

(d) "Physical abuse" means any physical injury inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical injury that cannot reasonably be explained by the child's history of injuries.

(e) "Report" means any report received by the local welfare agency, police department or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanatorium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245.781 to 245.812.

(g) "Operator" means an operator or agency as defined in section 245.782.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem services.

Sec. 3. EFFECTIVE DATE.

Section 1 is effective January 1, 1987.

Approved April 1, 1986

CHAPTER 470—H.F.No. 654

An act relating to crime; establishing terms of imprisonment for the crime of selling larger quantities of schedule II narcotics and hallucinogens; imposing a tax on marijuana and controlled substances; providing for the crime of using force or threats against revenue department employees; establishing a minimum jail term for burglary of a dwelling; amending Minnesota Statutes 1984, sections 152.15, subdivisions 1, 4, and 5; 609.50; 609.582, by adding a subdivision; and 609.583; proposing coding for new law as Minnesota Statutes, chapter 297D.

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

Section 1. Minnesota Statutes 1984, section 152.15, subdivision 1, is amended to read:

Subdivision 1. Any person who violates section 152.09, subdivision 1, clause (1) with respect to:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(1) Seven or more grams or ten or more dosage units, when the substance is not sold by weight, of any controlled substance classified in schedule I or II which is a narcotic drug, or of phencyclidine or any hallucinogen listed in section 152.02, subdivision 2, clause (3), or Minnesota Rules, part 6800.4210, item C, except marijuana or tetrahydrocannabinols, is guilty of a crime and upon conviction may be imprisoned for not more than 20 years or fined not more than \$60,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than two years nor more than 30 years or fined not more than \$100,000, or both;

~~(1) A~~ (2) Any other amount of any controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than 15 years or fined not more than \$40,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than one year nor more than 30 years or fined not more than \$50,000, or both;

~~(2)~~ (3) Any other controlled substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than \$30,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than one year nor more than ten years or fined not more than \$45,000, or both;

~~(3)~~ (4) A substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than three years, fined not more than \$20,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than six months nor more than six years or fined not more than \$35,000, or both;

~~(4)~~ (5) A substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than \$3,000, or both;

~~(5)~~ (6) The distribution of a small amount of marijuana for no remuneration, shall be treated as provided in subdivision 2, clause (5).

Sec. 2. Minnesota Statutes 1984, section 152.15, subdivision 4, is amended to read:

Subd. 4. Any person 18 years of age or over who violates section 152.09, subdivision 1, clause (1), by distributing a controlled substance listed in Schedules I or II which is a narcotic drug to a person under 18 years of age who is at least three years his junior is punishable by the fine authorized by section 152.15, subdivision 1, ~~clause~~ clauses (1) or (2), by a term of imprisonment of up to twice that authorized by section 152.15, subdivision 1, ~~clause~~ clauses (1) or (2), or by both. Any person 18 years of age or over who violates section 152.09, subdivision 1, by distributing any other controlled substance listed in Schedules I, II, III, IV, and V, except marijuana, to a person under 18 years of age who is at least three years his junior is punishable by the fine authorized by section

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152.15, subdivision 1, clauses ~~(2)~~, (3), ~~or~~ (4), or (5), by a term of imprisonment up to twice that authorized by section 152.15, subdivision 1, clauses ~~(2)~~, (3), ~~or~~ (4), or (5), or both.

Sec. 3. Minnesota Statutes 1984, section 152.15, subdivision 5, is amended to read:

Subd. 5. Any person convicted of a second or subsequent offense under ~~Laws 1971, Chapter 937~~ this chapter, except as provided in subdivision 1, clauses (1), (2), (3), ~~(4)~~, and ~~(5)~~ (6) may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

Sec. 4. [297D.01] DEFINITIONS.

Subdivision 1. "Marijuana" means any marijuana, whether real or counterfeit, as defined in section 152.01, subdivision 9, that is held, possessed, transported, transferred, sold, or offered to be sold in violation of Minnesota laws.

Subd. 2. "Controlled substance" means any drug or substance, whether real or counterfeit, as defined in section 152.01, subdivision 4, that is held, possessed, transported, transferred, sold, or offered to be sold in violation of Minnesota laws. "Controlled substance" does not include marijuana.

Subd. 3. "Dealer" means a person who in violation of Minnesota law manufactures, produces, ships, transports, or imports into Minnesota or in any manner acquires or possesses more than 42-1/2 grams of marijuana, or seven or more grams of any controlled substance, or ten or more dosage units of any controlled substance which is not sold by weight.

