

CHAPTER 254—H.F.No. 593

An act relating to crimes; requiring insurance companies to notify and release insurance policy information to certain law enforcement and prosecutorial authorities regarding motor vehicle thefts under investigation; prescribing higher penalties for major theft, motor vehicle theft, and repeat violations of the crime of unauthorized use of a motor vehicle; providing that orders of restitution may be entered in favor of corporate victims; allowing the court to amend or issue orders of restitution when the defendant is on probation or supervised release; extending the statute of limitations for certain major thefts to five years; amending Minnesota Statutes 1986, sections 90.301, subdivision 6; 256.98; 256B.35, subdivision 5; 393.07, subdivision 10; 609.52, subdivision 3; 611A.01; 611A.04, subdivision 1; and 628.26; proposing coding for new law in Minnesota Statutes, chapter 65B.

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

Section 1. **[65B.80] DEFINITIONS.**

Subdivision 1. TERMS. The following terms have the meanings given for purposes of sections 1 to 4.

Subd. 2. AUTHORIZED PERSON. "Authorized person" means the prosecuting attorney responsible for prosecutions in the county where the motor vehicle theft occurred, the superintendent of the bureau of criminal apprehension, and the sheriff or chief of police responsible for investigation in the county where the motor vehicle theft occurred.

Subd. 3. RELEVANT INFORMATION. "Relevant information" or evidence means information having a tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more or less probable than it would be without the evidence.

Sec. 2. **[65B.81] DISCLOSURE OF INFORMATION.**

Subdivision 1. REQUEST. After receiving a written request, an insurance company must release to an authorized person any relevant information in the company's possession that relates to the motor vehicle theft. Relevant information is limited to:

(1) pertinent insurance policy information, including the application for a policy, that is relevant to a motor vehicle theft under investigation by the authorized person;

(2) policy premium payment records that are available;

(3) a history of previous claims made by the insured including, where the insured is a corporation or partnership, a history of previous claims by a subsidiary or any affiliates, and a history of claims of any other business association in which individual officers or partners or their spouses were known to be involved; and

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(4) material relating to the investigation of the theft, including statements of any person, proof of loss, and any other evidence relevant to the investigation.

Subd. 2. NOTIFICATION BY INSURER REQUIRED. If an insurance company has reason to believe that a motor vehicle theft in which it has an interest may be fraudulently claimed, the company shall, in writing, notify an authorized person and provide the person with all relevant information specified in subdivision 1 relating to the motor vehicle theft. It is sufficient for the purpose of this subdivision if an insurance company notifies and provides relevant information to one authorized person.

Subd. 3. RELEASE OF INFORMATION. An authorized person provided with information under subdivision 1 or 2 may, to further official purposes, release or provide the information to any other authorized person.

Subd. 4. INFORMATION FROM AUTHORIZED PERSON. An insurance company that provides information to an authorized person may request relevant information in writing from the authorized person and the authorized person must provide the requested information within 30 days. The relevant information provided under this subdivision may not include nonconviction criminal history record information or any other information that is detrimental to an ongoing criminal investigation or would reveal the identity of a confidential source of information. An authorized person who does not furnish the requested information shall notify the insurance company of the reasons why the information cannot be furnished within 30 days of the request.

Subd. 5. IMMUNITY FROM LIABILITY. An insurance company or its agent acting in its behalf, or an authorized person who releases information, whether oral or written, acting in good faith, under subdivisions 1 to 3, is immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

Sec. 3. [65B.82] EVIDENCE.

Data received under sections 1 to 4 by an authorized person or insurance company is confidential data under section 13.02, subdivision 3, until its release is required in connection with a criminal or civil proceeding.

Sec. 4. [65B.83] ENFORCEMENT.

Subdivision 1. INTENTIONAL REFUSAL TO RELEASE. An insurance company or officer may not intentionally refuse to release any information requested under section 2, subdivision 1.

