]

Subdivision 1. [DEFINITION.] As used in this section, "code grabbing device" means a device that can receive and record the coded signal sent by the transmitter of a security or other electronic system and can play back the signal to disarm or operate that system.

Subd. 2. [CRIME.] Whoever possesses a code grabbing device with intent to use the device to commit an unlawful act may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both.

Sec. 35. Minnesota Statutes 1994, section 609.596, is amended to read:

609.596 [KILLING OR HARMING A POLICE, CORRECTIONS OR ARSON DOG.]

Subdivision 1. [FELONY.] Whoever intentionally and without justification causes the death of a police dog or an arson dog when the dog is involved in law enforcement, fire, or correctional investigation or apprehension, or the dog is in the custody of or under the control of a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), or an employee of a correctional facility, as defined in section 241.021, subdivision 1, clause (5), is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than ~~$4,000~~ $5,000, or both. In lieu of a fine, the court may order a defendant convicted under this subdivision to pay restitution to the affected agency to replace the police dog or arson dog, in an amount not to exceed $5,000.

Subd. 2. [GROSS MISDEMEANOR.] Whoever intentionally and without justification causes substantial or great bodily harm to a police dog or an arson dog when the dog is involved in law enforcement, fire, or correctional investigation or apprehension, or the dog is in the custody of or under the control of a peace officer or an employee of a correctional facility, as defined in section 241.021, subdivision 1, clause (5), is guilty of a gross misdemeanor.

Subd. 3. [DEFINITION.] As used in this section, "arson dog" means a dog that has been certified as an arson dog by a state fire or police agency or by an independent testing laboratory.

Sec. 36. Minnesota Statutes 1994, section 609.611, is amended to read:

609.611 [~~DEFRAUDING INSURER~~ INSURANCE FRAUD.]

Subdivision 1. [~~DEFRAUD; DAMAGES OR CONCEALS PROPERTY~~ INSURANCE FRAUD PROHIBITED.] Whoever with ~~intent to injure or defraud an insurer, damages, removes, or conceals any property real or personal, whether the actor's own or that of another, which is at the time insured by any person, firm, or corporation against loss or damage;~~

~~(a) May be sentenced to imprisonment for not more than three years or to payment of fine of not more than $5,000, or both if the value insured for is less than $20,000; or~~

~~(b) May be sentenced to imprisonment for not more than five years or to payment of fine of not more than $10,000, or both if the value insured for is $20,000 or greater;~~

~~(c) Proof that the actor recovered or attempted to recover on a policy of insurance by reason of the alleged loss is relevant but not essential to establish the actor's intent to defraud the insurer.~~ the intent to defraud for the purpose of depriving another of property or for pecuniary gain, commits, or permits its employees or its agents to commit any of the following acts, is guilty of insurance fraud and may be sentenced as provided in subdivision 3:

(a) Presents, causes to be presented, or prepares with knowledge or reason to believe that it will be presented, by or on behalf of an insured, claimant, or applicant to an insurer, insurance professional, or premium finance company in connection with an insurance transaction or premium finance transaction, any information that contains a false representation as to any material fact, or that conceals a material fact concerning any of the following:

(1) an application for, rating of, or renewal of, an insurance policy;

(2) a claim for payment or benefit under an insurance policy;

(3) a payment made according to the terms of an insurance policy;

(4) an application used in a premium finance transaction;

(b) Presents, causes to be presented, or prepares with knowledge or reason to believe that it will be presented, to or by an insurer, insurance professional, or a premium finance company in connection with an insurance transaction or premium finance transaction, any information that contains a false representation as to any material fact, or that conceals a material fact, concerning any of the following:

(1) a solicitation for sale of an insurance policy or purported insurance policy;

(2) an application for certificate of authority;

(3) the financial condition of an insurer; or

(4) the acquisition, formation, merger, affiliation, or dissolution of an insurer;

(c) Solicits or accepts new or renewal insurance risks by or for an insolvent insurer;

(d) Removes the assets or any record of assets, transactions, and affairs or any material part thereof, from the home office or other place of business of an insurer, or from the place of safekeeping of an insurer, or destroys or sequesters the same from the department of commerce.

(e) Diverts, misappropriates, converts, or embezzles funds of an insurer, insured, claimant, or applicant for insurance in connection with:

(1) an insurance transaction;

(2) the conducting of business activities by an insurer or insurance professional; or

(3) the acquisition, formation, merger, affiliation, or dissolution of any insurer.

Subd. 2. [~~DEFRAUD; FALSE LOSS CLAIM~~ STATUTE OF LIMITATIONS.] ~~Whoever intentionally makes a claim to an insurance company that personal property was lost, stolen, damaged, destroyed, misplaced, or disappeared, knowing the claim to be false may be sentenced as provided in section 609.52, subdivision 3.~~ The applicable statute of limitations provision under section 628.26 shall not begin to run until the insurance company or law enforcement agency is aware of the fraud, but in no event may the prosecution be commenced later than seven years after the ~~claim was made~~ act has occurred.

Subd. 3. [SENTENCE.] Whoever violates this provision may be sentenced as provided in section 609.52, subdivision 3, based on the greater of (i) the value of property, services, or other benefit wrongfully obtained or attempted to obtain, or (ii) the aggregate economic loss suffered by any person as a result of the violation. A person convicted of a violation of this section must be ordered to pay restitution to persons aggrieved by the violation. Restitution must be ordered in addition to a fine or imprisonment but not in lieu of a fine or imprisonment.

Subd. 4. [DEFINITIONS.] (a) "Insurance policy" means the written instrument in which are set forth the terms of any certificate of insurance, binder of coverage, or contract of insurance (including a certificate, binder, or contract issued by a state-assigned risk plan); benefit plan; nonprofit hospital service plan; motor club service plan; or surety bond, cash bond, or any other alternative to insurance authorized by a state's financial responsibility act.

(b) "Insurance professional" means sales agents, agencies, managing general agents, brokers, producers, claims representatives, adjusters, and third-party administrators.

(c) "Insurance transaction" means a transaction by, between or among: (1) an insurer or a person who acts on behalf of an insurer; and (2) an insured, claimant, applicant for insurance, public adjuster, insurance professional, practitioner, or any person who acts on behalf of any of the foregoing, for the purpose of obtaining insurance or reinsurance, calculating insurance premiums, submitting a claim, negotiating or adjusting a claim, or otherwise obtaining insurance, self-insurance, or reinsurance or obtaining the benefits thereof or therefrom.

(d) "Insurer" means a person purporting to engage in the business of insurance or authorized to do business in the state or subject to regulation by the state, who undertakes to indemnify another against loss, damage or liability arising from a contingent or unknown event. Insurer includes, but is not limited to, an insurance company; self-insurer; reinsurer; reciprocal exchange; interinsurer; risk retention group; Lloyd's insurer; fraternal benefit society; surety; medical service, dental, optometric, or any other similar health service plan; and any other legal entity engaged or purportedly engaged in the business of insurance, including any person or entity that falls within the definition of insurer found within section 60A.951, subdivision 5.

(e) "Premium" means consideration paid or payable for coverage under an insurance policy. Premium includes any payment, whether due within the insurance policy term or otherwise, and any deductible payment, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise, any self insured retention or payment, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise, and any collateral or security to be provided to collateralize obligations to pay any of the above.

(f) "Premium finance company" means a person engaged or purporting to engage in the business of advancing money, directly or indirectly, to an insurer or producer at the request of an insured under the terms of a premium finance agreement, including but not limited to, loan contracts, notes, agreements or obligations, wherein the insured has assigned the unearned premiums, accrued dividends, or loss payments as security for such advancement in payment of premiums on insurance policies only, but does not include the financing of insurance premiums purchased in connection with the financing of goods or services.

(g) "Premium finance transaction" means a transaction by, between, or among an insured, a producer or other party claiming to act on behalf of an insured and a third-party premium finance company, for the purposes of purportedly or actually advancing money directly or indirectly to in insurer or producer at the request of an insured under the terms of a premium finance agreement, wherein the insured has assigned the unearned premiums, accrued dividends or loan payments as security for such advancement in payment of premiums on insurance policies only, but does not include the financing of insurance premiums purchased in connection with the financing of goods or services.

Sec. 37. Minnesota Statutes 1995 Supplement, section 617.23, is amended to read:

617.23 [INDECENT EXPOSURE; PENALTIES.]

(a) A person is guilty of a misdemeanor who in any public place, or in any place where others are present:

(1) willfully and lewdly exposes the person's body, or the private parts thereof;

(2) procures another to expose private parts; or

(3) engages in any open or gross lewdness or lascivious behavior, or any public indecency other than behavior specified in clause (1) or (2) or this clause.

(b) A person is guilty of a gross misdemeanor if:

(1) the person violates this section in the presence of a minor under the age of 16; or

(2) the person violates this section after having been previously convicted of violating this section, sections 609.342 to 609.3451, or a statute from another state in conformity with any of those sections.

(c) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person violates paragraph (b), clause (1), after having been previously convicted of or adjudicated delinquent for violating paragraph (b), clause (1); section 609.3451, subdivision 1, clause (2); or a statute from another state in conformity with paragraph (b), clause (1), or section 609.3451, subdivision 1, clause (2).

Sec. 38. [INSURANCE FRAUD REVOLVING ACCOUNT.]

The attorney general shall deposit in a separate account in the state treasury all money voluntarily contributed by insurance companies for the investigation and prosecution of insurance fraud. Money in the account is appropriated to the attorney general for that purpose.

Sec. 39. [SENTENCING GUIDELINES MODIFICATIONS.]

Pursuant to Minnesota Statutes, section 244.09, the proposed modifications to the sentencing guidelines regarding the adjustment of increases in durations across criminal history at severity levels I through VI contained on page 11 of the January 1996, Minnesota sentencing guidelines commission's report to the legislature, shall not take effect until August 1, 1997.

Sec. 40. [REPEALER.]

Minnesota Statutes 1994, section 609.495, subdivision 2, is repealed.

Sec. 41. [EFFECTIVE DATE.]

Sections 1, 10 to 23, 25 to 32, and 34 to 38 are effective August 1, 1996, and apply to offenses committed on or after that date.

Sections 2 to 9 are effective August 1, 1996, and apply to demands for proof of insurance made on or after that date.

Section 24 is effective March 1, 1997, and applies to offenses committed on or after that date.

Section 33 is effective August 1, 1996.

ARTICLE 4

FIREARMS

Section 1. Minnesota Statutes 1995 Supplement, section 518B.01, subdivision 14, is amended to read:

Subd. 14. [VIOLATION OF AN ORDER FOR PROTECTION.] (a) Whenever an order for protection is granted pursuant to this section, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor. Upon conviction, the defendant must be sentenced to a minimum of three days imprisonment and must be ordered to

participate in counseling or other appropriate programs selected by the court. If the court stays imposition or execution of the jail sentence and the defendant refuses or fails to comply with the court's treatment order, the court must impose and execute the stayed jail sentence. A person is guilty of a gross misdemeanor who violates this paragraph during the time period between a previous conviction under this paragraph; sections 609.221 to 609.224; 609.2242; 609.713, subdivision 1 or 3; 609.748, subdivision 6; 609.749; or a similar law of another state and the end of the five years following discharge from sentence for that conviction. Upon conviction, the defendant must be sentenced to a minimum of ten days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(b) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section restraining the person or excluding the person from the residence or the petitioner's place of employment, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The person shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(c) A violation of an order for protection shall also constitute contempt of court and be subject to the penalties therefor.

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

(e) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. The court also shall refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (a).

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

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

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

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

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

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

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

Sec. 2. Minnesota Statutes 1994, section 609.035, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 2, subdivision 3, and in sections 609.251, 609.585, 609.21, subdivisions 3 and 4, 609.2691, 609.486, 609.494, and 609.856, if a person's conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses and a conviction or acquittal of any one of them is a bar to prosecution for any other of them. All the offenses, if prosecuted, shall be included in one prosecution which shall be stated in separate counts.

Sec. 3. Minnesota Statutes 1994, section 609.035, is amended by adding a subdivision to read:

Subd. 3. [EXCEPTION; FIREARMS OFFENSES.] Notwithstanding section 609.04, a prosecution for or conviction of a violation of section 609.165 or 624.713, subdivision 1, clause (b), is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 4. Minnesota Statutes 1994, section 609.11, subdivision 5, is amended to read:

Subd. 5. [FIREARM.] (a) Except as otherwise provided in paragraph (b), any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, had in possession or used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm, shall be committed to the commissioner of corrections for not less than three years, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, had in possession or used a firearm shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

(b) Any defendant convicted of violating section 609.165 or 624.713, subdivision 1, clause (b), shall be committed to the commissioner of corrections for not less than 18 months, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent

violation of either of these sections shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

Sec. 5. Minnesota Statutes 1994, section 609.11, subdivision 9, is amended to read:

Subd. 9. [APPLICABLE OFFENSES.] The crimes for which mandatory minimum sentences shall be served as provided in this section are: murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); and 609.344, subdivision 1, clauses (a) to (e) and (h) to (j); escape from custody; arson in the first, second, or third degree; drive-by shooting under section 609.66, subdivision 1e; possession or other unlawful use of a firearm in violation of section 609.165, subdivision 1b or 624.713, subdivision 1, clause (b), a felony violation of chapter 152; or any attempt to commit any of these offenses.

Sec. 6. Minnesota Statutes 1995 Supplement, section 609.152, subdivision 1, is amended to read:

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

(b) "Conviction" means any of the following accepted and recorded by the court: a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court. The term includes a conviction by any court in Minnesota or another jurisdiction.

(c) "Prior conviction" means a conviction that occurred before the offender committed the next felony resulting in a conviction and before the offense for which the offender is being sentenced under this section.

(d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: section 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision 1e; 609.687; 609.855, subdivision 5; any provision of sections 609.229; 609.377; 609.378; and 609.749; and 624.713 that is punishable by a felony penalty; or any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more.

Sec. 7. Minnesota Statutes 1994, section 609.165, subdivision 1b, is amended to read:

Subd. 1b. [VIOLATION AND PENALTY.] (a) Any person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, and who ships, transports, possesses, or receives a firearm in violation of subdivision 1a before ten years have elapsed since the person was restored to civil rights, commits a felony and may be sentenced to imprisonment for not more than three 15 years or to payment of a fine of not more than $6,000 $30,000, or both.

(b) Nothing in this section shall be construed to bar a conviction and sentencing for a violation of section 624.713, subdivision 1, clause (b) 2.

Sec. 8. Minnesota Statutes 1995 Supplement, section 609.19, is amended to read:

609.19 [MURDER IN THE SECOND DEGREE.]

Subdivision 1. [INTENTIONAL MURDER; DRIVE-BY SHOOTINGS.] Whoever does any either of the following is guilty of murder in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of a human being with intent to effect the death of that person or another, but without premeditation; or

(2) causes the death of a human being while committing or attempting to commit a drive-by shooting in violation of section 609.66, subdivision 1e.

Subd. 2. [UNINTENTIONAL MURDERS.] Whoever does either of the following is guilty of unintentional murder in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of a human being, without intent to effect the death of any person, while committing or attempting to commit a felony offense other than criminal sexual conduct in the first or second degree with force or violence or a drive-by shooting; or

~~(3)~~ (2) causes the death of a human being without intent to effect the death of any person, while intentionally inflicting or attempting to inflict bodily harm upon the victim, when the perpetrator is restrained under an order for protection and the victim is a person designated to receive protection under the order. As used in this clause, "order for protection" includes an order for protection issued under chapter 518B; a harassment restraining order issued under section 609.748; a court order setting conditions of pretrial release or conditions of a criminal sentence or juvenile court disposition; a restraining order issued in a marriage dissolution action; and any order issued by a court of another state or of the United States that is similar to any of these orders.

Sec. 9. Minnesota Statutes 1994, section 609.5316, subdivision 3, is amended to read:

Subd. 3. [WEAPONS AND BULLET-RESISTANT VESTS.] Weapons used are contraband and must be summarily forfeited to the appropriate agency upon conviction of the weapon's owner or possessor for a controlled substance crime ~~or~~; for any offense of this chapter or chapter 624, or for a violation of an order for protection under section 518B.01, subdivision 14. Bullet-resistant vests, as defined in section 609.486, worn or possessed during the commission or attempted commission of a crime are contraband and must be summarily forfeited to the appropriate agency upon conviction of the owner or possessor for a controlled substance crime or for any offense of this chapter. Notwithstanding this subdivision, weapons used and bullet-resistant vests worn or possessed may be forfeited without a conviction under sections 609.531 to 609.5315.

Sec. 10. Minnesota Statutes 1994, section 609.66, subdivision 1a, is amended to read:

Subd. 1a. [FELONY CRIMES; SILENCERS PROHIBITED; RECKLESS DISCHARGE.] (a) Whoever does any of the following is guilty of a felony and may be sentenced as provided in paragraph (b):

(1) sells or has in possession any device designed to silence or muffle the discharge of a firearm;

(2) intentionally discharges a firearm under circumstances that endanger the safety of another; or

(3) recklessly discharges a firearm within a municipality.

(b) A person convicted under paragraph (a) may be sentenced as follows:

(1) if the act was a violation of paragraph (a), clause (2), or if the act was a violation of paragraph (a), clause (1) or (3) and was committed in a public housing zone, as defined in section 152.01, subdivision 19, a school zone, as defined in section 152.01, subdivision 14a, or a park zone, as defined in section 152.01, subdivision 12a, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both; or

(2) otherwise, to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both.

Sec. 11. Minnesota Statutes 1994, section 609.666, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, the following words have the meanings given.

(a) "Firearm" means a device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion or force of combustion.

(b) "Child" means a person under the age of ~~14~~ 18 years.

(c) "Loaded" means the firearm has ammunition in the chamber or magazine, if the magazine is in the firearm, unless the firearm is incapable of being fired by a child who is likely to gain access to the firearm.

Sec. 12. Minnesota Statutes 1994, section 609.749, is amended by adding a subdivision to read:

Subd. 8. [STALKING; FIREARMS.] (a) When a person is convicted of a harassment or stalking crime under this section and the court determines that the person used a firearm in any way during commission of the crime, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

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

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

(d) If the court determines that a person convicted of a stalking or harassment crime under this section owns or possesses a firearm and used it in any way during the commission of the crime, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

Sec. 13. Minnesota Statutes 1994, section 609.855, subdivision 5, is amended to read:

Subd. 5. [SHOOTING AT OR IN PUBLIC TRANSIT VEHICLE OR FACILITY.] Whoever recklessly discharges a firearm at or in any portion of a public transit vehicle or facility is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $6,000, or both. If the transit vehicle or facility is occupied by any person other than the offender, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Sec. 14. Minnesota Statutes 1995 Supplement, section 624.712, subdivision 5, is amended to read:

Subd. 5. [CRIME OF VIOLENCE.] "Crime of violence" includes murder in the first, second, and third degrees, manslaughter in the first and second degrees, aiding suicide, aiding attempted suicide, felony violations of assault in the first, second, third, and fourth degrees, assaults motivated by bias under section 609.2231, subdivision 4, drive-by shootings, terroristic threats, use of drugs to injure or to facilitate crime, crimes committed for the benefit of a gang, commission of a crime while wearing or possessing a bullet-resistant vest, simple robbery, aggravated robbery, kidnapping, false imprisonment, criminal sexual conduct in the first, second, third, and fourth degrees, theft of a firearm, felony theft involving the intentional taking or driving of a motor vehicle without the consent of the owner or the authorized agent of the owner, felony theft involving the taking of property from a burning, abandoned, or vacant building, or from an

area of destruction caused by civil disaster, riot, bombing, or the proximity of battle, felony theft involving the theft of a controlled substance, an explosive, or an incendiary device, arson in the first and second degrees, riot, burglary in the first, second, third, and fourth degrees, harassment and stalking, shooting at a public transit vehicle or facility, reckless use of a gun or dangerous weapon, intentionally pointing a gun at or towards a human being, setting a spring gun, and unlawfully owning, possessing, operating a machine gun or short-barreled shotgun, and an attempt to commit any of these offenses, as each of those offenses is defined in chapter 609. "Crime of violence" also includes felony violations of the following: malicious punishment of a child; neglect or endangerment of a child; and chapter 152.