Subd. 4. "Commissioner" means the commissioner of revenue.

Sec. 5. [297D.02] ADMINISTRATION.

The commissioner of revenue shall administer this chapter. Payments required by this chapter must be made to the commissioner on the form provided by the commissioner. The commissioner shall collect all taxes under this chapter.

Sec. 6. [297D.03] RULES.

The commissioner may adopt rules necessary to enforce this chapter. The commissioner shall adopt a uniform system of providing, affixing, and displaying official stamps, official labels, or other official indicia for marijuana and controlled substances on which a tax is imposed.

Sec. 7. [297D.04] TAX PAYMENT REQUIRED FOR POSSESSION.

No dealer may possess any marijuana or controlled substance upon which a tax is imposed by section 11 unless the tax has been paid on the marijuana or other controlled substance as evidenced by a stamp or other official indicia.

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Sec. 8. [297D.05] NO IMMUNITY.

Nothing in this chapter may in any manner provide immunity for a dealer from criminal prosecution pursuant to Minnesota law.

Sec. 9. [297D.06] PHARMACEUTICALS.

Nothing in this chapter requires persons registered under chapter 151 or otherwise lawfully in possession of marijuana or a controlled substance to pay the tax required under this chapter.

Sec. 10. [297D.07] MEASUREMENT.

For the purpose of calculating the tax under section 11, an ounce of marijuana or other controlled substance is measured by the weight of the substance in the dealer's possession.

Sec. 11. [297D.08] TAX RATE.

A tax is imposed on marijuana and controlled substances as defined in section 4 at the following rates:

- (1) on each gram of marijuana, or each portion of a gram, \$3.50; and
- (2) on each gram of controlled substance, or portion of a gram, \$200; or
- (3) on each 50 dosage units of a controlled substance that is not sold by weight, or portion thereof, \$2,000.

Sec. 12. [297D.09] FAILURE TO FILE, FILING FALSE OR FRAUDULENT RETURN; INTENT TO EVADE TAX; CRIMINAL PROVISIONS.

Subdivision 1. PENALTIES. Any dealer violating this chapter is subject to a penalty of 100 percent of the tax in addition to the tax imposed by section 11. In addition to the tax penalty imposed, a dealer distributing or possessing marijuana or controlled substances without affixing the appropriate stamps, labels, or other indicia is guilty of a crime and, upon conviction, 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.

Subd. 2. STATUTE OF LIMITATIONS. Notwithstanding section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed upon any criminal offense specified in this section, in the proper court within six years after the commission of this offense.

Sec. 13. [297D.10] STAMP PRICE.

Official stamps, labels, or other indicia to be affixed to all marijuana or controlled substances shall be purchased from the department. The purchaser shall pay 100 percent of face value for each stamp, label, or other indicia at the time of the purchase. The department shall make the stamps, labels, or other indicia in denominations in multiples of ten dollars.

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Sec. 14. [297D.11] PAYMENT DUE.

Subdivision 1. STAMPS AFFIXED. When a dealer purchases, acquires, transports, or imports into this state marijuana or controlled substances on which a tax is imposed by section 11, and if the indicia evidencing the payment of the tax have not already been affixed, the dealer shall have them permanently affixed on the marijuana or controlled substance immediately after receiving the substance. Each stamp or other official indicia may be used only once.

Subd. 2. PAYABLE ON POSSESSION. Taxes imposed upon marijuana or controlled substances by this chapter are due and payable immediately upon acquisition or possession in this state by a dealer.

Sec. 15. [297D.12] ALL ASSESSMENTS ARE JEOPARDY.

Subdivision 1. ASSESSMENT PROCEDURE. An assessment for a dealer not possessing stamps or other official indicia showing that the tax has been paid shall be considered a jeopardy assessment or collection, as provided in section 270.70. The commissioner shall assess a tax based on personal knowledge or information available to the commissioner; mail the taxpayer at the taxpayer's last known address or serve in person, a written notice of the amount of tax; demand its immediate payment; and, if payment is not immediately made, collect the tax by any method prescribed in chapter 270, except that the commissioner need not await the expiration of the times specified in chapter 270. Section 270.70, subdivision 4, paragraph (a), does not apply to this chapter.

Subd. 2. INJUNCTION PROHIBITED. No person may bring suit to enjoin the assessment or collection of any taxes, interest, or penalties imposed by this chapter.