Sec. 15. Minnesota Statutes 1994, section 624.713, subdivision 2, is amended to read:

Subd. 2. [PENALTIES.] A person named in subdivision 1, clause (a) ~~or (b)~~, who possesses a pistol or semiautomatic military-style assault weapon is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both. A person named in subdivision 1, clause (b), who possesses any type of firearm is guilty of a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both. A person named in any other clause of subdivision 1 who possesses ~~a pistol or semiautomatic military-style assault weapon~~ any type of firearm is guilty of a gross misdemeanor.

Sec. 16. [EFFECTIVE DATE.]

Sections 1 to 15 are effective August 1, 1996, and apply to offenses committed on or after that date.

ARTICLE 5

COMMUNITY NOTIFICATION

Section 1. [LEGISLATIVE FINDINGS AND PURPOSE.]

The legislature finds that if members of the public are provided adequate notice and information about a sex offender who has been or is about to be released from custody and who lives or will live in or near their neighborhood, the community can develop constructive plans to prepare themselves and their children for the offender's release.

Sec. 2. Minnesota Statutes 1995 Supplement, section 243.166, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION REQUIRED.] (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate any of the following, and convicted of or adjudicated delinquent for that offense or ~~of~~ another offense arising out of the same set of circumstances:

(i) murder under section 609.185, clause (2);

(ii) kidnapping under section 609.25, involving a minor victim; or

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; or 609.345; or

(2) the person was charged with or petitioned for using a minor in a sexual performance in violation of section 617.246, or possessing pictorial representations of minors in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances; or

(3) the person was convicted of a predatory crime as defined in section 609.1352, and the offender was sentenced as a patterned sex offender or the court found on its own motion or that of the prosecutor that the crime was part of a predatory pattern of behavior that had criminal sexual conduct as its goal; or

~~(3)~~ (4) the person was convicted of or adjudicated delinquent for violating a law of the United States similar to the offenses described in clause (1) ~~or~~, (2), or (3).

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

(1) the person was convicted of or adjudicated delinquent in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;

(2) the person enters and remains in this state for 30 days or longer; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration.

(c) A person also shall register under this section if the person was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, regardless of whether the person was convicted of any offense.

Sec. 3. Minnesota Statutes 1995 Supplement, section 243.166, subdivision 7, is amended to read:

Subd. 7. [USE OF INFORMATION.] Except as otherwise provided in section 244.052, the information provided under this section is private data on individuals under section 13.01, subdivision 12. The information may be used only for law enforcement purposes.

Sec. 4. [244.052] [SEX OFFENDERS; NOTICE.]

Subdivision 1. [DEFINITIONS.] As used in this section:

(1) "accepted for supervision" means accepted from another state under a reciprocal agreement under the interstate compact authorized by section 243.16;

(2) "confinement" means confinement in a state correctional facility or a state treatment facility;

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

(4) "sex offender" and "offender" mean a person who has been convicted of an offense for which registration under section 243.166 is required or a person who has been committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, regardless of whether the person was convicted of any offense.

Subd. 2. [RISK ASSESSMENT SCALE.] By January 1, 1997, the commissioner of corrections shall develop a risk assessment scale which assigns weights to the various risk factors listed in subdivision 3, paragraph (g), and specifies the risk level to which offenders with various risk assessment scores shall be assigned. In developing this scale, the commissioner shall consult with county attorneys, treatment professionals, law enforcement officials, and probation officers.

Subd. 3. [END-OF-CONFINEMENT REVIEW COMMITTEE.] (a) The commissioner of corrections shall establish and administer end-of-confinement review committees at each state correctional facility and at each state treatment facility where sex offenders are confined. The committees shall assess on a case-by-case basis:

(1) the public risk posed by sex offenders who are about to be released from confinement; and

(2) the public risk posed by sex offenders who are accepted from another state under a reciprocal agreement under the interstate compact authorized by section 243.16.

(b) Each committee shall be a standing committee and shall consist of the following members appointed by the commissioner:

(1) the chief executive officer or head of the correctional or treatment facility where the offender is currently confined, or that person's designee;

(2) a law enforcement officer;

(3) a treatment professional who is trained in the assessment of sex offenders;

(4) a caseworker experienced in supervising sex offenders; and

(5) an employee of the department of corrections from the victim's services unit.

Members of the committee, other than the facility's chief executive officer or head, shall be appointed by the commissioner to two-year terms. The chief executive officer or head of the facility or designee shall act as chair of the committee and shall use the facility's staff, as needed, to administer the committee, obtain necessary information from outside sources, and prepare risk assessment reports on offenders.

(c) The committee shall have access to the following data on a sex offender only for the purposes of its assessment under this section:

(1) private medical data under section 13.42 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;

(2) private and confidential court services data under section 13.84;

(3) private and confidential corrections data under section 13.85; and

(4) private criminal history data under section 13.87.

Data collected and maintained by the committee under this paragraph may not be disclosed outside the committee, except as provided under section 13.05, subdivision 3 or 4. The sex offender has access to data on the offender collected and maintained by the committee, unless the data are confidential data received under this paragraph.

(d) At least 90 days before a sex offender is to be released from confinement or accepted for supervision, the commissioner of corrections shall convene the appropriate end-of-confinement review committee for the purpose of assessing the risk presented by the offender and determining the risk level to which the offender shall be assigned under paragraph (e). The offender shall be notified of the time and place of the committee's meeting and has a right to be present and be heard at the meeting. The committee shall use the risk factors described in paragraph (g) and the risk assessment scale developed under subdivision 2 to determine the offender's risk assessment score and risk level. Offenders scheduled for release from confinement shall be assessed by the committee established at the facility from which the offender is to be released. Offenders accepted for supervision shall be assessed by whichever committee the commissioner directs.

(e) The committee shall assign to risk level I a sex offender whose risk assessment score indicates a low risk of reoffense. The committee shall assign to risk level II an offender whose risk assessment score indicates a moderate risk of reoffense. The committee shall assign to risk level III an offender whose risk assessment score indicates a high risk of reoffense.

(f) Before the sex offender is released from confinement or accepted for supervision, the committee shall prepare a risk assessment report which specifies the risk level to which the offender has been assigned and the reasons underlying the committee's risk assessment decision. The committee shall give the report to the offender and to the law enforcement agency at least 60 days before an offender is released from confinement or accepted for supervision. The committee also shall inform the offender of the availability of review under subdivision 6.

(g) As used in this subdivision, "risk factors" includes, but is not limited to, the following factors:

(1) the seriousness of the offense should the offender reoffend. This factor includes consideration of the following: (i) the degree of likely force or harm; (ii) the degree of likely physical contact; and (iii) the age of the likely victim;

(2) the offender's prior offense history. This factor includes consideration of the following: (i)

the relationship of prior victims to the offender; (ii) the number of prior offenses or victims; (iii) the duration of the offender's prior offense history; (iv) the length of time since the offender's last prior offense, while the offender was at risk to commit offenses; and (v) the offender's prior history of other antisocial acts;

(3) the offender's characteristics. This factor includes consideration of the following: (i) the offender's response to prior treatment efforts; and (ii) the offender's history of substance abuse;

(4) the availability of community supports to the offender. This factor includes consideration of the following: (i) the availability and likelihood that the offender will be involved in therapeutic treatment; (ii) the availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location; (iii) the offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and (iv) the offender's lack of education or employment stability;

(5) whether the offender has indicated or credible evidence in the record indicates that the offender will reoffend if released into the community; and

(6) whether the offender demonstrates a physical condition that minimizes the risk of reoffense, including but not limited to, advanced age or a debilitating illness or physical condition.

(h) Upon the request of the law enforcement agency or the offender's corrections agent, the commissioner may reconvene the end-of-confinement review committee for the purpose of reassessing the risk level to which an offender has been assigned under paragraph (e). In a request for a reassessment, the law enforcement agency or agent shall list the facts and circumstances arising after the initial assignment under paragraph (e) which support the request for a reassessment. Upon review of the request, the end-of-confinement review committee may reassign an offender to a different risk level. If the offender is reassigned to a higher risk level, the offender has the right to seek review of the committee's determination under subdivision 6.

(i) An offender may request the end-of-confinement review committee to reassess the offender's assigned risk level after two years have elapsed since the committee's initial risk assessment and may renew the request once every two years following subsequent denials. In a request for reassessment, the offender shall list the facts and circumstances which demonstrate that the offender no longer poses the same degree of risk to the community. The committee shall follow the process outlined in paragraphs (a) to (e), and (g) in the reassessment.

Subd. 4. [LAW ENFORCEMENT AGENCY; DISCLOSURE OF INFORMATION TO PUBLIC.] (a) The law enforcement agency in the area where the sex offender resides, expects to reside, is employed, or is regularly found, is authorized to disclose information to the public regarding the offender if the agency determines that disclosure of the information is relevant and necessary to protect the public and to counteract the offender's dangerousness. The extent of the information disclosed and the community to whom disclosure is made must relate to the level of danger posed by the offender, to the offender's pattern of offending behavior, and to the need of community members for information to enhance their individual and collective safety.

(b) The law enforcement agency shall consider the following guidelines in determining the scope of disclosure made under this subdivision:

(1) if the offender is assigned to risk level I, the agency may maintain information regarding the offender within the agency and may disclose it to other law enforcement agencies. Additionally, the agency may disclose the information to any victims of or witnesses to the offense committed by the offender. The agency shall disclose the information to victims of the offense committed by the offender who have requested disclosure;

(2) if the offender is assigned to risk level II, the agency also may disclose the information to the following agencies and groups that the offender is likely to encounter: public and private educational institutions; day care establishments; and establishments and organizations that primarily serve individuals likely to be victimized by the offender;

(3) if the offender is assigned to risk level III, the agency also may disclose the information to other members of the community whom the offender is likely to encounter.

Notwithstanding the assignment of a sex offender to risk level II or III, a law enforcement agency may not make the disclosures permitted by clause (2) or (3), if: the offender is placed or resides in a residential facility that is licensed as a residential program, as defined in section 245A.02, subdivision 14, by the commissioner of human services under chapter 254A, or the commissioner of corrections under section 241.021; and the facility and its staff are trained in the supervision of sex offenders. However, if an offender is placed or resides in a licensed facility, the head of the facility shall notify the law enforcement agency before the end of the offender's placement or residence in the facility. Upon receiving this notification, the law enforcement agency may make the disclosures permitted by clause (2) or (3), as appropriate.

(c) As used in paragraph (b), clauses (2) and (3), "likely to encounter" means that: (1) the organizations or community members are in a location or in close proximity to a location where the offender lives or is employed, or which the offender visits or is likely to visit on a regular basis, other than the location of the offender's outpatient treatment program; and (2) the types of interaction which ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably certain.

(d) A law enforcement agency or official who decides to disclose information under this subdivision shall make a good faith effort to make the notification at least 14 days before an offender is released from confinement or accepted for supervision. If a change occurs in the release plan, this notification provision does not require an extension of the release date.

(e) A law enforcement agency or official that decides to disclose information under this subdivision shall make a good faith effort to conceal the identity of the victim or victims of the offender's offense.

(f) A law enforcement agency may continue to disclose information on an offender under this subdivision for as long as the offender is required to register under section 243.166.

Subd. 5. [RELEVANT INFORMATION PROVIDED TO LAW ENFORCEMENT.] At least 60 days before a sex offender is released from confinement or accepted for supervision, the department of corrections or the department of human services, in the case of a person who was committed under section 253B.185 or Minnesota Statutes 1992, section 526.10, shall provide the appropriate law enforcement agency all relevant information that the departments have concerning the offender, including information on risk factors in the offender's history.

Subd. 6. [ADMINISTRATIVE REVIEW.] (a) An offender assigned or reassigned to risk level II or III under subdivision 3, paragraph (e) or (h), has the right to seek administrative review of an end-of-confinement review committee's risk assessment determination. The offender must exercise this right within 14 days of receiving notice of the committee's decision by notifying the chair of the committee. Upon receiving the request for administrative review, the chair shall notify the offender, the victim or victims of the offender's offense or their designee, the law enforcement agency, and any other individuals the chair may select, of the time and place of the hearing. A request for a review hearing shall not interfere with or delay the notification process under subdivision 4 or 5.

(b) An offender who requests a review hearing must be given a reasonable opportunity to prepare for the hearing. The review hearing shall be conducted on the record before an administrative law judge. The offender has the burden of proof to show, by a preponderance of the evidence, that the end-of-confinement review committee's risk assessment determination was erroneous. The attorney general or a designee shall defend the end-of-confinement review committee's determination. The offender has the right to be present and be represented by counsel at the hearing, to present evidence in support of the offender's position, to call supporting witnesses and to cross-examine witnesses testifying in support of the committee's determination. Counsel for indigent offenders shall be provided by the Legal Advocacy Project of the state public defender's office.

(c) After the hearing is concluded, the administrative law judge shall decide whether the

end-of-confinement review committee's risk assessment determination was erroneous and, based on this decision, shall either uphold or modify the review committee's determination. The judge's decision shall be in writing and shall include the judge's reasons for the decision. The judge's decision shall be final and a copy of it shall be given to the offender, the victim, the law enforcement agency, and the chair of the end-of-confinement review committee.

(d) The review hearing is subject to the contested case provisions of chapter 14.

Subd. 7. [IMMUNITY FROM LIABILITY.] A state or local agency or official, or a private organization or individual authorized to act on behalf of a state or local agency or official, is not civilly or criminally liable for disclosing or failing to disclose information as permitted by this section.

Subd. 8. [LIMITATION ON SCOPE.] Nothing in this section imposes a duty upon a person licensed under chapter 82, or an employee of the person, to disclose information regarding an offender who is required to register under section 243.166, or about whom notification is made under this section.

Sec. 5. [244.053] [NOTICE OF RELEASE OF CERTAIN OFFENDERS.]

Subdivision 1. [NOTICE OF IMPENDING RELEASE.] At least 60 days before the release of any inmate convicted of an offense requiring registration under section 243.166, the commissioner of corrections shall send written notice of the impending release to the sheriff of the county and the police chief of the city in which the inmate will reside or in which placement will be made in a work release program. The sheriff of the county where the offender was convicted also shall be notified of the inmate's impending release.

Subd. 2. [ADDITIONAL NOTICE.] The same notice shall be sent to the following persons concerning a specific inmate convicted of an offense requiring registration under section 243.166:

(1) the victim of the crime for which the inmate was convicted or a deceased victim's next of kin if the victim or deceased victim's next of kin requests the notice in writing;

(2) any witnesses who testified against the inmate in any court proceedings involving the offense, if the witness requests the notice in writing; and

(3) any person specified in writing by the prosecuting attorney.

The notice sent to victims under clause (1) must inform the person that the person has the right to request and receive information about the offender authorized for disclosure under the community notification provisions of section 244.052.

If the victim or witness is under the age of 16, the notice required by this section shall be sent to the parents or legal guardian of the child. The commissioner shall send the notices required by this provision to the last address provided to the commissioner by the requesting party. The requesting party shall furnish the commissioner with a current address. Information regarding witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are private data on individuals, as defined in section 13.02, subdivision 12, and are not available to the inmate.

The notice to victims provided under this subdivision does not limit the victim's right to request notice of release under section 611A.06.

Subd. 3. [NO EXTENSION OF RELEASE DATE.] The existence of the notice requirements contained in this section shall in no event require an extension of the release date.

Sec. 6. Minnesota Statutes 1994, section 244.10, is amended by adding a subdivision to read:

Subd. 2a. [NOTICE OF INFORMATION REGARDING SEX OFFENDERS.] (a) In any case in which a person is convicted of an offense which requires registration under section 243.166, subdivision 1, and the presumptive sentence under the sentencing guidelines is commitment to the custody of the commissioner of corrections, if the court grants a dispositional departure and stays

imposition or execution of sentence, the probation or court services officer who is assigned to supervise the offender shall provide in writing to the following the fact that the offender is on probation and the terms and conditions of probation:

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

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

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

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

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

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

Sec. 7. [COMMUNITY NOTIFICATION ABOUT SEX OFFENDERS; POLICY AND INSTRUCTION.]

Subdivision 1. [MODEL POLICY.] (a) By August 1, 1996, the peace officer standards and training board shall develop a model policy for law enforcement agencies to follow when they disclose information on sex offenders to the public under Minnesota Statutes, section 244.052, subdivision 3. The model policy shall be designed to further the objectives of providing adequate notice to the community concerning sex offenders who are or will be residing in the neighborhood and of helping community members develop constructive plans to prepare themselves and their children for residing near these sex offenders. In developing the policy, the board shall consult with representatives of the bureau of criminal apprehension, the Minnesota chiefs of police association, the Minnesota sheriffs association, the Minnesota association of women police, the Minnesota sex crimes investigators association, the Minnesota police and peace officers association, the Minnesota institute of community policing, the county attorneys association, the Minnesota corrections association, the Minnesota association of county probation officers, the commissioner of corrections, local corrections agencies, the state public defender, sex offender treatment professionals, victims groups, and interested members of the public.

(b) The model policy shall, at a minimum, address the following matters:

(1) recommended contents and form of community notification documents, including recommended ways of protecting the privacy of victims of the offender's crime;

(2) recommended scope of disclosure for offenders classified at each risk level, including: (i) specific factors, if any, that would justify a law enforcement agency in engaging in broader disclosure than that recommended in the policy; and (ii) methods to ensure that the scope of disclosure is closely tailored to the risk level posed by the offender;

(3) recommended method or methods of distributing community notification documents;

(4) recommended methods of providing follow-up notifications to community residents at specified intervals and of disclosing information about offenders to law enforcement agencies in other jurisdictions when necessary to protect the public;

(5) recommended methods of educating community residents at public meetings on how they can use the information in the notification document in a reasonable manner to enhance their individual and collective safety;

(6) procedures for ensuring that community members are educated regarding the right of sex offenders not to be subjected to harassment or criminal acts because of the notification process;

(7) recommended ways of educating sex offenders before they are released from incarceration on the nature and scope of the notification process, the likely reaction of community residents to their presence in the community, and their right to be free from harassment or criminal acts committed by community residents because of the notification process; and

(8) other matters that the board deems necessary to ensure the effective and fair administration of the community notification law.

Subd. 2. [LOCAL POLICY.] By January 1, 1997, all chief law enforcement officers shall establish and implement a written policy governing the public disclosure of information on sex offenders under Minnesota Statutes, section 244.052, subdivision 3. A chief law enforcement officer shall adopt a policy that is identical or substantially similar to the model policy developed by the board under subdivision 1.

Sec. 8. [EFFECTIVE DATE.]

Section 2 is effective August 1, 1996, and applies to persons who are released from prison on or after that date, or who are under supervision as of that date, or who enter this state on or after that date.

Sections 1 and 3 to 6 are effective January 1, 1997, and apply to persons released or sentenced on or after that date.

Section 7 is effective the day following final enactment.

ARTICLE 6

JUVENILES

Section 1. Minnesota Statutes 1995 Supplement, section 260.015, subdivision 21, is amended to read:

Subd. 21. [JUVENILE PETTY OFFENDER; JUVENILE PETTY OFFENSE.] (a) "Juvenile petty offense" includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult.

(b) Except as otherwise provided in paragraph (c), "juvenile petty offense" also includes an offense~~, other than a violation of section 609.224, 609.324, 609.563, 609.576, or 617.23,~~ that would be a misdemeanor if committed by an adult ~~if:~~

~~(1) the child has not been found to be a juvenile petty offender on more than two prior occasions for a misdemeanor-level offense;~~

~~(2) the child has not previously been found to be delinquent for a misdemeanor, gross misdemeanor, or felony offense; or~~

~~(3) the county attorney designates the child on the petition as a juvenile petty offender, notwithstanding the child's prior record of misdemeanor-level juvenile petty offenses~~.

(c) "Juvenile petty offense" does not include any of the following:

(1) a misdemeanor-level violation of section 588.20, 609.224, 609.2242, 609.324, 609.563, 609.576, 609.66, or 617.23;

(2) a major traffic offense or an adult court traffic offense, as described in section 260.193;

(3) a misdemeanor-level offense committed by a child whom the juvenile court previously has found to have committed a misdemeanor, gross misdemeanor, or felony offense; or

(4) a misdemeanor-level offense committed by a child whom the juvenile court has found to have committed a misdemeanor-level juvenile petty offense on two or more prior occasions, unless the county attorney designates the child on the petition as a juvenile petty offender notwithstanding this prior record. As used in this clause, "misdemeanor-level juvenile petty offense" includes a misdemeanor-level offense that would have been a juvenile petty offense if it had been committed on or after July 1, 1995.

(d) A child who commits a juvenile petty offense is a "juvenile petty offender."

Sec. 2. Minnesota Statutes 1995 Supplement, section 260.132, subdivision 3a, is amended to read:

Subd. 3a. [NO RIGHT TO COUNSEL AT PUBLIC EXPENSE.] Except as otherwise provided in section 260.155, subdivision 2, a child alleged to be a juvenile petty offender may be represented by counsel, but does not have a right to appointment of a public defender or other counsel at public expense.

Sec. 3. Minnesota Statutes 1994, section 260.141, is amended by adding a subdivision to read:

Subd. 1a. [NOTICE IN LIEU OF SUMMONS; PERSONAL SERVICE.] The service of a summons or a notice in lieu of summons shall be as provided in the rules of juvenile procedure.

Sec. 4. Minnesota Statutes 1994, section 260.145, is amended to read:

260.145 [FAILURE TO OBEY SUMMONS OR SUBPOENA; CONTEMPT, ARREST.]

If any person personally served with summons or subpoena fails, without reasonable cause, to appear or bring the child, or if the court has reason to believe the person is avoiding personal service, or if any custodial parent or guardian fails, without reasonable cause, to accompany the child to a hearing as required under section 260.155, subdivision 4b, the person may be proceeded against for contempt of court or the court may issue a warrant for the person's arrest, or both. In any case when it appears to the court that the service will be ineffectual, or that the welfare of the child requires that the child be brought forthwith into the custody of the court, the court may issue a warrant for immediate custody of the child.

Sec. 5. Minnesota Statutes 1995 Supplement, section 260.155, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT OF COUNSEL.] (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court ~~unless the~~. This right does not apply to a child who is charged with a juvenile petty offense as defined in section 260.015, subdivision 21, unless the child is charged with a third or subsequent juvenile alcohol or controlled substance offense and may be subject to the alternative disposition described in section 260.195, subdivision 4.

(b) The court shall appoint counsel, or stand-by counsel if the child waives the right to counsel, for a child who is:

(1) charged by delinquency petition with a gross misdemeanor or felony offense; or

(2) the subject of a delinquency proceeding in which out-of-home placement has been proposed.

~~(b)~~ (c) If they desire counsel but are unable to employ it, the court shall appoint counsel to represent the child or the parents or guardian in any case in which it feels that such an appointment is desirable, except a juvenile petty ~~offense as defined in section 260.015, subdivision 21~~ offender who does not have the right to counsel under paragraph (a).

Sec. 6. Minnesota Statutes 1994, section 260.161, subdivision 1a, is amended to read:

Subd. 1a. [RECORD OF ADJUDICATIONS; NOTICE TO BUREAU OF CRIMINAL APPREHENSION.] (a) The juvenile court shall forward to the Bureau of Criminal Apprehension

the following data on juveniles adjudicated delinquent for having committed felony-level criminal sexual conduct:

(1) the name and birth date of the juvenile, including any of the juvenile's known aliases or street names;

(2) the type of act for which the juvenile was adjudicated delinquent and date of the offense; and

(3) the date and county of the adjudication.

(b) The bureau shall retain data on a juvenile until the offender reaches the age of 28. If the offender commits another violation of sections 609.342 to 609.345 as an adult, the bureau shall retain the data for as long as the data would have been retained if the offender had been an adult at the time of the juvenile offense.

(c) The juvenile court shall forward to the bureau the following data on individuals convicted as extended jurisdiction juveniles:

(1) the name and birthdate of the offender, including any of the juvenile's known aliases or street names;

(2) the crime committed by the offender and the date of the crime; and

(3) the date and county of the conviction.

The court shall notify the bureau whenever it executes an extended jurisdiction juvenile's adult sentence under section 260.126, subdivision 5.

(d) The bureau shall retain the extended jurisdiction juvenile data for as long as the data would have been retained if the offender had been an adult at the time of the offense. Data retained on individuals under this subdivision are private data under section 13.02, except that extended jurisdiction juvenile data becomes public data under section 13.87, subdivision 2, when the juvenile court notifies the bureau that the individual's adult sentence has been executed under section 260.126, subdivision 5.

Sec. 7. Minnesota Statutes 1994, section 260.171, subdivision 2, is amended to read:

Subd. 2. (a) If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention.

(b) No child may be detained in a juvenile secure detention facility or shelter care facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, after being taken into custody for a delinquent act as defined in section 260.015, subdivision 5, unless a petition has been filed and the judge or referee determines pursuant to section 260.172 that the child shall remain in detention.

(c) No child may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, after being taken into custody for a delinquent act as defined in section 260.015, subdivision 5, unless:

(1) a petition has been filed under section 260.131; and

(2) a judge or referee has determined under section 260.172 that the child shall remain in detention.

After August 1, 1991, no child described in this paragraph may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, unless the requirements of this paragraph have been met and, in addition, a motion to refer the child for adult prosecution has been made under section 260.125. Notwithstanding this paragraph,

continued detention of a child in an adult detention facility outside of a standard metropolitan statistical area county is permissible if:

(i) the facility in which the child is detained is located where conditions of distance to be traveled or other ground transportation do not allow for court appearances within 24 hours. A delay not to exceed 48 hours may be made under this clause; or

(ii) the facility is located where conditions of safety exist. Time for an appearance may be delayed until 24 hours after the time that conditions allow for reasonably safe travel. "Conditions of safety" include adverse life-threatening weather conditions that do not allow for reasonably safe travel.

The continued detention of a child under clause (i) or (ii) must be reported to the commissioner of corrections.

(d) No child taken into custody pursuant to section 260.165, subdivision 1, clause (a) or (c)(2) may be held in a shelter care facility longer than 72 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed and the judge or referee determines pursuant to section 260.172 that the child shall remain in custody.

(e) If a child described in paragraph (c) is to be detained in a jail beyond 24 hours, excluding Saturdays, Sundays, and holidays, the judge or referee, in accordance with rules and procedures established by the commissioner of corrections, shall notify the commissioner of the place of the detention and the reasons therefor. The commissioner shall thereupon assist the court in the relocation of the child in an appropriate juvenile secure detention facility or approved jail within the county or elsewhere in the state, or in determining suitable alternatives. The commissioner shall direct that a child detained in a jail be detained after eight days from and including the date of the original detention order in an approved juvenile secure detention facility with the approval of the administrative authority of the facility. If the court refers the matter to the prosecuting authority pursuant to section 260.125, notice to the commissioner shall not be required.

Sec. 8. Minnesota Statutes 1995 Supplement, section 260.195, subdivision 2a, is amended to read:

Subd. 2a. [NO RIGHT TO COUNSEL AT PUBLIC EXPENSE.] Except as otherwise provided in section 260.155, subdivision 2, a child alleged to be a juvenile petty offender may be represented by counsel, but does not have a right to appointment of a public defender or other counsel at public expense.

Sec. 9. Minnesota Statutes 1994, section 260.281, is amended to read:

260.281 [NEW EVIDENCE.]

A child whose status has been adjudicated by a juvenile court, or the child's parent, guardian, custodian or spouse may, at any time within ~~90~~ 15 days of the filing of the court's order, petition the court for a rehearing on the ground that new evidence has been discovered affecting the advisability of the court's original adjudication or disposition. Upon a showing that such evidence does exist the court shall order that a new hearing be held within 30 days, unless the court extends this time period for good cause shown within the 30-day period, and shall make such disposition of the case as the facts and the best interests of the child warrant.

Sec. 10. Minnesota Statutes 1994, section 260.301, is amended to read:

260.301 [CONTEMPT.]

Any person knowingly interfering with an order of the juvenile court is in contempt of court. However, a child who is under the continuing jurisdiction of the court for reasons other than ~~delinquency~~ having committed a delinquent act or a juvenile petty offense may not be adjudicated as a delinquent solely on the basis of having knowingly interfered with or disobeyed an order of the court.

Sec. 11. Minnesota Statutes 1995 Supplement, section 299C.10, subdivision 1, is amended to read:

Subdivision 1. [LAW ENFORCEMENT DUTY.] (a) It is hereby made the duty of the sheriffs of the respective counties ~~and~~, of the police officers in cities of the first, second, and third classes, under the direction of the chiefs of police in such cities, and of community corrections agencies operating secure juvenile detention facilities to take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, and such other identification data as may be requested or required by the superintendent of the bureau; of all persons arrested for a felony, gross misdemeanor, of all juveniles committing felonies as distinguished from those committed by adult offenders, of all persons reasonably believed by the arresting officer to be fugitives from justice, of all persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes, and within 24 hours thereafter to forward such fingerprint records and other identification data on such forms and in such manner as may be prescribed by the superintendent of the bureau of criminal apprehension.

(b) Effective August 1, 1997, the identification reporting requirements shall also apply to persons committing misdemeanor offenses, including violent and enhanceable crimes, and juveniles committing gross misdemeanors. In addition, the reporting requirements shall include any known aliases or street names of the offenders.

Sec. 12. [REPEALER.]

Minnesota Statutes 1994, section 260.141, subdivision 1, is repealed.

Sec. 13. [EFFECTIVE DATE.]

Sections 1 to 12 are effective August 1, 1996, and apply to offenses committed on or after that date.

ARTICLE 7

VICTIMS

Section 1. [15.87] [VICTIMS OF VIOLENCE.]

In furtherance of the state policy of zero tolerance for violence in section 1.50, the state shall have a goal of providing:

(a) every victim of violence in Minnesota, regardless of the county of residence, access to necessary services, including, but not limited to:

(1) crisis intervention services, including a 24-hour emergency telephone line;

(2) safe housing;

(3) counseling and peer support services; and

(4) assistance in pursuing legal remedies and appropriate medical care; and

(b) every child who is a witness to abuse or who is a victim of violence, access to necessary services, including, but not limited to:

(1) crisis child care;

(2) safe supervised child visitation, when needed;

(3) age appropriate counseling and support; and

(4) assistance with legal remedies, medical care, and needed social services.

Sec. 2. Minnesota Statutes 1995 Supplement, section 609.10, is amended to read:

609.10 [SENTENCES AVAILABLE.]

Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

(1) to life imprisonment; or

(2) to imprisonment for a fixed term of years set by the court; or

(3) to both imprisonment for a fixed term of years and payment of a fine; or

(4) to payment of a fine without imprisonment or to imprisonment for a fixed term of years if the fine is not paid; or

(5) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(6) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

As used in this section, "restitution" includes:

(i) payment of compensation to the victim or the victim's family; and

(ii) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

In controlled substance crime cases, "restitution" also includes payment of compensation to a government entity that incurs loss as a direct result of the controlled substance crime.

Sec. 3. Minnesota Statutes 1995 Supplement, section 609.125, is amended to read:

609.125 [SENTENCE FOR MISDEMEANOR OR GROSS MISDEMEANOR.]

Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

(1) to imprisonment for a definite term; or

(2) to payment of a fine, or to imprisonment for a specified term if the fine is not paid; or

(3) to both imprisonment for a definite term and payment of a fine; or

(4) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(5) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

As used in this section, "restitution" includes:

(i) payment of compensation to the victim or the victim's family; and

(ii) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

In controlled substance crime cases, "restitution" also includes payment of compensation to a government entity that incurs loss as a direct result of the controlled substance crime.

Sec. 4. Minnesota Statutes 1994, section 609.135, subdivision 1, is amended to read:

Subdivision 1. [TERMS AND CONDITIONS.] Except when a sentence of life imprisonment is required by law, or when a mandatory minimum sentence is required by section 609.11, any court may stay imposition or execution of sentence and (a) may order intermediate sanctions without placing the defendant on probation, or (b) may place the defendant on probation with or without supervision and on the terms the court prescribes, including intermediate sanctions when

practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person. No intermediate sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them. For purposes of this subdivision, subdivision 6, and section 609.14, the term "intermediate sanctions" includes but is not limited to incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, ~~and~~ work in lieu of or to work off fines and, with the victim's consent, work in lieu of or to work off restitution.

A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169.121.

Sec. 5. Minnesota Statutes 1995 Supplement, section 611A.01, is amended to read:

611A.01 [DEFINITIONS.]

For the purposes of sections 611A.01 to 611A.06:

(a) "Crime" means conduct that is prohibited by local ordinance and results in bodily harm to an individual; or conduct that is included within the definition of "crime" in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state, or (ii) the act was alleged or found to have been committed by a juvenile;

(b) "Victim" means a natural person who incurs loss or harm as a result of a crime, including a good faith effort to prevent a crime, and for purposes of sections 611A.04 and 611A.045, also includes (i) a corporation that incurs loss or harm as a result of a crime, and (ii) any other entity authorized to receive restitution under section 609.10 or 609.125. If the victim is a natural person and is deceased, "victim" means the deceased's surviving spouse or next of kin; and

(c) "Juvenile" has the same meaning as given to the term "child" in section 260.015, subdivision 2.

Sec. 6. Minnesota Statutes 1995 Supplement, section 611A.04, subdivision 1, is amended to read:

Subdivision 1. [REQUEST; DECISION.] (a) A victim of a crime has the right to receive restitution as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender if the offender is convicted or found delinquent. The court, or a person or agency designated by the court, shall request information from the victim to determine the amount of restitution owed. The court or its designee shall obtain the information from the victim in affidavit form or by other competent evidence. Information submitted relating to restitution must describe the items or elements of loss, itemize the total dollar amounts of restitution claimed, and specify the reasons justifying these amounts, if restitution is in the form of money or property. A request for restitution may include, but is not limited to, any out-of-pocket losses resulting from the crime, including medical and therapy costs, replacement of wages and services, expenses incurred to return a child who was a victim of a crime under section 609.26 to the child's parents or lawful custodian, and funeral expenses. An actual or prospective civil action involving the alleged crime shall not be used by the court as a basis to deny a victim's right to obtain court-ordered restitution under this section. In order to be considered at the sentencing or dispositional hearing, all information regarding restitution must be received by the court administrator of the appropriate court at least three business days before the sentencing or dispositional hearing. The court administrator shall provide copies of this request to the prosecutor and the offender or the offender's attorney at least 24 hours before the sentencing or dispositional hearing. The issue of restitution ~~may be~~ is reserved or the sentencing or dispositional hearing or hearing on the restitution request may be continued if the victim's affidavit or other competent evidence submitted by the victim is not received in time. At the sentencing or dispositional hearing, the court shall give the offender an opportunity to respond to specific items of restitution

and their dollar amounts in accordance with the procedures established in section 611A.045, subdivision 3.

(b) The court may amend or issue an order of restitution after the sentencing or dispositional hearing if:

(1) the offender is on probation, committed to the commissioner of corrections, or on supervised release;

(2) ~~information regarding~~ sufficient evidence of a right to restitution ~~was~~ has been submitted ~~as required under paragraph (a)~~; and

(3) the true extent of the victim's loss or the loss of the crime victims reparations board was not known at the time of the sentencing or dispositional hearing, or hearing on the restitution request.

If the court holds a hearing on the restitution request, the court must notify the offender, the offender's attorney, the victim, ~~and~~ the prosecutor, and the crime victims reparations board at least five business days before the hearing. The court's restitution decision is governed by this section and section 611A.045.

(c) The court shall grant or deny restitution or partial restitution and shall state on the record its reasons for its decision on restitution if information relating to restitution has been presented. If the court grants partial restitution it shall also specify the full amount of restitution that may be docketed as a civil judgment under subdivision 3. The court may not require that the victim waive or otherwise forfeit any rights or causes of action as a condition of granting restitution or partial restitution. In the case of a defendant who is on probation, the court may not refuse to enforce an order for restitution solely on the grounds that the order has been docketed as a civil judgment.

Sec. 7. Minnesota Statutes 1994, section 611A.04, subdivision 1a, is amended to read:

Subd. 1a. [CRIME BOARD REQUEST.] The crime victims reparations board may request restitution on behalf of a victim by filing a copy of orders of the board, if any, which detail any amounts paid by the board to the victim. The board may file the payment order with the court administrator or with the person or agency the court has designated to obtain information relating to restitution. ~~In either event,~~ The board shall submit the payment order not less than three business days ~~before the sentencing or dispositional hearing~~ after it is issued by the board. The court administrator shall provide copies of the payment order to the prosecutor and the offender or the offender's attorney within 48 hours of receiving it from the board or at least 24 hours before the sentencing or dispositional hearing, whichever is earlier. By operation of law, the issue of restitution ~~may be~~ is reserved ~~or the sentencing or disposition continued~~ if the payment order is not received ~~in time~~ at least three days before the sentencing or dispositional hearing. The filing of a payment order for reparations with the court administrator shall also serve as a request for restitution by the victim. The restitution requested by the board may be considered to be both on its own behalf and on behalf of the victim. If the board has not paid reparations to the victim or on the victim's behalf, restitution may be made directly to the victim. If the board has paid reparations to the victim or on the victim's behalf, the court shall order restitution payments to be made directly to the board.

Sec. 8. Minnesota Statutes 1994, section 611A.04, subdivision 3, is amended to read:

Subd. 3. [EFFECT OF ORDER FOR RESTITUTION.] An order of restitution may be enforced by any person named in the order to receive the restitution, or by the crime victims reparations board in the same manner as a judgment in a civil action. Any order for restitution in favor of a victim shall also operate as an order for restitution in favor of the crime victims reparations board, if the board has paid reparations to the victim or on the victim's behalf. Filing fees for docketing an order of restitution as a civil judgment are waived for any victim named in the restitution order. An order of restitution shall be docketed as a civil judgment, in the name of any person named in the order and in the name of the crime victims reparations board, by the court administrator of the district court in the county in which the order of restitution was entered. The court administrator also shall notify the commissioner of revenue of the restitution debt in the manner provided in chapter 270A, the revenue recapture act. A juvenile court is not required to appoint a guardian ad

litem for a juvenile offender before docketing a restitution order. Interest shall accrue on the unpaid balance of the judgment as provided in section 549.09. Whether the order of restitution has been docketed or not, it is a debt that is not dischargeable in bankruptcy. A decision for or against restitution in any criminal or juvenile proceeding is not a bar to any civil action by the victim or by the state pursuant to section 611A.61 against the offender. The offender shall be given credit, in any order for judgment in favor of a victim in a civil action, for any restitution paid to the victim for the same injuries for which the judgment is awarded.