Subd. 3. STANDARD OF PROOF. The tax and penalties assessed by the commissioner are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show their incorrectness or invalidity. Any statement filed by the commissioner with the court administrator, or any other certificate by the commissioner of the amount of tax and penalties determined or assessed is admissible in evidence and is prima facie evidence of the facts it contains.

Sec. 16. [297D.13] CONFIDENTIAL NATURE OF INFORMATION.

Neither the commissioner nor a public employee may reveal facts contained in a report or return required by this chapter, nor can any information contained in such a report or return be used against the dealer in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under this chapter from the taxpayer making the return.

Sec. 17. [297D.14] INVESTIGATORY POWERS.

For the purpose of determining the correctness of any return, determining the amount of tax that should have been paid, determining whether or not the dealer should have made a return or paid taxes, or collecting any taxes under

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this chapter, the commissioner may examine, or cause to be examined, any books, papers, records, or memoranda, that may be relevant to making such determinations, whether the books, papers, records, or memoranda, are the property of or in the possession of the dealer or another person. The commissioner may require the attendance of any person having knowledge or information that may be relevant, compel the production of books, papers, records, or memoranda by persons required to attend, take testimony on matters material to the determination, and administer oaths or affirmations. Upon demand of the commissioner or any examiner or investigator, the court administrator of any court shall issue a subpoena for the attendance of a witness or the production of books, papers, records, and memoranda. The commissioner may also issue subpoenas. Disobedience of subpoenas issued under this chapter is punishable by the district court of the district in which the subpoena is issued, or, if the subpoena is issued by the commissioner, by the district court of the district in which the party served with the subpoena is located, in the same manner as contempt of district court.

Sec. 18. Minnesota Statutes 1984, section 609.50, is amended to read:

609.50 OBSTRUCTING LEGAL PROCESS OR ARREST.

Whoever intentionally obstructs, hinders or prevents the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge or conviction of a criminal offense or interferes with a peace officer while the officer is engaged in the performance of his official duties, or by force or threat of force endeavors to obstruct any employee of the department of revenue while the employee is lawfully engaged in the performance of official duties for the purpose of deterring or interfering with the performance of those duties, may be sentenced as follows:

(1) If the act was accompanied by force or violence or the threat thereof, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both; or

(2) In other cases to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both.

Sec. 19. Minnesota Statutes 1984, section 609.582, is amended by adding a subdivision to read:

Subd. 1a. MANDATORY MINIMUM SENTENCE FOR BURGLARY OF OCCUPIED DWELLING. A person convicted of committing burglary of an occupied dwelling, as defined in subdivision 1, clause (a), must be committed to the commissioner of corrections or county workhouse for a mandatory minimum term of imprisonment of not less than six months.

Sec. 20. Minnesota Statutes 1984, section 609.583, is amended to read:

609.583 SENTENCING; FIRST BURGLARY OF A DWELLING.

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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 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. 21. **EFFECTIVE DATE.**

Sections 1 to 3 and 18 to 20 are effective August 1, 1986, and apply to crimes committed on or after that date. Sections 4 to 17 are effective August 1, 1986.

Approved April 1, 1986

CHAPTER 471—H.F.No. 1677

An act relating to libraries; changing the way the department of education provides certain information and other services; allowing mayors to appoint nonresidents to city library board under certain circumstances; updating maintenance of effort exceptions; requiring the commissioner of education to cooperatively develop a plan for automation of state agency libraries; amending Minnesota Statutes 1984, sections 121.496; 134.09, subdivision 1; 134.31, subdivisions 2 and 3; and 134.34, subdivision 5.

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

Section 1. Minnesota Statutes 1984, section 121.496, is amended to read:

121.496 STATE DEPARTMENT OF EDUCATION ~~TO FURNISH LIST OF BOOKS~~ LIBRARY AND INFORMATION SERVICES DUTIES.

Subdivision 1. BOOKLISTS. The state department of education shall from time to time prepare and amend a list of books suitable for school libraries, including dictionaries and other books of reference, histories and works of biography, literature, political economy, agriculture, travel, and science.

Subd. 2. PROVIDING OTHER INFORMATION. The department may provide library information services it considers appropriate and necessary to any state agency, governmental unit, nonprofit organization, or private entity. The department may collect reasonable fees not to exceed its actual costs for providing the information services. The department may also accept money

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