Sec. 9. Minnesota Statutes 1994, section 611A.25, subdivision 3, is amended to read:

Subd. 3. [TERMS; VACANCIES; EXPENSES.] Section 15.059 governs the filling of vacancies and removal of members of the sexual assault advisory council. The terms of the members of the advisory council shall be two years. No member may serve on the advisory council for more than two consecutive terms. Council members shall ~~not~~ receive ~~per diem or~~ expense reimbursement as specified in section 15.059.

Sec. 10. Minnesota Statutes 1994, section 611A.361, subdivision 3, is amended to read:

Subd. 3. [TERMS; VACANCIES; EXPENSES.] Section 15.059 governs the filling of vacancies and removal of members of the general crime victims advisory council. The terms of the members of the advisory council shall be two years. No member may serve on the advisory council for more than two consecutive terms. Council members shall ~~not~~ receive ~~per diem or~~ expense reimbursement as specified in section 15.059.

Sec. 11. [611A.78] [CRIME VICTIM SERVICES ROUNDTABLE.]

Subdivision 1. [MEMBERSHIP.] A crime victim services roundtable is created and shall be convened by the commissioner of administration or a designee. The roundtable membership shall include representatives from the following: the departments of health; human services; children, families, and learning; corrections; and public safety; the supreme court; the Minnesota planning agency; the office of the attorney general; the office of crime victim ombudsman; the county attorneys association; and the office of dispute resolution. The roundtable membership shall also include one person representing the four councils designated in sections 3.922, 3.9223, 3.9225, and 3.9226.

Subd. 2. [DUTIES.] The crime victim services roundtable shall meet at least four times each year to discuss issues concerning victim services, including, but not limited to, methods for improving the delivery of and securing increased funding for victim services. The roundtable shall present to the legislature any initiatives, including those for increasing efficiency in the administration of services, which require legislative action.

Sec. 12. [EFFECTIVE DATE.]

Sections 1 to 8, and 11 are effective August 1, 1996. Sections 9 and 10 are effective July 1, 1996.

ARTICLE 8
CORRECTIONS

Section 1. Minnesota Statutes 1995 Supplement, section 16B.181, is amended to read:

16B.181 [PURCHASES FROM CORRECTIONS INDUSTRIES.]

~~(a) The commissioner, in consultation with the commissioner of corrections, shall prepare a list of products and services that are available for purchase from department of corrections industries. After publication of the product and service list by the commissioner, state agencies and institutions shall purchase the listed products and services from department of corrections industries if the products and services are equivalent in price and quality to products and services available from other sources unless the commissioner of corrections certifies that the correctional institutions cannot provide them at a price within five percent of the fair market price for comparable level of quality and within a reasonable delivery time. In determining the fair market price, the commissioner of administration shall use competitive bidding or consider open market bid prices in previous years for similar products and services, plus inflationary increases.~~

~~(b) The commissioner of administration shall ensure that state agency specifications are not unduly restrictive as to prevent corrections industries from providing products or services that meet the needs of the purchasing department, institution, or agency.~~

Subdivision 1. [DEFINITIONS.] As used in this section:

(1) "public entity" or "public entities" include the state and an agency, department, or institution of the state, and state colleges and universities; and

(2) "items" include articles, products, supplies, and services.

Subd. 2. [PUBLIC ENTITIES; PURCHASES FROM CORRECTIONS INDUSTRIES.] (a) The commissioner of corrections shall prepare updated lists of the items available for purchase from department of corrections industries and annually forward a copy of the most recent list to all public entities within the state. A public entity that is supported in whole or in part with funds from the state treasury shall purchase directly from corrections industries those items that are comparable in price, quality, and delivery time to items available from other vendors. An item is comparable in price if the price is no more than five percent higher than the lowest bid price.

(b) The commissioner of administration shall develop a contract pursuant to section 16B.09, to enable public entities to purchase items directly from corrections industries. The commissioner of administration, in consultation with the commissioner of corrections, shall determine the fair market price for listed items. In determining fair market price, the commissioner shall use competitive bidding, or shall consider open bid prices in previous years for similar products which meet the needs of the public entity.

(c) No public entity may evade the intent of this section by adopting slight variations in specifications, when Minnesota corrections industry items meet the reasonable needs and specifications of the public entity.

(d) As part of its ongoing audit process, the legislative auditor is requested to ensure that state agencies are in compliance with this section.

~~(c)~~ (e) The commissioners of administration and corrections shall appoint a joint task force to explore additional methods that support the philosophy of providing a substantial market opportunity to correctional industries that maximizes inmate work opportunities. The task force shall develop a plan and prepare a set of criteria with which to evaluate the effectiveness of the recommendations and initiatives in the plan. By February 15, 1997, the task force shall report to the chairs of the senate and house of representatives committees having jurisdiction over criminal justice funding.

Sec. 2. [241.265] [HIGHER EDUCATION; CERTAIN PAYMENTS PROHIBITED.]

The commissioner may not pay for a college education program beyond the associate of arts degree level for an inmate convicted of first or second degree murder. The commissioner of corrections may only pay for an associate of arts college education program for an inmate convicted of first or second degree murder if the inmate's participation in the program does not increase the cost of the program to the institution.

Sec. 3. Minnesota Statutes 1994, section 241.275, is amended to read:

241.275 [PRODUCTIVE DAY INITIATIVE PROGRAMS; CORRECTIONAL FACILITIES; HENNEPIN, RAMSEY, AND ST. LOUIS COUNTIES.]

Subdivision 1. [PROGRAM ESTABLISHMENT.] (a) As used in this section, "correctional facility" includes a community-based day program to which an offender is sentenced in lieu of incarceration, if the program provides close supervision of offenders through such means as electronic monitoring and drug and alcohol testing.

(b) The counties of Hennepin, Ramsey, and St. Louis shall each establish a productive day initiative program in their correctional facilities as described in this section. The productive day program shall be designed to motivate ~~inmates~~ sentenced offenders in local correctional facilities

to develop basic life and work skills through training and education, thereby creating opportunities for ~~inmates on release~~ offenders to achieve more successful integration into the community upon their release.

Subd. 2. [PROGRAM COMPONENTS.] The productive day initiative programs shall include components described in paragraphs (a) to (c).

(a) The initiative programs shall contain programs designed to promote the ~~inmate's~~ offender's self-esteem, self-discipline, and economic self-sufficiency by providing structured training and education with respect to basic life skills, including hygiene, personal financial budgeting, literacy, and conflict management.

(b) The programs shall contain individualized educational, vocational, and work programs designed to productively occupy an ~~inmate~~ offender for at least eight hours a day.

(c) The program administrators shall develop correctional industry programs, including marketing efforts to attract work opportunities both inside correctional facilities and outside in the community. Program options may include expanding and reorganizing on-site industry programs, locating off-site industry work areas, ~~and~~ community service work programs, and employment programs. To develop innovative work programs, program administrators may enlist members of the business and labor community to help target possible productive enterprises for ~~inmate~~ offender work programs.

(d) Whenever ~~inmates~~ offenders are assigned to work within the correctional facility or with any state department or agency, local unit of government, or other government subdivision, the program administrator must certify to the appropriate bargaining agent that work performed by ~~inmates~~ offenders will not result in the displacement of current employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of work other than overtime work, wages, or other employment benefits.

Subd. 3. [ELIGIBILITY.] The administrators of each productive day program shall develop criteria for ~~inmate~~ offender eligibility for the program.

Subd. 4. [EVALUATION.] The administrators of each of the productive day initiative programs shall develop program evaluation tools to monitor the success of the programs.

Subd. 5. [REPORT.] Hennepin, Ramsey, and St. Louis counties shall each report results of their evaluations to the chairs of the house judiciary finance division and the senate crime prevention finance division by July 1, 1996.

Sec. 4. Minnesota Statutes 1995 Supplement, section 243.212, is amended to read:

243.212 [COPAYMENTS FOR HEALTH SERVICES.]

Any inmate of an adult correctional facility under the control of the commissioner of corrections shall incur copayment ~~and coinsurance obligations for health care services received in the amounts established for adult enrollees of the MinnesotaCare program established under section 256.9353, subdivision 7, to the extent the inmate has available funds~~ obligations for health care services provided. The copayment will be paid from the inmate account of earnings and other funds, as provided in section 243.23, subdivision 3. The funds paid under this subdivision are appropriated to the commissioner of corrections for the delivery of health care services to inmates.

Sec. 5. [243.555] [SMOKING BY INMATES PROHIBITED.]

No inmate in a state correctional facility may possess or use tobacco or a tobacco-related device. For the purposes of this section, "tobacco" and "tobacco-related device" have the meanings given in section 609.685, subdivision 1. This section does not prohibit the possession or use of tobacco or a tobacco-related device by an adult as a part of a traditional Indian spiritual or cultural ceremony. For purposes of this section, an Indian is a person who is a member of an Indian tribe as defined in section 257.351, subdivision 9.

Sec. 6. Minnesota Statutes 1994, section 244.17, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] The commissioner must limit the challenge incarceration program to the following persons:

(1) offenders who are committed to the commissioner's custody following revocation of a stayed sentence; and

(2) offenders who are committed to the commissioner's custody ~~for a~~, who have 36 months or less in or remaining in their term of imprisonment ~~of not less than 18 months nor more than 36 months~~, and who did not receive a dispositional departure under the sentencing guidelines. An eligible inmate is not entitled to participate in the program.

Sec. 7. Minnesota Statutes 1994, section 244.172, subdivision 2, is amended to read:

Subd. 2. [PHASE II.] Phase II of the program lasts at least six months. The offender shall serve this phase of the offender's sentence in an intensive supervision and surveillance program established by the commissioner. The commissioner may impose such requirements on the offender as are necessary to carry out the goals of the program. Throughout phase II, the offender must be required to submit to drug and alcohol tests randomly or for cause, on demand of the supervising agent. The commissioner shall also require the offender to report daily to a day-reporting facility designated by the commissioner. ~~In addition, if the commissioner required the offender to undergo acupuncture during phase I, the offender must submit to acupuncture treatment throughout phase II, on demand of the supervising agent.~~

Sec. 8. Minnesota Statutes 1994, section 260.311, subdivision 3a, is amended to read:

Subd. 3a. [DETAINING PERSON ON CONDITIONAL RELEASE OR PROBATION.] (a) The written order of the court services director or designee of a county probation agency not organized under chapter 401 is sufficient authority for peace officers and county probation officers serving ~~a~~ the district or juvenile court ~~may, without a warrant~~ of nonparticipating counties when it appears necessary to prevent escape or enforce discipline, to take and detain a probationer or any person on conditional release and bring that person before the court or the commissioner of corrections, whichever is appropriate, for disposition. No probationer or other person on conditional release shall be detained under this subdivision more than 72 hours, excluding Saturdays, Sundays and holidays, without being given an opportunity for a hearing before the court or the commissioner of corrections or a designee.

(b) The written order of the court services director or designee of a county probation agency not established under chapter 401 is sufficient authority for probation officers serving the district and juvenile courts of nonparticipating counties to release within 72 hours, exclusive of legal holidays, Saturdays, and Sundays, without appearance before the court or the commissioner of corrections or a designee, any person detained pursuant to paragraph (a).

(c) The written order of the chief executive officer or designee of a county corrections agency established under this section and not organized under chapter 401 is sufficient authority for any peace officer or county probation officer to take and place in actual custody any person under sentence or on probation who:

(1) fails to report to serve a sentence at a local correctional facility, as defined in section 241.021, subdivision 1;

(2) fails to return from furlough or authorized temporary release from a local correctional facility;

(3) escape from a local correctional facility; or

(4) absconds from court-ordered home detention.

(d) The written order of the court services director or designee of a county probation agency established under this section and not organized under chapter 401 is sufficient authority for any

peace officer or county probation officer to take and place in actual custody any person on a court-authorized pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release.

Sec. 9. Minnesota Statutes 1994, section 352.90, is amended to read:

352.90 [POLICY.]

It is the policy of the legislature to provide special retirement benefits and contributions for certain correctional employees who may be required to retire at an early age because they lose the mental or physical capacity required to maintain the safety, security, discipline, and custody of inmates at state ~~adult~~ correctional facilities or of patients at the Minnesota security hospital or at the Minnesota sexual psychopathic personality treatment center.

Sec. 10. Minnesota Statutes 1994, section 352.91, subdivision 1, is amended to read:

Subdivision 1. [QUALIFYING JOBS.] "Covered correctional service" means~~: (1) services~~ service performed ~~on, before, or after July 1, 1973,~~ by a state employee, as defined in section 352.01, employed at a state correctional facility, the Minnesota security hospital, or the Minnesota sexual psychopathic personality treatment center as ~~an attendant guard, attendant guard supervisor, correctional captain, correctional counselor I, correctional counselor II, correctional counselor III, correctional counselor IV, correctional lieutenant, correctional officer, correctional sergeant, director of attendant guards, and guard farmer garden, provided the employee was employed in the position on July 1, 1973, or after; (2) services performed before July 1, 1973, by an employee covered under clause (1) in a position classified as a houseparent, special schools counselor, shop instructor, or guard instructor; and (3) services performed before July 1, 1973, in a position listed in clause (1) and positions classified as houseparent, guard instructor, and guard farmer dairy, by a person employed on July 1, 1973, in a position classified as a license plant manager, prison industry lead supervisor (general, metal fabricating and foundry), prison industry supervisor, food service manager, prison farmer supervisor, prison farmer assistant supervisor, or rehabilitation therapist employed at the Minnesota security hospital. However, an employee is not covered under sections 352.91 to 352.951 if first employed after July 1, 1973, and because of age could not acquire sufficient service to qualify for an annuity as a correctional employee~~:

(1) a corrections officer 1;

(2) a corrections officer 2;

(3) a corrections officer 3;

(4) a corrections officer supervisor;

(5) a corrections officer 4;

(6) a corrections captain;

(7) a security counselor; or

(8) a security counselor lead.

Sec. 11. Minnesota Statutes 1994, section 352.91, subdivision 2, is amended to read:

Subd. 2. [~~TEACHING,~~ MAINTENANCE~~,~~ AND TRADES.] "Covered correctional service" also means service rendered at any time by state employees as ~~special teachers,~~ maintenance personnel~~,~~ and members of trades certified by the commissioner of employee relations as being regularly engaged in rehabilitation, treatment, custody, or supervision of inmates ~~employed~~ at ~~the~~ a Minnesota correctional ~~facility-St. Cloud, the Minnesota correctional facility-Stillwater and the Minnesota correctional facility-Shakopee on or after July 1, 1974, other than any employees who are age 62 or older as of July 1, 1974. Effective the first payroll period after June 1, 1980, or the date of initial employment in covered correctional service, whichever is later, "covered correctional service" also includes those employees of the Minnesota correctional facility-Lino Lakes and the employees of any other adult state correctional facility which may be established,~~

~~who perform covered correctional service after June 1, 1980. "Special teacher" also includes the classifications of facility educational administrator and supervisor~~ facility, or of patients at the Minnesota security hospital or at the Minnesota sexual psychopathic personality treatment center.

Sec. 12. Minnesota Statutes 1994, section 352.91, is amended by adding a subdivision to read:

Subd. 2a. [SPECIAL TEACHERS.] "Covered correctional service" also means service rendered by a state employee as a special teacher employed by the department of corrections or by the department of human services at a security unit, provided that at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner, unless the person elects to retain the current retirement coverage under section 21.

Sec. 13. Minnesota Statutes 1994, section 352.91, subdivision 3b, is amended to read:

Subd. 3b. [OLDER EMPLOYEES FORMERLY EXCLUDED.] "Covered correctional service" also means service performed by certain state employees in positions usually covered by this section who: (1) were excluded by law from coverage between July 1973 and July 1980; (2) were age 45 or over when hired; (3) ~~are~~ were state employees on March 26, 1986; and (4) ~~elect~~ who elected coverage. ~~Eligible employees who elect coverage must file written notice of their election with the director~~ before July 1, 1986. An employee who did not elect coverage before July 1, 1986, is not covered by the correctional retirement plan, even if the employee's employment classification may be considered to be covered correctional service under another subdivision of this section.

Sec. 14. Minnesota Statutes 1994, section 352.91, is amended by adding a subdivision to read:

Subd. 3c. [NURSING PERSONNEL.] (a) "Covered correctional service" means service by a state employee in one of the employment positions at a correctional facility or at the Minnesota security hospital specified in paragraph (b), provided that at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner, unless the person elects to retain the current retirement coverage under section 21.

(b) The employment positions are as follows:

(1) registered nurse - senior;

(2) registered nurse;

(3) registered nurse - principal; and

(4) licensed practical nurse 2.

Sec. 15. Minnesota Statutes 1994, section 352.91, is amended by adding a subdivision to read:

Subd. 3d. [OTHER CORRECTIONAL PERSONNEL.] (a) "Covered correctional service" means service by a state employee in one of the employment positions at a correctional facility or at the Minnesota security hospital specified in paragraph (b), provided that at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner, unless the person elects to retain the current retirement coverage under section 21.

(b) The employment positions are as follows: baker, chemical dependency counselor supervisor, chief cook, cook, cook coordinator, corrections behavior therapist, corrections behavior therapist specialist, corrections parent education coordinator, corrections security caseworker, corrections security caseworker career, corrections teaching assistant, dentist, electrician supervisor, general repair worker, library/information research services specialist, library information research services specialist senior, plumber supervisor, psychologist 3, recreation therapist, recreation therapist coordinator, recreation program assistant, recreation therapist senior, stores clerk senior, water treatment plant operator, work therapy technician, work therapy assistant, work therapy program coordinator.

Sec. 16. Minnesota Statutes 1994, section 352.91, subdivision 4, is amended to read:

Subd. 4. [CERTIFICATION PROCEDURE FOR ADDITIONAL POSITIONS.] Upon the recommendation of the commissioner of corrections or the commissioner of human services, whichever is the appropriate employing authority, with the approval of the legislative advisory committee and with notification to and receipt of comments from the legislative commission on pensions and retirement, the commissioner of employee relations may certify additional ~~civil service classifications~~ positions at a state correctional ~~or security hospital facilities~~ facility, the Minnesota security hospital, or the Minnesota sexual psychopathic personality treatment center to the executive director of the Minnesota state retirement system as positions rendering covered correctional service. The commissioner of corrections and the commissioner of human services must establish, in writing, a set of criteria upon which to base a recommendation for certifying additional civil service classifications as rendering covered correctional service.

Sec. 17. Minnesota Statutes 1994, section 352.91, is amended by adding a subdivision to read:

Subd. 5. [CORRECTION OF ERRORS.] (a) If it is determined that an employee should have been covered by the correctional retirement plan but was placed in the general employees retirement plan or teachers retirement association in error, the commissioner of corrections or the commissioner of human services must report the error to the executive director of the Minnesota state retirement system. The service must be properly credited under the correctional employees retirement plan for a period of not to exceed five years before the date on which the commissioner of corrections or human services notifies the executive director of the Minnesota state retirement system in writing or five years from the date on which an employee requests, in writing, the applicable department to determine if the person has appropriate retirement plan coverage, whichever is earlier. If the error covers more than a five-year period, the service before the five-year period must remain under the plan originally credited the service. The employee shall pay the difference between the employee contributions actually paid during the five-year period and what should have been paid under the correctional employees retirement plan. The department making the error shall pay to the correctional employees retirement plan an amount equal to the difference in the present value of accrued retirement benefits caused by the change in coverage after subtracting the amount paid by the employee. Calculation of this amount must be made by the executive director of the Minnesota state retirement system using the applicable preretirement interest rate specified in section 356.215, subdivision 4d, and the mortality table adopted for the Minnesota state retirement system. The calculation must assume continuous future service in the correctional employees retirement plan until the employee would reach the age eligible for normal retirement. The calculation must also assume a future salary history that includes annual salary increases at the salary increase rate or rates specified in section 356.215, subdivision 4d.

(b) If an employee was covered under the correctional employees retirement plan, but it is determined that the person should have been covered under the general employees retirement plan, the error must be corrected if written notification is provided to the employee and the executive director of the Minnesota state retirement system within three years of the date on which the coverage was improperly started. The difference in employee and employer contributions actually paid to the correctional employees retirement plan in excess of the amount that should have been paid to the general employees retirement plan must be refunded to the employee and the employer paying the additional contributions.

Sec. 18. Minnesota Statutes 1994, section 352.92, subdivision 2, is amended to read:

Subd. 2. [EMPLOYER CONTRIBUTIONS.] ~~(a)~~ In lieu of employer contributions payable under section 352.04, subdivision 3, the employer shall contribute for covered correctional employees an amount equal to ~~6.27~~ 6.75 percent of salary.

~~(b) By January 1 of each year, the board of directors shall report to the legislative commission on pensions and retirement, the chair of the committee on appropriations of the house of representatives, and the chair of the committee on finance of the senate on the amount raised by the employer and employee contribution rates in effect and whether the total amount is less than, the same as, or more than the actuarial requirement determined under section 356.215.~~

Sec. 19. Minnesota Statutes 1994, section 401.10, is amended to read:

401.10 [COMMUNITY CORRECTIONS ~~EQUALIZATION FORMULA~~ AID.]

Subdivision 1. [AID CALCULATIONS.] To determine the community corrections aid amount to be paid to each participating ~~counties~~ county, the commissioner of corrections ~~will~~ must apply the following formula:

~~(1) All 87 counties will be scored in accordance with a formula involving four factors:~~

~~(a) per capita income;~~

~~(b) per capita net tax capacity;~~

~~(c) per capita expenditure per 1,000 population for correctional purposes, and;~~

~~(d) percent of county population aged six through 30 years of age according to the most recent federal census, and, in the intervening years between the taking of the federal census, according to the state demographer.~~

~~"Per capita expenditure per 1,000 population" for each county is to be determined by multiplying the number of persons convicted of a felony under supervision in each county at the end of the current year by $350. To the product thus obtained will be added:~~

~~(i) the number of presentence investigations completed in that county for the current year multiplied by $50;~~

~~(ii) the annual cost to the county for county probation officers' salaries for the current year; and~~

~~(iii) 33-1/3 percent of such annual cost for probation officers' salaries.~~

~~The total figure obtained by adding the foregoing items is then divided by the total county population according to the most recent federal census, or, during the intervening years between federal censuses, according to the state demographer.~~

~~(2) The percent of county population aged six through 30 years shall be determined according to the most recent federal census, or, during the intervening years between federal censuses, according to the state demographer.~~

~~(3) Each county is then scored as follows:~~

~~(a) Each county's per capita income is divided into the 87 county average;~~

~~(b) Each county's per capita net tax capacity is divided into the 87 county average;~~

~~(c) Each county's per capita expenditure for correctional purposes is divided by the 87 county average;~~

~~(d) Each county's percent of county population aged six through 30 is divided by the 87 county average.~~

~~(4) The scores given each county on each of the foregoing four factors are then totaled and divided by four.~~

~~(5) The quotient thus obtained then becomes the computation factor for the county. This computation factor is then multiplied by a "dollar value," as fixed by the appropriation pursuant to sections 401.01 to 401.16, times the total county population. The resulting product is the amount of subsidy to which the county is eligible under sections 401.01 to 401.16. Notwithstanding any law to the contrary, the commissioner of corrections, after notifying the committees on finance of the senate and appropriations of the house of representatives, may, at the end of any fiscal year, transfer any unobligated funds in any appropriation to the department of corrections to the appropriation under sections 401.01 to 401.16, which appropriation shall not cancel but is reappropriated for the purposes of sections 401.01 to 401.16.~~

(1) For each of the 87 counties in the state, a percent score must be calculated for each of the following five factors:

(a) percent of the total state population aged ten to 24 residing within the county according to the most recent federal census, and, in the intervening years between the taking of the federal census, according to the most recent estimate of the state demographer;

(b) percent of the statewide total number of felony case filings occurring within the county, as determined by the state court administrator;

(c) percent of the statewide total number of juvenile case filings occurring within the county, as determined by the state court administrator;

(d) percent of the statewide total number of gross misdemeanor case filings occurring within the county, as determined by the state court administrator; and

(e) percent of the total statewide number of convicted felony offenders who did not receive an executed prison sentence, as monitored and reported by the sentencing guidelines commission.

The percents in clauses (b) to (e) must be calculated by combining the most recent three-year period of available data. The percents in clauses (a) to (e) each must sum to 100 percent across the 87 counties.

(2) For each of the 87 counties, the county's percents in clauses (a) to (e) must be weighted, summed, and divided by the sum of the weights to yield an average percent for each county, referred to as the county's "composite need percent." When performing this calculation, the weight for each of the percents in clauses (a) to (e) is 1.0. The composite need percent must sum to 100 percent across the 87 counties.

(3) For each of the 87 counties, the county's "adjusted net tax capacity percent" is the county's adjusted net tax capacity amount, defined in the same manner as it is defined for cities in section 477A.011, subdivision 20, divided by the statewide total adjusted net tax capacity amount. The adjusted net tax capacity percent must sum to 100 percent across the 87 counties.

(4) For each of the 87 counties, the county's composite need percent must be divided by the county's adjusted net tax capacity percent to produce a ratio that, when multiplied by the county's composite need percent, results in the county's "tax base adjusted need percent."

(5) For each of the 87 counties, the county's tax base adjusted need percent must be added to twice the composite need percent, and the sum must be divided by 3, to yield the county's "weighted need percent."

(6) Each participating county's weighted need percent must be added to the weighted need percent of each other participating county to yield the "total weighted need percent for participating counties."

(7) Each participating county's weighted need percent must be divided by the total weighted need percent for participating counties to yield the county's "share percent." The share percents for participating counties must sum to 100 percent.

(8) Each participating county's "base funding amount" is the aid amount that the county received under this section for fiscal year 1995, as reported by the commissioner of corrections. In fiscal year 1997 and thereafter, no county's aid amount under this section may be less than its base funding amount, provided that the total amount appropriated for this purpose is at least as much as the aggregate base funding amount defined in clause (9).

(9) The "aggregate base funding amount" is equal to the sum of the base funding amounts for all participating counties. If a county that participated under this section during fiscal year 1995 chooses not to participate in any given year, then the aggregate base funding amount must be reduced by that county's base funding amount. If a county that did not participate under this section in fiscal year 1995 chooses to participate in any given year, then the aggregate base funding amount must be increased by the amount of aid that the county would have received had it participated in fiscal year 1995, as reported by the commissioner of corrections, and the amount of increase shall be that county's base funding amount.

(10) In any given year, the total amount appropriated for this purpose first must be allocated to participating counties in accordance with each county's base funding amount. Then, any remaining amount in excess of the aggregate base funding amount must be allocated to participating counties in proportion to each county's share percent, and is referred to as the county's "formula amount."

Each participating county's "community corrections aid amount" equals the sum of (i) the county's base funding amount, and (ii) the county's formula amount.

However, if in any year the total amount appropriated for the purpose of this section is less than the aggregate base funding amount, then each participating county's community corrections aid amount is the product of (i) the county's base funding amount multiplied by (ii) the ratio of the total amount appropriated to the aggregate base funding amount.

For each participating county, the county's community corrections aid amount calculated in this subdivision is the total amount of subsidy to which the county is entitled under sections 401.01 to 401.16.

Subd. 2. [TRANSFER OF FUNDS.] Notwithstanding any law to the contrary, the commissioner of corrections, after notifying the committees on finance of the senate and ways and means of the house of representatives, may, at the end of any fiscal year, transfer any unobligated funds in any appropriation to the department of corrections to the appropriation under sections 401.01 to 401.16, which appropriation shall not cancel but is reappropriated for the purposes of sections 401.01 to 401.16.

Subd. 3. [FORMULA REVIEW.] Prior to January 16, 2002, the committees with jurisdiction over community corrections funding decisions in the house of representatives and the senate, in consultation with the department of corrections and any interested county organizations, must review the formula in subdivision 1 and make recommendations to the legislature for its continuation, modification, replacement, or discontinuation.

Sec. 20. Minnesota Statutes 1995 Supplement, section 641.15, subdivision 2, is amended to read:

Subd. 2. [MEDICAL AID.] Except as provided in section 466.101, the county board shall pay the costs of medical services provided to prisoners. The county is entitled to reimbursement from the prisoner for payment of medical bills to the extent that the prisoner to whom the medical aid was provided has the ability to pay the bills. ~~If the prisoner does not have the ability to pay the prisoner's entire medical bill,~~ The prisoner shall, at a minimum, incur copayment ~~and coinsurance~~ obligations for health care services ~~received in the amounts established for adult enrollees of the MinnesotaCare program established under section 256.9353, subdivision 7, to the extent the prisoner has available funds~~ provided by a county correctional facility. The county board shall determine the copayment amount. Notwithstanding any law to the contrary, the copayment shall be deducted from any of the prisoner's funds held by the county, to the extent possible. If there is a disagreement between the county and a prisoner concerning the prisoner's ability to pay, the court with jurisdiction over the defendant shall determine the extent, if any, of the prisoner's ability to pay for the medical services. If a prisoner is covered by health or medical insurance or other health plan when medical services are provided, the county providing the medical services has a right of subrogation to be reimbursed by the insurance carrier for all sums spent by it for medical services to the prisoner that are covered by the policy of insurance or health plan, in accordance with the benefits, limitations, exclusions, provider restrictions, and other provisions of the policy or health plan. The county may maintain an action to enforce this subrogation right. The county does not have a right of subrogation against the medical assistance program or the general assistance medical care program.

Sec. 21. [TEMPORARY PROVISION; ELECTION TO RETAIN RETIREMENT COVERAGE.]

(a) An employee in a position specified as qualifying under sections 12, 14, and 15, may elect to retain coverage under the general employees retirement plan of the Minnesota state retirement system or the teachers retirement association, or may elect to have coverage transferred to and to

contribute to the correctional employees retirement plan. An employee electing to participate in the correctional employees retirement plan shall begin making contributions to the correctional plan beginning the first full pay period after January 1, 1997, or the first full pay period following filing of their election to transfer coverage to the correctional employees retirement plan, whichever is later. The election to retain coverage or to transfer coverage must be made in writing by the person on a form prescribed by the executive director of the Minnesota state retirement system and must be filed with the executive director no later than June 30, 1997.

(b) An employee failing to make an election by June 15, 1997, must be notified by certified mail by the executive director of the Minnesota state retirement system or of the teachers retirement association, whichever applies, of the deadline to make a choice. A person who does not submit an election form must continue coverage in the general employees retirement plan or the teachers retirement association, whichever applies, and forfeits all rights to transfer retirement coverage to the correctional employees retirement plan.

(c) The election to retain coverage in the general employee retirement plan or the teachers retirement association or the election to transfer retirement coverage to the correctional employees retirement plan is irrevocable once it is filed with the executive director.

Sec. 22. [COVERAGE FOR PRIOR STATE SERVICE FOR CERTAIN PERSONS.]

Subdivision 1. [ELECTION OF PRIOR STATE SERVICE COVERAGE.] (a) An employee who has future retirement coverage transferred to the correctional employees retirement plan under sections 12, 14, and 15, and who does not elect to retain general state employee retirement plan or teachers retirement association coverage is entitled to elect to obtain prior service credit for eligible state service performed on or after July 1, 1975, and before the first day of the first full pay period beginning after June 30, 1997, with the department of corrections or with the department of human services at the Minnesota security hospital. All prior service credit must be purchased.

(b) Eligible state service with the department of corrections or with the department of human services is any prior period of continuous service on or after July 1, 1975, performed as an employee of the department of corrections or of the department of human services that would have been eligible for the correctional employees retirement plan coverage under sections 12, 14, and 15, if that prior service had been performed after the first day of the first full pay period beginning after December 31, 1996, rather than before that date. Service is continuous if there has been no period of discontinuation of eligible state service for a period greater than 180 calendar days.

(c) The department of corrections or the department of human services, whichever applies, shall certify eligible state service to the executive director of the Minnesota state retirement system.

(d) A covered correctional plan employee employed on January 1, 1997, who has past service in a job classification covered under section 12, 14, or 15 on January 1, 1997, is entitled to purchase the past service if the applicable department certifies that the employee met the eligibility requirements for coverage. The employee must make the additional employee contributions under section 17. Payments for past service must be completed by June 30, 1999.

Subd. 2. [PAYMENT FOR PRIOR SERVICE.] (a) An employee electing to obtain prior service credit under subdivision 1 must pay an additional employee contribution for that prior service except for any period of time that the employee was a member of the basic program of the teachers retirement association. The additional member contribution is the contribution differential percentage applied to the actual salary paid to the employee during the period of the prior eligible state service, plus interest at the rate of six percent per annum, compounded annually. The contribution differential percentage is the difference between 4.9 percent of salary and the applicable employee contribution rate of the general state employees retirement plan or the teachers retirement association during the prior eligible state service.

(b) The additional member contribution must be paid only in a lump sum. Payment must accompany the election to obtain prior service credit. No election or payment may be made by the person or accepted by the executive director after June 30, 1999.

Subd. 3. [TRANSFER OF ASSETS.] Assets must be transferred from the teachers retirement association or the general state employees retirement plan, whichever applies, to the correctional employees retirement plan in an amount equal to the present value of benefits earned under the general employees retirement plan or the teachers retirement plan, whichever applies, for each employee transferring to the correctional employees retirement plan, as determined by the actuary retained by the legislative commission on pensions and retirement in accordance with Minnesota Statutes, section 356.215, multiplied by the accrued liability funding ratio of active members as derived from the most recent actuarial valuation prepared by the commission-retained actuary. The transfer of assets must be made within 45 days after the employee elects to transfer coverage to the correctional employees retirement plan.

Subd. 4. [EFFECT OF THE ASSET TRANSFER.] Upon the transfer of assets in subdivision 3, service credit in the general state employees plan of the Minnesota state retirement system or the teachers retirement association, whichever applies, is forfeited and may not be reinstated. The service credit and transferred assets must be credited to the correctional employees retirement plan.

Subd. 5. [COUNSELING.] (a) The commissioners of corrections, human services, and employee relations, and the executive directors of the Minnesota state retirement system and teachers retirement association have the joint responsibility of providing affected employees of the department of corrections or the department of human services with appropriate and timely retirement and related benefit counseling.

(b) Counseling must include the anticipated impact of the retirement coverage change on the person's future retirement benefit amounts, future retirement eligibility, future applicability of mandatory retirement laws, and future postemployment insurance coverage.

(c) The commissioners of corrections and human services must consult with the appropriate collective bargaining agents of the affected employees regarding the content, form, and timing of the counseling required by this section.

Sec. 23. [TRANSITIONAL PROVISION; RETENTION OF CERTAIN RIGHTS.]

(a) Nothing in this article may be considered to restrict the entitlement of a person under state law to repay a previously taken refund of employee or member contributions to a Minnesota public pension plan if all qualifying requirements are met.

(b) The period of correctional employees retirement plan contributions, plus interest, must be restored upon the repayment of the appropriate refund amount if the service was correctional employees retirement plan covered service on the date when the service was rendered or on the date when the refund was taken.

Sec. 24. [EARLY RETIREMENT INCENTIVE.]

This section applies to an employee who has future retirement coverage transferred to the correctional employee retirement plan under sections 12, 14, and 15, and who is at least 55 years old on the effective date of sections 12, 14, and 15. That employee may participate in a health insurance early retirement incentive available under the terms of a collective bargaining agreement in effect on the day before the effective date of sections 12, 14, and 15, notwithstanding any provision of the collective bargaining agreement that limits participation to persons who select the option during the payroll period in which their 55th birthday occurs. A person selecting the health insurance early retirement incentive under this section must retire by the later of December 31, 1997, or within the pay period following the time at which the person has at least three years of covered correctional service, including any purchased service credit. An employee meeting this criteria who wishes to extend the person's employment must do so under Minnesota Statutes, section 43A.34, subdivision 3.

Sec. 25. [INMATE RECIDIVISM STUDY.]

The legislative audit commission is requested to direct the legislative auditor to analyze and report on the recidivism rates of felons released from state and local correctional facilities and

programs. If the commission directs the auditor to conduct this evaluation, the auditor shall report to the chairs of the senate and house of representatives committees having jurisdiction over criminal justice policy by February 15, 1997.

Sec. 26. [SYSTEMWIDE EVALUATION OF CORRECTIONS.]

Subdivision 1. [COMMISSIONER'S DUTIES.] The commissioner of administration shall conduct a thorough evaluation of the state's correctional system, including:

(1) the operation of state correctional facilities, including:

(i) programming;

(ii) staffing; and

(iii) medical services; and

(2) strategic planning to meet the state's correctional needs.

The commissioner shall evaluate the effectiveness of current correctional policies and recommend appropriate alternatives and cost savings.

Subd. 2. [REPORT REQUIRED.] By December 15, 1996, the commissioner shall report to the chairs of the senate and house of representatives committees having jurisdiction over criminal justice policy and funding on the results of the evaluation.

Sec. 27. [EVALUATION OF PRISON INDUSTRY PROGRAM BY CONSULTANT.]

By May 15, 1996, the commissioner of administration shall issue a request for proposals to serve as a consultant to evaluate the operation of prison industries in this state. By July 1, 1996, the commissioner shall select the consultant. The consultant shall develop a five-year business plan and report on the contents of the plan as required in section 28.

Sec. 28. [FIVE-YEAR BUSINESS PLAN TO BE DEVELOPED BY MINNCOR AND CONSULTANT.]

Subdivision 1. [BUSINESS PLANS.] (a) MinnCor and the consultant retained under section 26 shall develop five-year business plans for the operation of prison industries at state and local correctional facilities. By February 1, 1997, the consultant and the chief executive officer of MinnCor shall report to the governor and the majority and minority leaders of the senate and house of representatives on the contents of the respective plans.

(b) Representatives of labor organizations certified to represent MinnCor employees may also develop a five-year business plan either separately or in conjunction with MinnCor and submit it to the governor and the majority and minority leaders of the senate and house of representatives by February 1, 1997.

(c) The consultant and MinnCor shall consult with the representatives of labor organizations certified to represent MinnCor employees in preparing the five-year plans.

Subd. 2. [ACCESS TO INFORMATION.] (a) In developing the five-year plan, the consultant shall have access to:

(1) all records kept by MinnCor in the course of its business, including financial records;

(2) all correctional facilities;

(3) all noninmate employees of MinnCor; and

(4) all inmates employed by MinnCor.

Representatives of labor organizations developing a five-year plan pursuant to subdivision 1, paragraph (b), shall also have all the access specified in this subdivision.

(b) The consultant shall have the right to conduct private, confidential interviews with all inmate and noninmate employees of MinnCor who consent to be interviewed.

The commissioner of corrections and the chief executive officer of MinnCor shall cooperate with the consultant and the exclusive representatives to ensure that the access specified in this subdivision is given.

Subd. 3. [CONSULTANT'S PLAN.] (a) In developing a five-year business plan, the consultant shall assume that a private corporation will be operating prison industries and that the corporation will be required to:

(1) employ at least the same number of inmates by the end of its first year of operation as MinnCor employed on July 1, 1996;

(2) initially offer employment to noninmate MinnCor employees prior to any other hiring, to fill available positions at the same salaries and benefits, including pension benefits, as the employees were earning as of July 1, 1996;

(3) operate without any state subsidy;

(4) provide adequate security at its own expense, including training employees in security techniques that conform to established standards of security and control specified in the American correctional association's standards for adult correctional institutions;

(5) provide maintenance for leased facilities and equipment;

(6) continue to operate commercial and industrial activities suitable to the profitable employment, vocational training, and development of proper work habits of inmates at correctional facilities; and

(7) demonstrate it has the experience and financial capacity to comply with appropriate correctional standards and court orders.

(b) In developing its five-year business plan, the consultant shall also assume:

(1) that the corporation will be able to lease all, or any percentage, of the facilities and equipment used by MinnCor on July 1, 1996, to operate its business for $1 per year;

(2) that the corporation may operate as a corporation deemed to be primarily acting as an instrumentality of the state with Minnesota Statutes, sections 3.732, 3.736, 3.738, and 3.739 applying to it;

(3) that the corporation will be liable within the limitations provided by applicable law for inmate injury due to its negligence;

(4) that members of the corporation's board of directors will not be liable to any inmate for any injury sustained in an industry program;

(5) that inmates will not be considered employees of the corporation for any purpose; and

(6) that if the corporation is dissolved or otherwise ceases to function effectively, any interest of the corporation in buildings, land, furnishings, fixtures, equipment, and other chattels purchased or leased in connection with its operation of industry programs shall automatically revert, subject to valid security interests, to the department of corrections.

(c) The plan must address the possibility of future capital expansion and improvements of industry programs at state and local correctional facilities. Specifically, the plan must address the need for additional equipment and buildings, and improvements to existing equipment and buildings. The plan may assume that the state will finance these expenses, but will require the corporation to enter into leases to reimburse these expenses at cost.

(d) The plan must describe the advantages and disadvantages of a private corporation operating prison industries as opposed to the department of corrections, specifically as relating to purchases,

sales, management, marketing, security, and personnel decisions, including recruitment, retention, and training of employees.

(e) The plan must describe the most feasible method and timetable for transferring the assets and operations of MinnCor if a private corporation were to assume control over prison industries.

(f) The plan must consider the impact on Minnesota businesses of expanding industry products and services sold to the private and public sector.

Subd. 4. [FIVE-YEAR PLANS OF CONSULTANT AND MINNCOR.] At a minimum, and in addition to the requirements applicable only to the consultant's plan contained in subdivision 3, both the consultant and MinnCor shall address in the respective five-year business plans:

(1) methods to increase the number of inmate workers;

(2) methods to increase profits and expand markets, including recommended changes in the state use law;

(3) proposed new product lines;

(4) methods to employ inmates who require lower security in settings outside state and local correctional facilities;

(5) appropriate compensation for management, employees, and inmates;

(6) methods to assist inmate employees in obtaining employment upon the inmate's release from confinement; and

(7) methods to determine what effect employment in a prison industry program has upon recidivism of inmates who have participated in the program, including methods to track former inmate employees to determine recidivism.

Sec. 29. [REPEALER.]

Minnesota Statutes 1994, section 352.91, subdivision 3, is repealed.

Sec. 30. [EFFECTIVE DATE.]

Section 1 is effective June 1, 1996.

Sections 2, 3, 7, and 8 are effective August 1, 1996.

Sections 4 and 20 are effective July 1, 1996.

Section 5 is effective August 1, 1997.

Sections 6 and 25 to 28 are effective the day following final enactment.

Sections 9 to 18, 21 to 24, and 29 are effective on the first day of the first full pay period beginning after January 1, 1997.

Section 19 is effective July 1, 1996, and shall be used for calculating the community correction aid distribution for fiscal year 1997 and thereafter.

ARTICLE 9

EXPUNGEMENT

Section 1. Minnesota Statutes 1994, section 13.99, subdivision 53a, is amended to read:

Subd. 53a. [CONTROLLED SUBSTANCE CONVICTIONS.] Data on certain convictions for controlled substances offenses may be expunged under section 152.18, ~~subdivisions 2 and~~ subdivision 3.

Sec. 2. Minnesota Statutes 1995 Supplement, section 152.18, subdivision 1, is amended to read:

Subdivision 1. If any person who has not previously participated in or completed a diversion program authorized under section 401.065 or who has not previously been placed on probation without a judgment of guilty and thereafter been discharged from probation under this section is found guilty of a violation of section 152.024, subdivision 2, 152.025, subdivision 2, or 152.027, subdivision 2, 3, or 4, for possession of a controlled substance, after trial or upon a plea of guilty, and the court determines that the violation does not qualify as a subsequent controlled substance conviction under section 152.01, subdivision 16a, the court may, without entering a judgment of guilty and with the consent of the person, defer further proceedings and place the person on probation upon such reasonable conditions as it may require and for a period, not to exceed the maximum sentence provided for the violation. The court may give the person the opportunity to attend and participate in an appropriate program of education regarding the nature and effects of alcohol and drug abuse as a stipulation of probation. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against the person and discharge the person from probation before the expiration of the maximum period prescribed for the person's probation. If during the period of probation the person does not violate any of the conditions of the probation, then upon expiration of the period the court shall discharge the person and dismiss the proceedings against that person. Discharge and dismissal under this subdivision shall be without court adjudication of guilt, but a not public record of it shall be retained by the ~~department of public safety~~ bureau of criminal apprehension for the purpose of use by the courts in determining the merits of subsequent proceedings against the person. The not public record may also be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the ~~department~~ bureau shall notify the requesting party of the existence of the not public record and the right to seek a court order to open it pursuant to this section. The court shall forward a record of any discharge and dismissal under this subdivision to the ~~department of public safety who~~ bureau which shall make and maintain the not public record of it as provided under this subdivision. The discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

For purposes of this subdivision, "not public" has the meaning given in section 13.02, subdivision 8a.

Sec. 3. Minnesota Statutes 1995 Supplement, section 242.31, subdivision 1, is amended to read:

Subdivision 1. Whenever a person who has been committed to the custody of the commissioner of corrections upon conviction of a crime following certification under the provisions of section 260.125 is finally discharged by order of the commissioner, that discharge shall restore the person to all civil rights ~~and, if so ordered by the commissioner of corrections, also shall have the effect of setting aside the conviction, nullifying it and purging the person of it~~. The commissioner shall file a copy of the order with the district court of the county in which the conviction occurred~~; upon receipt, the court shall order the conviction set aside. An order setting aside a conviction for a crime of violence as defined in section 624.712, subdivision 5, must provide that the person is not entitled to ship, transport, possess, or receive a firearm until ten years have elapsed since the order was entered and during that time the person was not convicted of any other crime of violence. A person whose conviction was set aside under this section and who thereafter has received a relief of disability under United States Code, title 18, section 925, shall not be subject to the restrictions of this subdivision~~.

Sec. 4. Minnesota Statutes 1994, section 242.31, subdivision 2, is amended to read:

Subd. 2. Whenever a person described in subdivision 1 has been placed on probation by the court pursuant to section 609.135 and, after satisfactory fulfillment of it, is discharged from probation, the court shall issue an order of discharge pursuant to subdivision 2a and section 609.165. ~~On application of the defendant or on its own motion and after notice to the county attorney, the court in its discretion may also order that the defendant's conviction be set aside with the same effect as a court order under subdivision 1.~~

~~These orders restore~~ This order restores the defendant to civil rights ~~and purge and free the defendant from all penalties and disabilities arising from the defendant's conviction and the~~

~~conviction shall not thereafter be used against the defendant, except in a criminal prosecution for a subsequent offense if otherwise admissible therein. In addition, the record of the defendant's conviction shall be sealed and may be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the court or the department of public safety shall notify the requesting party of the existence of the sealed record and the right to seek a court order to open it pursuant to this section~~.

Sec. 5. Minnesota Statutes 1995 Supplement, section 299C.11, is amended to read:

299C.11 [IDENTIFICATION DATA FURNISHED TO BUREAU.]

(a) The sheriff of each county and the chief of police of each city of the first, second, and third classes shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data as may be requested or required by the superintendent of the bureau, which may be taken under the provisions of section 299C.10, of persons who shall be convicted of a felony, gross misdemeanor, or who shall be found to have been convicted of a felony or gross misdemeanor, within ten years next preceding their arrest.

(b) No petition under chapter 609A is required if the person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding the determination of all pending criminal actions or proceedings in favor of the arrested person, and either of the following occurred:

(1) all charges were dismissed prior to a determination of probable cause; or

(2) the prosecuting authority declined to file any charges and a grand jury did not return an indictment.

Where these conditions are met, the bureau or agency shall, upon demand, return to the arrested person finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data, and all copies and duplicates of them.

(c) Except as otherwise provided in paragraph (b), upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau shall~~, upon demand, have all such~~ seal finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data, and all copies and duplicates ~~thereof, returned, provided it is not established that the arrested person~~ of them if the arrested person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding such determination.

(d) DNA samples and DNA records of the arrested person shall not be returned, sealed, or destroyed as to a charge supported by probable cause.

(e) For purposes of this section, "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

(1) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, ~~or~~ 609.168, or chapter 609A; ~~or~~

(2) the arrested person's successful completion of a diversion program;

(3) an order of discharge under section 609.165; or

(4) a pardon granted under section 638.02.

Sec. 6. Minnesota Statutes 1994, section 299C.13, is amended to read:

299C.13 [INFORMATION FURNISHED TO PEACE OFFICERS.]

Upon receipt of information data as to any arrested person, the bureau shall immediately

ascertain whether the person arrested has a criminal record or is a fugitive from justice, and shall at once inform the arresting officer of the facts ascertained. Upon application by any sheriff, chief of police, or other peace officer in the state, or by an officer of the United States or by an officer of another state, territory, or government duly authorized to receive the same and effecting reciprocal interchange of similar information with the division, it shall be the duty of the bureau to furnish all information in its possession pertaining to the identification of any person. If the bureau has a sealed record on the arrested person, it shall notify the requesting peace officer of that fact and of the right to seek a court order to open the record for purposes of law enforcement. A criminal justice agency shall be notified, upon request, of the existence and contents of a sealed record containing conviction information about an applicant for employment. For purposes of this section a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

Sec. 7. [609A.01] [CRIMINAL RECORDS EXPUNGEMENT.]

This chapter provides the grounds and procedures for expungement of criminal records under sections 13.82; 152.18, subdivision 1; 299C.11, where a petition is authorized under section 609A.02, subdivision 3; or other applicable law. The remedy available is limited to a court order sealing the records and prohibiting the disclosure of their existence or their opening except under court order or statutory authority. Nothing in this chapter authorizes the destruction of records or their return to the subject of the records.

Sec. 8. [609A.02] [GROUNDS FOR ORDER.]

Subdivision 1. [CERTAIN CONTROLLED SUBSTANCE OFFENSES.] Upon the dismissal and discharge of proceedings against a person under section 152.18, subdivision 1, for violation of section 152.024, 152.025, or 152.027 for possession of a controlled substance, the person may petition under section 609A.03 for the sealing of all records relating to the arrest, indictment or information, trial, and dismissal and discharge.

Subd. 2. [JUVENILES PROSECUTED AS ADULTS.] A petition for the sealing of a conviction record may be filed under section 609A.03 by a person who has been committed to the custody of the commissioner of corrections upon conviction of a crime following certification to district court under section 260.125, if the person:

(1) is finally discharged by the commissioner; or

(2) has been placed on probation by the court under section 609.135 and has been discharged from probation after satisfactory fulfillment of it.

Subd. 3. [CERTAIN CRIMINAL PROCEEDINGS NOT RESULTING IN A CONVICTION.] A petition may be filed under section 609A.03 to seal all records relating to an arrest, indictment or information, trial, or verdict if the records are not subject to section 299C.11, paragraph (b), and if all pending actions or proceedings were resolved in favor of the petitioner.

Subd. 4. [EXPUNGEMENT PROHIBITED.] Records of a conviction of an offense for which registration is required under section 243.166 may not be expunged.

Sec. 9. [609A.03] [PETITION TO EXPUNGE CRIMINAL RECORDS.]

Subdivision 1. [PETITION; FILING FEE.] An individual who is the subject of a criminal record who is seeking the expungement of the record shall file a petition under this section and pay a filing fee in the amount required under section 357.021, subdivision 2, clause (1). The filing fee may be waived in cases of indigency and shall be waived in the cases described in section 609A.02, subdivision 3.

Subd. 2. [CONTENTS OF PETITION.] A petition for expungement shall be signed under oath by the petitioner and shall state the following:

(1) the petitioner’s full name and all other legal names or aliases by which the petitioner has been known at any time;

(2) the petitioner's date of birth;

(3) all of the petitioner's addresses from the date of the offense or alleged offense in connection with which an expungement order is sought, to the date of the petition;

(4) why expungement is sought, if it is for employment or licensure purposes, the statutory or other legal authority under which it is sought, and why it should be granted;

(5) the details of the offense or arrest for which expungement is sought, including date and jurisdiction of the occurrence, court file number, and date of conviction or of dismissal;

(6) in the case of a conviction, what steps the petitioner has taken since the time of the offense toward personal rehabilitation, including treatment, work, or other personal history that demonstrates rehabilitation;

(7) petitioner's criminal conviction record indicating all convictions for misdemeanors, gross misdemeanors, or felonies in this state, and for all comparable convictions in any other state, federal court, or foreign country, whether the convictions occurred before or after the arrest or conviction for which expungement is sought; and

(8) all prior requests by the petitioner, whether for the present offense or for any other offenses, in this state or any other state or federal court, for pardon, return of arrest records, or expungement or sealing of a criminal record, whether granted or not, and all stays of adjudication or imposition of sentence involving the petitioner.

Subd. 3. [SERVICE OF PETITION.] The petition for expungement and a proposed expungement order shall be served by mail on the state and local government agencies and jurisdictions whose records would be affected by the proposed order. Service shall also be made by mail on the attorney for each agency and jurisdiction.

Subd. 4. [HEARING.] A hearing on the petition shall be held not sooner than 60 days after service of the petition.

Subd. 5. [NATURE OF REMEDY; STANDARD; FIREARMS RESTRICTION.] (a) Expungement of a criminal record is an extraordinary remedy to be granted only upon clear and convincing evidence that it would yield a benefit to the petitioner commensurate with the disadvantages to the public and public safety of:

(1) sealing the record; and

(2) burdening the court and public authorities to issue, enforce, and monitor an expungement order.

(b) If the petitioner is petitioning for the sealing of a criminal record under section 609A.02, subdivision 3, the court shall grant the petition to seal the record unless the agency or jurisdiction whose records would be affected establishes by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record.

(c) If the court issues an expungement order it may require that the criminal record shall be sealed, the existence of the record shall not be revealed, and the record should not be opened except as required under subdivision 7. Records shall not be destroyed or returned.

(d) An order expunging the record of a conviction for a crime of violence as defined in section 624.712, subdivision 5, must provide that the person is not entitled to ship, transport, possess, or receive a firearm until ten years have elapsed since the order was entered and during that time the person was not convicted of any other crime of violence. Any person whose record of conviction is expunged under this section and who thereafter receives a relief of disability under United States Code, title 18, section 925, is not subject to the restriction in this paragraph.

Subd. 6. [ORDER CONCERNING CONTROLLED SUBSTANCE OFFENSES.] If the court orders the sealing of the record of proceedings under section 152.18, the effect of the order shall be to restore the person, in the contemplation of the law, to the status the person occupied before

the arrest, indictment, or information. The person shall not be held guilty of perjury or otherwise of giving a false statement if the person fails to acknowledge the arrest, indictment, information, or trial in response to any inquiry made for any purpose.

Subd. 7. [LIMITATIONS OF ORDER.] (a) Upon issuance of an expungement order related to a charge supported by probable cause, the DNA samples and DNA records held by the bureau of criminal apprehension shall not be sealed, returned, or destroyed.

(b) Notwithstanding the issuance of an expungement order:

(1) an expunged record may be opened for purposes of a criminal investigation, prosecution, or sentencing, upon an ex parte court order; and

(2) an expunged record of a conviction may be opened for purposes of evaluating a prospective employee in a criminal justice agency without a court order.

Upon request by law enforcement, prosecution, or corrections authorities, an agency or jurisdiction subject to an expungement order shall inform the requester of the existence of a sealed record and of the right to obtain access to it as provided by this paragraph. For purposes of this section a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

Subd. 8. [STAY OF ORDER; APPEAL.] An expungement order shall be automatically stayed for 60 days after filing of the order and, if the order is appealed, during the appeal period. A person or an agency or jurisdiction whose records would be affected by the order may appeal the order within 60 days of service of notice of filing of the order. An agency or jurisdiction or officials or employees thereof need not file a cost bond or supersedeas bond in order to further stay the proceedings or file an appeal.

Subd. 9. [DISTRIBUTION OF EXPUNGEMENT ORDERS.] If an expungement order is issued, the court administrator shall send a copy of it to each agency and jurisdiction whose records are affected by the terms of the order.

Sec. 10. [REPEALER.]

Minnesota Statutes 1994, sections 152.18, subdivision 2; 242.31, subdivision 3; 609.166; 609.167; and 609.168, are repealed.

Sec. 11. [EFFECTIVE DATE; APPLICATION.]

Section 10 is effective the day following final enactment and applies to requests for expungement of criminal records initiated on or after that date.

Sections 1 to 9 are effective May 1, 1996, and apply to requests for expungement of criminal records initiated on or after that date.

ARTICLE 10

CRIMINAL BACKGROUND CHECKS

Section 1. Minnesota Statutes 1995 Supplement, section 144.057, subdivision 1, is amended to read:

Subdivision 1. [BACKGROUND STUDIES REQUIRED.] The commissioner of health shall contract with the commissioner of human services to conduct background studies of individuals providing services which have direct contact, as defined under section 245A.04, subdivision 3, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; residential care homes licensed under chapter 144B, and board and lodging establishments that are registered to provide supportive or health supervision services under section ~~157.031~~ 157.17.

If a facility or program is licensed by the department of human services and subject to the

background study provisions of chapter 245A and is also licensed by the department of health, the department of human services is solely responsible for the background studies of individuals in the jointly licensed programs.

Sec. 2. Minnesota Statutes 1995 Supplement, section 144.057, subdivision 3, is amended to read:

Subd. 3. [RECONSIDERATIONS.] The commissioner of health shall review and decide reconsideration requests, including the granting of variances, in accordance with the procedures and criteria contained in chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. The commissioner's decision shall be provided to the individual and to the department of human services. The commissioner's decision to grant or deny a reconsideration of disqualification is the final administrative agency action.

Sec. 3. Minnesota Statutes 1995 Supplement, section 144.057, subdivision 4, is amended to read:

Subd. 4. [RESPONSIBILITIES OF FACILITIES.] Facilities described in subdivision 1 shall be responsible for cooperating with the departments in implementing the provisions of this section. The responsibilities imposed on applicants and licensees under chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090, shall apply to these facilities. The provision of section 245A.04, subdivision 3, paragraph ~~(d)~~ (e), shall apply to applicants, licensees, or an individual's refusal to cooperate with the completion of the background studies.

Sec. 4. Minnesota Statutes 1994, section 144A.46, subdivision 5, is amended to read:

Subd. 5. [PRIOR CRIMINAL CONVICTIONS.] (a) ~~All persons who have or will have direct contact with clients, including the home care provider, employees of the provider, and applicants for employment~~ Before the commissioner issues a license and, as defined in the home care licensure rules promulgated by the commissioner of health, an owner or managerial official shall be required to disclose all criminal convictions. The commissioner may adopt rules that may require a person who must disclose criminal convictions under this subdivision to provide fingerprints and releases that authorize law enforcement agencies, including the bureau of criminal apprehension and the Federal Bureau of Investigation, to release information about the person's criminal convictions to the commissioner and home care providers. The bureau of criminal apprehension, county sheriffs, and local chiefs of police shall, if requested, provide the commissioner with criminal conviction data available from local, state, and national criminal record repositories, including the criminal justice data communications network. No person may be ~~employed by a home care provider in a position that involves contact with recipients of home care services nor may any person be~~ involved in the management, operation, or control of a provider, if the person has been convicted of a crime that relates to the provision of home care services or to the position, duties, or responsibilities undertaken by that person in the operation of the home care provider, unless the person can provide sufficient evidence of rehabilitation. The commissioner shall adopt rules for determining ~~what types of employment positions, including volunteer positions, involve contact with recipients of home care services, and~~ whether a crime relates to home care services and what constitutes sufficient evidence of rehabilitation. The rules must require consideration of the nature and seriousness of the crime; the relationship of the crime to the purposes of home care licensure and regulation; the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the person's position; mitigating circumstances or social conditions surrounding the commission of the crime; the length of time elapsed since the crime was committed; the seriousness of the risk to the home care client's person or property; and other factors the commissioner considers appropriate. Data collected under this subdivision shall be classified as private data under section 13.02, subdivision 12.

(b) Employees, contractors, and volunteers of a home care provider or hospice are subject to the background study required by section 144.057. These individuals shall be disqualified under the provisions of chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. Until October 1, 1997, grounds for disqualification shall also include the crimes specified under Minnesota Rules, part 4668.0020, subpart 14, or a comparable crime or act in another jurisdiction. Nothing in

this section shall be construed to prohibit a home care provider from requiring self-disclosure of criminal conviction information; however, compliance with the provisions of section 144.057 constitutes compliance with the provisions of Minnesota Rules, part 4668.0020, subpart 8.

(c) Notwithstanding the provisions of Minnesota Rules, part 4668.0020, subparts 12, 13, and 15, disqualifications under paragraph (b), removal from a direct care position, and the process for reconsiderations shall be governed by the provisions of section 144.057.

(d) Unless superseded by the provisions of section 144.057 or this section, the provisions of Minnesota Rules, part 4668.0020, remain in effect.

~~(b)~~ (e) Termination of an employee in good faith reliance on information or records obtained under paragraph (a) or (b) regarding a confirmed conviction does not subject the home care provider to civil liability or liability for reemployment insurance benefits.

Sec. 5. Minnesota Statutes 1995 Supplement, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [STUDY OF THE APPLICANT.] (a) Before the commissioner issues a license, the commissioner shall conduct a study of the individuals specified in paragraph (c), clauses (1) to (5), according to rules of the commissioner.

Beginning January 1, 1997, the commissioner shall also conduct a study of employees providing direct contact services for nonlicensed personal care provider organizations described in paragraph (c), clause (5).

The commissioner shall recover the cost of these background studies through a fee of no more than $12 per study charged to the personal care provider organization.

(b) Beginning July 1, 1997, the commissioner shall conduct a background study on individuals specified in paragraph (c), clauses (1) to (5), who perform direct contact services in a nursing home or a home care agency licensed under chapter 144A or a boarding care home licensed under sections 144.50 to 144.58, when the subject of the study resides outside Minnesota; the study must be at least as comprehensive as that of a Minnesota resident and include a search of information from the criminal justice data communications network in the state where the subject of the study resides.

(c) The applicant, license holder, the bureau of criminal apprehension, the commissioner of health and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about ~~abuse or neglect~~ the maltreatment of adults ~~in licensed programs~~ substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556. The individuals to be studied shall include:

(1) the applicant;

(2) persons over the age of 13 living in the household where the licensed program will be provided;

(3) current employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;

(4) volunteers or student volunteers who have direct contact with persons served by the program to provide program services, if the contact is not directly supervised by the individuals listed in clause (1) or (3); and

(5) any person who, as an individual or as a member of an organization, exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, and 256B.0625, subdivision 19.

The juvenile courts shall also help with the study by giving the commissioner existing juvenile court records on individuals described in clause (2) relating to delinquency proceedings held

within either the five years immediately preceding the application or the five years immediately preceding the individual's 18th birthday, whichever time period is longer. The commissioner shall destroy juvenile records obtained pursuant to this subdivision when the subject of the records reaches age 23.

For purposes of this section and Minnesota Rules, part 9543.3070, a finding that a delinquency petition is proven in juvenile court shall be considered a conviction in state district court.

For purposes of this subdivision, "direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. For purposes of this subdivision, "directly supervised" means an individual listed in clause (1), (3), or (5) is within sight or hearing of a volunteer to the extent that the individual listed in clause (1), (3), or (5) is capable at all times of intervening to protect the health and safety of the persons served by the program who have direct contact with the volunteer.

A study of an individual in clauses (1) to (5) shall be conducted at least upon application for initial license and reapplication for a license. The commissioner is not required to conduct a study of an individual at the time of reapplication for a license, other than a family day care or foster care license, if: (i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder; (ii) the individual has been continuously affiliated with the license holder since the last study was conducted; and (iii) the procedure described in paragraph ~~(b)~~ (d) has been implemented and was in effect continuously since the last study was conducted. For individuals who are required to have background studies under clauses (1) to (5) and who have been continuously affiliated with a foster care provider that is licensed in more than one county, criminal conviction data may be shared among those counties in which the foster care programs are licensed. A county agency's receipt of criminal conviction data from another county agency shall meet the criminal data background study requirements of this section.

The commissioner may also conduct studies on individuals specified in clauses (3) and (4) when the studies are initiated by:

(i) personnel pool agencies;

(ii) temporary personnel agencies;

(iii) educational programs that train persons by providing direct contact services in licensed programs; and

(iv) professional services agencies that are not licensed and which contract with licensed programs to provide direct contact services or individuals who provide direct contact services.

Studies on individuals in items (i) to (iv) must be initiated annually by these agencies, programs, and individuals. Except for personal care provider organizations, no applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.

(1) At the option of the licensed facility, rather than initiating another background study on an individual required to be studied who has indicated to the licensed facility that a background study by the commissioner was previously completed, the facility may make a request to the commissioner for documentation of the individual's background study status, provided that:

(i) the facility makes this request using a form provided by the commissioner;

(ii) in making the request the facility informs the commissioner that either:

(A) the individual has been continuously affiliated with a licensed facility since the individual's previous background study was completed, or since October 1, 1995, whichever is shorter; or

(B) the individual is affiliated only with a personnel pool agency, a temporary personnel agency, an educational program that trains persons by providing direct contact services in licensed programs, or a professional services agency that is not licensed and which contracts with licensed programs to provide direct contact services or individuals who provide direct contact services; and

(iii) the facility provides notices to the individual as required in paragraphs (a) to (d) of this subdivision, and that the facility is requesting written notification of the individual's background study status from the commissioner.

(2) The commissioner shall respond to each request under paragraph (1) with a written notice to the facility and the study subject. If the commissioner determines that a background study is necessary, the study shall be completed without further request from a licensed agency or notifications to the study subject.

(3) When a background study is being initiated by a licensed facility, a study subject affiliated with multiple licensed facilities may attach to the background study form a cover letter indicating the additional facilities' names, addresses, and background study identification numbers. When the commissioner receives such notices, each facility identified by the background study subject shall be notified of the study results. The background study notice sent to the subsequent agencies shall satisfy those facilities' responsibilities for initiating a background study on that individual.

~~(b)~~ (d) If an individual who is affiliated with a program or facility regulated by the department of human services or department of health or who is affiliated with a nonlicensed personal care provider organization, is convicted of a crime constituting a disqualification under Minnesota Rules, parts 9543.3000 to 9543.3090, the probation officer or corrections agent shall notify the commissioner of the conviction. The commissioner, in consultation with the commissioner of corrections, shall develop forms and information necessary to implement this paragraph and shall provide the forms and information to the commissioner of corrections for distribution to local probation officers and corrections agents. The commissioner shall inform individuals subject to a background study that criminal convictions for disqualifying crimes will be reported to the commissioner by the corrections system. A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this paragraph. Upon receipt of disqualifying information, the commissioner shall provide the notifications required in subdivision 3a, as appropriate to agencies on record as having initiated a background study or making a request for documentation of the background study status of the individual. This paragraph does not apply to family day care and foster care programs.

~~(c)~~ (e) The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first, middle, and last name; home address, city, county, and state of residence for the past five years; zip code; sex; date of birth; and driver's license number. The applicant or license holder shall provide this information about an individual in paragraph ~~(a)~~ (c), clauses (1) to (5), on forms prescribed by the commissioner. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.

~~(d)~~ (f) Except for child foster care, adult foster care, and family day care homes, a study must include information ~~from the county agency's record of substantiated abuse or neglect of adults in licensed programs~~ related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (i), and the commissioner's records relating to the maltreatment of minors in licensed programs, information from juvenile courts as required in paragraph ~~(a)~~ (c) for persons listed in paragraph ~~(a)~~ (c), clause (2), and information from the bureau of criminal apprehension. For child foster care, adult foster care, and family day care homes, the study must include information from the county agency's record of substantiated ~~abuse or neglect~~ maltreatment of adults, and the maltreatment of minors, information from juvenile courts as required in paragraph ~~(a)~~ (c) for persons listed in paragraph ~~(a)~~ (c), clause (2), and information from the bureau of criminal apprehension. The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, the commissioner of health, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or ~~a national criminal record repository~~ the Federal Bureau of Investigation if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in paragraph ~~(a)~~ (c), clauses (1) to (5). The commissioner is not required to conduct more than one review of a subject's records from the ~~national criminal record repository~~ Federal Bureau of Investigation if a review of the subject's criminal history with the ~~national criminal record repository~~ Federal

Bureau of Investigation has already been completed by the commissioner and there has been no break in the subject's affiliation with the license holder who initiated the background studies.

When the commissioner has reasonable cause to believe that further pertinent information may exist on the subject, the subject shall provide a set of classifiable fingerprints obtained from an authorized law enforcement agency. For purposes of requiring fingerprints, the commissioner shall be considered to have reasonable cause under, but not limited to, the following circumstances: (1) information from the bureau of criminal apprehension indicates that the subject is a multistate offender; (2) information from the bureau of criminal apprehension indicates that multistate offender status is undetermined; or (3) the commissioner has received a report from the subject or a third party indicating that the subject has a criminal history in a jurisdiction other than Minnesota.

~~(e)~~ (g) An applicant's or license holder's failure or refusal to cooperate with the commissioner is reasonable cause to deny an application or immediately suspend, suspend, or revoke a license. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.

~~(f)~~ (h) The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

~~(g)~~ (i) No person in paragraph ~~(a)~~ (c), clause (1), (2), (3), (4), or (5) who is disqualified as a result of this section may be retained by the agency in a position involving direct contact with persons served by the program.

~~(h)~~ (j) Termination of persons in paragraph ~~(a)~~ (c), clause (1), (2), (3), (4), or (5), made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.

~~(i)~~ (k) The commissioner may establish records to fulfill the requirements of this section.

~~(j)~~ (l) The commissioner may not disqualify an individual subject to a study under this section because that person has, or has had, a mental illness as defined in section 245.462, subdivision 20.

~~(k)~~ (m) An individual who is subject to an applicant background study under this section and whose disqualification in connection with a license would be subject to the limitations on reconsideration set forth in subdivision 3b, paragraph (c), shall be disqualified for conviction of the crimes specified in the manner specified in subdivision 3b, paragraph (c). The commissioner of human services shall amend Minnesota Rules, part 9543.3070, to conform to this section.

~~(l) An individual must be disqualified if it has been determined that the individual failed to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (1) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (2) the maltreatment was recurring or serious as defined in Minnesota Rules, part 9543.3020, subpart 10.~~

~~(m)~~ (n) An individual subject to disqualification under this subdivision has the applicable rights in subdivision 3a, 3b, or 3c.

Sec. 6. Minnesota Statutes 1995 Supplement, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance or a program of social services granted by the state agency or a county agency under sections 252.32, 256.031 to 256.036, and 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a

party aggrieved by a ruling of a prepaid health plan; or (4) any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4) is the only administrative appeal to the final lead agency disposition specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(b) Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

Sec. 7. Minnesota Statutes 1995 Supplement, section 299C.67, subdivision 5, is amended to read:

Subd. 5. [OWNER.] "Owner" has the meaning given in section 566.18, subdivision 3. However, "owner" does not include a person who owns, operates, or is in control of a health care facility or a home health agency licensed by the commissioner of health or human services under chapter 144, 144A, ~~or~~ 144B, or 245A, or a board and lodging establishment with special services registered under section 157.17.

Sec. 8. Minnesota Statutes 1995 Supplement, section 299C.68, subdivision 2, is amended to read:

Subd. 2. [PROCEDURES.] The superintendent shall develop procedures to enable an owner to request a background check to determine whether a manager is the subject of a reported conviction for a background check crime. The superintendent shall perform the background check by retrieving and reviewing data on background check crimes maintained in the CJIS computers. The superintendent shall notify the owner in writing of the results of the background check. If the manager has resided in Minnesota for less than five years or upon request of the owner, the superintendent shall also either: (1) conduct a search of the national criminal records repository, including the criminal justice data communications network; or (2) conduct a search of the criminal justice data communications network records in the state or states where the manager has resided for the preceding five years. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. The superintendent shall recover the cost of a background check through a fee charged to the owner.

Sec. 9. Minnesota Statutes 1995 Supplement, section 299C.68, subdivision 5, is amended to read:

Subd. 5. [RESPONSE OF BUREAU.] The superintendent shall respond in writing to a background check request within a reasonable time not to exceed ten working days after receiving the signed form under subdivision 3. If a search is being done of the national criminal records

repository and that portion of the background check is not completed, the superintendent shall notify the owner that the background check is not complete and shall provide that portion of the background check to the owner as soon as it is available. The superintendent's response must clearly indicate whether the manager has ever been convicted of a background check crime and, if so, a description of the crime, date and jurisdiction of conviction, and date of discharge of the sentence.

Sec. 10. Minnesota Statutes 1995 Supplement, section 299C.68, subdivision 6, is amended to read:

Subd. 6. [EQUIVALENT BACKGROUND CHECK.] (a) An owner may satisfy the requirements of this section: (1) by obtaining a copy of a completed background check that was required to be performed by the department of human services as provided for under sections 144.057 and 245A.04, and then placing the copy on file with the owner; (2) in the case of a background check performed on a manager for one residential setting when multiple residential settings are operated by one owner, by placing the results in a central location; or (3) by obtaining a background check from a private business or a local law enforcement agency rather than the superintendent if the scope of the background check provided by the private business or local law enforcement agency is at least as broad as that of a background check performed by the superintendent and the response to the background check request occurs within a reasonable time not to exceed ten working days after receiving the signed form described in subdivision 3. Local law enforcement agencies may access the criminal justice data network to perform the background check.

(b) A private business or local law enforcement agency providing a background check under this section must use a notification form similar to the form described in subdivision 3, except that the notification form must indicate that the background check will be performed by the private business or local law enforcement agency using records of the superintendent and other data sources.

Sec. 11. Minnesota Statutes 1995 Supplement, section 609.2325, subdivision 3, is amended to read:

Subd. 3. [PENALTIES.] (a) A person who violates subdivision 1, paragraph (a), ~~clause (1),~~ may be sentenced as follows:

(1) if the act results in the death of a vulnerable adult, imprisonment for not more than 15 years or payment of a fine of not more than $30,000, or both;

(2) if the act results in great bodily harm, imprisonment for not more than ten years or payment of a fine of not more than $20,000, or both;

(3) if the act results in substantial bodily harm or the risk of death, imprisonment for not more than five years or payment of a fine of not more than $10,000, or both; or

(4) in other cases, imprisonment for not more than one year or payment of a fine of not more than $3,000, or both.

(b) A person who violates subdivision 1, ~~paragraph (a), clause (2), or~~ paragraph (b), may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Sec. 12. Laws 1995, chapter 229, article 3, section 17, is amended to read:

Sec. 17. [REPORT.]

By January 15, 1997, the commissioner of human services shall report to the legislature on the implementation of the process for reporting convictions under Minnesota Statutes, section 245A.04, subdivision 3, paragraph ~~(b)~~ (d). The report must include an analysis of any reduction in the cost of performing background studies resulting from implementing the process and any recommendations for modification of the fee increases in article 4, section 21, based on a reduction in costs.

As part of this report, the commissioner shall make recommendations for using any cost savings to begin conducting comparable background studies of individuals who reside outside Minnesota but are employed or perform direct contact services in a nursing home, home care agency, or boarding care home located in Minnesota.

Sec. 13. [UNCODIFIED LANGUAGE CHANGES AND RULE CHANGES.]

The commissioner shall amend Minnesota Rules, part 9543.3070, subpart 1, to include the offenses in paragraphs (a) and (b) to disqualify a person for whom a background study is required under Minnesota Statutes, section 144.057 or 245A.04.

(a) An individual must be disqualified if it has been determined that the individual failed to make required reports under Minnesota Statutes, section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (1) the final disposition under Minnesota Statutes, section 626.556 or 626.557, was substantiated maltreatment; and (2) the maltreatment was recurring or serious as defined in Minnesota Rules, part 9543.3020, subpart 10.

(b) An individual must be disqualified if the individual has been convicted for any of the following reasons: (1) criminal abuse of a vulnerable adult under Minnesota Statutes, section 609.2325; (2) criminal neglect of a vulnerable adult under Minnesota Statutes, section 609.233; (3) financial exploitation of a vulnerable adult under Minnesota Statutes, section 609.2335; (4) failure to report under Minnesota Statutes, section 609.234; or (5) stalking under Minnesota Statutes, section 609.749.

(c) Both the commissioner's authority to make the rule changes and the substantive language in paragraphs (a) and (b) are effective the day following final enactment. The rule changes described in paragraphs (a) and (b) are not subject to the rulemaking provisions of Minnesota Statutes, chapter 14, but the commissioner must comply with Minnesota Statutes, section 14.38, subdivision 7, in adopting the amendment.

Sec. 14. [STANDARDIZING OF CRIMINAL DISQUALIFICATION PLAN.]

The commissioner of health, in consultation with the commissioner of human services and the attorney general, shall convene an advisory workgroup to develop a plan for presentation to the 1997 legislature on recommendations and draft legislation to standardize, as appropriate, the criminal disqualification classifications for application to those required to comply with the applicant background study requirements under Minnesota Statutes, chapter 245A, Minnesota Statutes, sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 299C.67, and 299C.71, and Minnesota Rules, part 4668.0020, and make recommendations for legislation to replace current disqualification crimes under all systems.

The plan shall provide for a review of the appropriateness of standardizing disqualification classifications relative to type of care setting, the nature of the crime, and time from the date of discharge for the crime for which an individual can be disqualified.

The advisory workgroup shall include representatives of health care providers, both organizational providers and professional providers, unions, state agencies, the attorney general's office, and consumer groups.

The plan, including recommendations and draft legislation, must be reported to the chairs of the senate crime prevention committee and the house of representatives judiciary committee by January 15, 1997.

Sec. 15. [EFFECTIVE DATE.]

Sections 1 to 14 are effective the day following final enactment.

ARTICLE 11

MISCELLANEOUS

Section 1. Minnesota Statutes 1994, section 2.724, subdivision 3, is amended to read:

Subd. 3. [RETIRED JUSTICES AND JUDGES.] (a) The chief justice of the supreme court may assign a retired justice of the supreme court to act as a justice of the supreme court pursuant to subdivision 2 or as a judge of any other court. The chief justice may assign a retired judge of any court to act as a judge of any court except the supreme court. A judge acting pursuant to this ~~subdivision~~ paragraph shall receive pay and expenses in the amount and manner provided by law for judges serving on the court to which the retired judge is assigned, less the amount of retirement pay which the judge is receiving.

(b) A judge who has been elected to office and who has retired as a judge in good standing and is not practicing law may also be appointed to serve as judge of any court except the supreme court. A retired judge acting under this paragraph will receive pay and expenses in the amount established by the supreme court.

Sec. 2. Minnesota Statutes 1994, section 152.02, subdivision 2, is amended to read:

Subd. 2. The following items are listed in Schedule I:

(1) Any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethyliambutene; Dimenoxadol; Dimepheptanol; Dimethyliambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacylmorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Racemoramide; Trimeperidine.

(2) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Acetylcodone; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyldesorphine; Methylhydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.

(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: 3,4-methylenedioxy amphetamine; 4-bromo-2.5-dimethoxyamphetamine; 2.5-dimethoxyamphetamine; 4-methoxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 3,4,5-trimethoxy amphetamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; marijuana; Mescaline; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; 1-(1-(2-thienyl) cyclohexyl) piperidine; n-ethyl-1-phenyl-cyclohexylamine; 1-(1-phenylcyclohexyl) pyrrolidine.

(4) Peyote, providing the listing of peyote as a controlled substance in schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the American Indian Church, and members of the American Indian Church are exempt from registration. Any person who manufactures peyote for or distributes peyote to the American Indian Church, however, is required to obtain federal registration annually and to comply with all other requirements of law.

(5) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Mecloqualone;

Flunitrazepam.

Sec. 3. Minnesota Statutes 1994, section 168.36, is amended by adding a subdivision to read:

Subd. 4. [OFFICER MAY SEIZE REGISTRATION PLATES.] If a peace officer stops a motor vehicle and determines, through a check of the motor vehicle registration record system, that the vehicle is being operated while the certificate of registration for the vehicle is revoked, the officer may immediately seize the vehicle's registration plates and destroy the plates or return them to the commissioner of public safety.

Sec. 4. Minnesota Statutes 1994, section 181.9412, is amended to read:

181.9412 [SCHOOL CONFERENCE AND ACTIVITIES LEAVE.]

Subdivision 1. [DEFINITION.] For purposes of this section, "employee" does not include the requirement of section 181.940, subdivision 2, clause (1).

Subd. 2. [LEAVE OF 16 HOURS.] (a) An employer must grant an employee leave of up to a total of 16 hours during any 12-month period to attend school conferences or ~~classroom~~ school-related activities related to the employee's child, provided the conferences or ~~classroom~~ school-related activities cannot be scheduled during nonwork hours. If the employee's child receives child care services as defined in section 256H.01, subdivision 2, or attends a prekindergarten regular or special education program, the employee may use the leave time provided in this section to attend a conference or activity related to the employee's child, or to observe and monitor the services or program, provided the conference, activity, or observation cannot be scheduled during nonwork hours. When the leave cannot be scheduled during nonwork hours and the need for the leave is foreseeable, the employee must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the employer.

(b) Nothing in this section requires that the leave be paid; except that, an employee may substitute any accrued paid vacation leave or other appropriate paid leave for any part of the leave under this section.

Sec. 5. Minnesota Statutes 1995 Supplement, section 481.01, is amended to read:

481.01 [BOARD OF LAW EXAMINERS; EXAMINATIONS; ALTERNATIVE DISPUTE FEES.]

The supreme court shall, by rule from time to time, prescribe the qualifications of all applicants for admission to practice law in this state, and shall appoint a board of law examiners, which shall be charged with the administration of the rules and with the examination of all applicants for admission to practice law. The board shall consist of not less than three, nor more than seven, attorneys at law, who shall be appointed each for the term of three years and until a successor qualifies. The supreme court may fill any vacancy in the board for the unexpired term and in its discretion may remove any member of it. The board shall have a seal and shall keep a record of its proceedings, of all applications for admission to practice, and of persons admitted to practice upon its recommendation. At least two times a year the board shall hold examinations and report the result of them, with its recommendations, to the supreme court. Upon consideration of the report, the supreme court shall enter an order in the case of each person examined, directing the board to reject or to issue to the person a certificate of admission to practice. The board shall have such officers as may, from time to time, be prescribed and designated by the supreme court. The fee for examination shall be fixed, from time to time, by the supreme court~~, but shall not exceed $50~~. This fee, and any other fees which may be received pursuant to any rules the supreme court ~~promulgates~~ adopts governing the practice of law and court-related alternative dispute resolution practices shall be paid to the state treasurer and shall constitute a special fund in the state treasury which shall be exempt from section 16A.127. The ~~moneys~~ money in this fund ~~are~~ is appropriated annually to the supreme court for the payment of compensation and expenses of the members of the board of law examiners and for otherwise regulating the practice of law. The ~~moneys~~ money in

the fund shall never cancel. Payments from it shall be made by the state treasurer, upon warrants of the commissioner of finance issued upon vouchers signed by one of the justices of the supreme court. The members of the board shall have compensation and allowances for expenses as may, from time to time, be fixed by the supreme court.

Sec. 6. Minnesota Statutes 1994, section 490.15, is amended by adding a subdivision to read:

Subd. 3. The salary of the executive secretary of the board shall be 85 percent of the maximum salary provided for an administrative law judge under section 15A.083, subdivision 6a.

Sec. 7. [609.5319] [FINANCIAL INSTITUTION SECURED INTEREST.]

Property that is subject to a bona fide security interest, based upon a loan or other financing arranged by a bank, credit union, or any other financial institution, is subject to the interest of the bank, credit union, or other financial institution in any forfeiture proceeding that is based upon a violation of any provision of chapter 609 or the commission of any other criminal act. The security interest must be established by clear and convincing evidence.

Sec. 8. Minnesota Statutes 1994, section 611.271, is amended to read:

611.271 [COPIES OF DOCUMENTS; FEES.]

The court administrators of courts, the prosecuting attorneys of counties and municipalities, and the law enforcement agencies of the state and its political subdivisions shall furnish, upon the request of the district public defender, the state public defender, or an attorney working for a public defense corporation under section 611.216, copies of any documents~~, including police reports,~~ in their possession at no charge to the public defender, including the following: police reports, photographs, copies of existing grand jury transcripts, audiotapes, videotapes, copies of existing transcripts of audiotapes or videotapes and, in child protection cases, reports prepared by local welfare agencies. Nothing in this section shall compel production of documents that are not discoverable under the rules of court, court order, or chapter 13.

Sec. 9. Laws 1991, chapter 271, section 9, is amended to read:

Sec. 9. [REPEALER.]

Section 5 is repealed effective July 1, ~~1996~~ 1997, for cases filed on or after that date.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 3, 5, 7, and 8 are effective August 1, 1996.

Section 6 is effective July 1, 1997.

Section 9 is effective the day following final enactment.

Section 4 is effective July 1, 1996."

Delete the title and insert:

"A bill for an act relating to criminal justice; crime prevention; appropriating money for the judicial branch, public safety, corrections, criminal justice, crime prevention programs, and other related purposes; providing for community notification of the release of certain sex offenders, expanding the sex offender registration act; implementing, clarifying, and modifying certain criminal and juvenile provisions; prescribing, clarifying, and modifying certain penalty provisions; establishing and expanding pilot programs, grant programs, task forces, committees, and studies; providing for the retention of consultants; limiting expungement of certain criminal records and providing an expungement process; reconciling various provisions on criminal history background checks; prohibiting use of deadly force against peace officers under certain circumstances; amending Minnesota Statutes 1994, sections 2.724, subdivision 3; 13.99, subdivision 53a; 144A.46, subdivision 5; 152.02, subdivision 2; 168.36, by adding a subdivision; 169.09, subdivision 14; 169.791, subdivisions 2a, 3, and 4; 169.792, subdivisions 1, 2, 3, 5, and 6; 181.9412; 241.275; 242.31, subdivision 2; 244.09, subdivision 5; 244.10, by adding a subdivision;

244.17, subdivision 2; 244.172, subdivision 2; 260.141, by adding a subdivision; 260.145; 260.161, subdivision 1a; 260.171, subdivision 2; 260.281; 260.301; 260.311, subdivision 3a; 268.30, subdivision 2; 299A.35, as amended; 299C.13; 352.90; 352.91, subdivisions 1, 2, 3b, 4, and by adding subdivisions; 352.92, subdivision 2; 401.10; 490.15, by adding a subdivision; 609.035, subdivision 1, and by adding a subdivision; 609.06; 609.11, subdivisions 5 and 9; 609.135, subdivision 1; 609.165, subdivision 1b; 609.21, subdivisions 1, 2, 2a, 3, and 4; 609.2231, subdivision 2, and by adding a subdivision; 609.224, subdivision 4; 609.3451, by adding a subdivision; 609.487, by adding a subdivision; 609.52, subdivision 2; 609.5316, subdivision 3; 609.583; 609.596; 609.611; 609.66, subdivision 1a; 609.666, subdivision 1; 609.749, by adding a subdivision; 609.855, subdivision 5; 611.271; 611A.04, subdivisions 1a and 3; 611A.25, subdivision 3; 611A.361, subdivision 3; and 624.713, subdivision 2; Minnesota Statutes 1995 Supplement, sections 16B.181; 144.057, subdivisions 1, 3, and 4; 152.18, subdivision 1; 242.31, subdivision 1; 243.166, subdivisions 1 and 7; 243.212; 245A.04, subdivision 3; 256.045, subdivision 3; 260.015, subdivision 21; 260.132, subdivision 3a; 260.155, subdivision 2; 260.195, subdivision 2a; 299A.326, subdivision 1; 299C.10, subdivision 1; 299C.11; 299C.67, subdivision 5; 299C.68, subdivisions 2, 5, and 6; 481.01; 518B.01, subdivision 14; 609.10; 609.125; 609.152, subdivision 1; 609.19; 609.20; 609.224, subdivision 2; 609.2325, subdivision 3; 609.3451, subdivision 1; 609.485, subdivisions 2 and 4; 609.52, subdivision 1; 611A.01; 611A.04, subdivision 1; 617.23; 624.712, subdivision 5; and 641.15, subdivision 2; Laws 1991, chapter 271, section 9; Laws 1995, chapter 229; article 3, section 17; proposing coding for new law in Minnesota Statutes, chapters 15; 168A; 171; 241; 243; 244; 299A; 609; and 611A; proposing coding for new law as Minnesota Statutes, chapter 609A; repealing Minnesota Statutes 1994, sections 152.18, subdivision 2; 242.31, subdivision 3; 260.141, subdivision 1; 299A.60; 352.91, subdivision 3; 609.166; 609.167; 609.168; and 609.495, subdivision 2."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Tracy L. Beckman, Allan H. Spear, Jane B. Ranum, Randy C. Kelly, Thomas M. Neuville

House Conferees: (Signed) Mary Murphy, Wesley J. "Wes" Skoglund, Phil Carruthers, Thomas Pugh, Doug Swenson

Mr. Beckman moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2856 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2856 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 63 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Laidig	Novak	Runbeck
Beckman	Hottinger	Langseth	Oliver	Sams
Belanger	Janezich	Larson	Olson	Samuelson
Berg	Johnson, D.E.	Lesewski	Ourada	Scheevel
Berglin	Johnson, D.J.	Lessard	Pappas	Solon
Betzold	Johnson, J.B.	Limmer	Pariseau	Spear
Chandler	Johnston	Marty	Piper	Stevens
Cohen	Kelly	Metzen	Pogemiller	Stumpf
Day	Kleis	Moe, R.D.	Price	Terwilliger
Dille	Knutson	Mondale	Ranum	Vickerman
Fischbach	Kramer	Morse	Reichgott Junge	Wiener
Flynn	Krentz	Murphy	Riveness	
Frederickson	Kroening	Neuville	Robertson	

Mr. Merriam voted in the negative.

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1800 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 1800: A bill for an act relating to local government; requiring a sustainable development planning guide and a model ordinance to be developed for local government use by the office of strategic and long-range planning; adopting principles of sustainable development; requiring reports; proposing coding for new law in Minnesota Statutes, chapter 4A.

Ms. Johnson, J.B. moved that the amendment made to H.F. No. 1800 by the Committee on Rules and Administration in the report adopted March 12, 1996, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

Ms. Johnson, J.B. then moved to amend H.F. No. 1800 as follows:

Pages 1 and 2, delete section 1

Page 2, line 24, delete "principles of"

Page 2, line 25, delete everything before the period and insert "guidelines developed by the environmental quality board task force on sustainable development"

Page 3, line 12, delete "state" and delete "principles" and insert "guidelines developed by the environmental quality board task force on sustainable development"

Page 3, line 17, delete "principles of"

Page 3, line 18, before the period, insert "guidelines developed by the environmental quality board task force on sustainable development"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, lines 5 and 6, delete "adopting principles of sustainable development;"

The motion prevailed. So the amendment was adopted.

H.F. No. 1800 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Laidig	Novak	Runbeck
Beckman	Hottinger	Langseth	Oliver	Sams
Belanger	Janezich	Larson	Olson	Samuelson
Berg	Johnson, D.E.	Lesewski	Ourada	Scheevel
Berglin	Johnson, D.J.	Lessard	Pappas	Solon
Betzold	Johnson, J.B.	Limmer	Pariseau	Spear
Chandler	Johnston	Marty	Piper	Stevens
Cohen	Kelly	Merriam	Pogemiller	Stumpf
Day	Kleis	Metzen	Price	Terwilliger
Dille	Knutson	Moe, R.D.	Ranum	Vickerman
Fischbach	Kramer	Mondale	Reichgott Junge	Wiener
Flynn	Krentz	Morse	Riveness	
Frederickson	Kroening	Murphy	Robertson	

So the bill, as amended, was passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1147 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1147: A bill for an act relating to taxation; property; allowing for a market value exclusion for electric power generation facilities based on facility efficiency; requiring a study; proposing coding for new law in Minnesota Statutes, chapter 272.

Mr. Novak moved to amend S.F. No. 1147 as follows:

Page 2, after line 32, insert:

"Subd. 3. [ELIGIBILITY.] An owner or operator of a new or existing electric power generation facility who offers electric power generated by the facility for sale is eligible for an exclusion under this section only if:

(1) the owner or operator has received a certificate of need under section 216B.243, if required under that section; and

(2) the purchaser has agreed not to offer the electric power for resale to a retail customer located outside of the purchaser's existing electric service franchise area, unless otherwise permitted by law."

The motion prevailed. So the amendment was adopted.

Mr. Novak then moved to amend S.F. No. 1147 as follows:

Page 3, after line 16, insert:

"For the purposes of this section, "taxes paid" includes payments made in lieu of taxes and other payments and contributions of goods and services in the nature of payments in lieu of taxes."

The motion prevailed. So the amendment was adopted.

Mr. Morse moved to amend S.F. No. 1147 as follows:

Page 2, after line 32, insert:

"Sec. 2. [LEGISLATIVE APPROVAL OF CONSUMPTIVE USE OF WATER.]

Pursuant to Minnesota Statutes, section 103G.265, subdivision 3, the legislature approves the consumptive use under a permit of more than 2,000,000 gallons per day average in a 30-day period in Rosemount and Inver Grove Heights in connection with a cogeneration power facility, subject to the commissioner of natural resources making a determination that the water remaining in the basin of origin will be adequate to meet the basin's need for water and approval by the commissioner of natural resources."

Page 3, line 19, after the period, insert "Section 2 is effective the day following final enactment."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Novak moved that S.F. No. 1147 be laid on the table. The motion prevailed.

Mr. Moe, R.D. moved that H.F. No. 637 be taken from the table. The motion prevailed.

H.F. No. 637: A bill for an act relating to taxation; property; allowing for a market value

exclusion for electric power generation facilities based on facility efficiency; providing for an analysis of utility taxation; proposing coding for new law in Minnesota Statutes, chapter 272.

SUSPENSION OF RULES

Mr. Moe, R.D. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 637 and that the rules of the Senate be so far suspended as to give H.F. No. 637 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 637 was read the second time.

Mr. Novak moved to amend H.F. No. 637 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 637, and insert the language after the enacting clause, and the title, of S.F. No. 1147, the second engrossment, and as amended by the Senate March 22, 1996.

The motion prevailed. So the amendment was adopted.

H.F. No. 637 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 41 and nays 22, as follows:

Those who voted in the affirmative were:

Anderson	Hottinger	Lessard	Pappas	Solon
Berglin	Janezich	Limmer	Pariseau	Spear
Betzold	Johnson, D.E.	Metzen	Pogemiller	Stevens
Cohen	Johnson, J.B.	Mondale	Price	Stumpf
Dille	Kelly	Morse	Ranum	Wiener
Fischbach	Kleis	Murphy	Riveness	
Flynn	Knutson	Novak	Runbeck	
Frederickson	Laidig	Oliver	Sams	
Hanson	Langseth	Olson	Scheevel	

Those who voted in the negative were:

Beckman	Johnston	Lesewski	Ourada	Terwilliger
Belanger	Kramer	Marty	Piper	Vickerman
Berg	Krentz	Merriam	Reichgott Junge	
Day	Kroening	Moe, R.D.	Robertson	
Johnson, D.J.	Larson	Neuville	Samuelson	

So the bill, as amended, was passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Janezich moved that the name of Mr. Lessard be added as a co-author to S.F. No. 1977. The motion prevailed.

Mr. Morse moved that his name be stricken as chief author and the name of Mr. Merriam be shown as chief author to S.F. No. 2866. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bill was read the first time and referred to the committee indicated.

Ms. Berglin introduced--

S.F. No. 2881: A bill for an act relating to special transportation services; requiring the metropolitan council and the commissioner of human services to establish a task force on service coordination.

Referred to the Committee on Transportation and Public Transit.

MEMBERS EXCUSED

Messrs. Chmielewski and Finn were excused from the Session of today. Ms. Kiscaden was excused from the Session of today at 1:15 p.m. Mr. Mondale was excused from the Session of today from 9:00 a.m. to 1:00 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 10:00 a.m., Monday, March 25, 1996. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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