Subd. 2. INTENTIONAL REFUSAL TO NOTIFY. An insurance company, or its employee or officer, may not intentionally refuse to provide notice or relevant information to authorized persons under section 2, subdivision 2.

Subd. 3. PENALTY. Whoever violates the provisions of subdivision 1 or 2 is guilty of a misdemeanor.

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Sec. 5. Minnesota Statutes 1986, section 90.301, subdivision 6, is amended to read:

Subd. 6. **TICKET FOR THEFT VIOLATIONS.** The commissioner may design and issue a ticket in the form, and having the effect, of a summons and complaint, for use in cases of theft of state timber or other state property, where the value of the property is within the limits established by section 609.52, subdivision 3, clause ~~(5)~~ (6). The ticket shall provide for the name and address of the person charged with the violation, the offense charged, the time and place the person is to appear before a court, and any other necessary information.

Sec. 6. Minnesota Statutes 1986, section 256.98, is amended to read:

256.98 WRONGFULLY OBTAINING ASSISTANCE; THEFT.

A person who obtains, or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of a material fact, or by impersonation or other fraudulent device, assistance to which the person is not entitled or assistance greater than that to which the person is entitled, or who knowingly aids or abets in buying or in any way disposing of the property of a recipient or applicant of assistance without the consent of the local agency with intent to defeat the purposes of sections 256.12, 256.72 to 256.872, chapter 256B, is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses ~~(1)~~, ~~(2)~~, (3), and ~~(5)~~ (6). The amount of the assistance incorrectly paid shall be the difference between the amount of assistance actually received and the amount to which the recipient would have been entitled under state and federal law had the welfare agency been informed of all material facts. The amount of any assistance determined to have been incorrectly paid shall be recoverable from the recipient or the recipient's estate by the county or the state as a debt due the county or the state or both in proportion to the contribution of each. Any amounts recovered shall be paid to the appropriate units of government in the same manner as provided in section 256.863. To prosecute or to recover assistance wrongfully obtained under this section, the attorney general or the appropriate county attorney, acting independently or at the direction of the attorney general, may institute a criminal or civil action.

Sec. 7. Minnesota Statutes 1986, section 256B.35, subdivision 5, is amended to read:

Subd. 5. The nursing home may transfer the personal allowance to someone other than the recipient only when the recipient or the recipient's guardian or conservator designates that person in writing to receive or expend funds on behalf of the recipient and that person certifies in writing that the allowance is spent for the well being of the recipient. Persons, other than the recipient, in possession of the personal allowance, may use the allowance only for the well being of the recipient. Any person, other than the recipient, who, with intent to defraud, uses the personal needs allowance for purposes other than the well being of the recipient shall be guilty of theft and shall be sentenced pursuant to

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section 609.52, subdivision 3, clauses ~~(1)~~, (2), (3), and ~~(5)~~ (6). To prosecute under this subdivision, the attorney general or the appropriate county attorney, acting independently or at the direction of the attorney general, may institute a criminal action. A nursing home that transfers personal needs allowance funds to a person other than the recipient in good faith and in compliance with this section shall not be held liable under this subdivision.

Sec. 8. Minnesota Statutes 1986, section 393.07, subdivision 10, is amended to read:

Subd. 10. **FEDERAL FOOD STAMP PROGRAM.** (a) The county welfare board shall establish and administer the food stamp program pursuant to rules of the commissioner of human services and all federal laws and regulations. The commissioner of human services shall monitor food stamp program delivery on an ongoing basis to ensure that each county complies with federal laws and regulations. Program requirements to be monitored include, but are not limited to, number of applications, number of approvals, number of cases pending, length of time required to process each application and deliver benefits, number of applicants eligible for expedited issuance, length of time required to process and deliver expedited issuance, number of terminations and reasons for terminations, client profiles by age, household composition and income level and sources, and the use of phone certification and home visits. The commissioner shall determine the county-by-county and statewide participation rate. The commissioner shall report on the monitoring activities on a county-by-county basis in a report presented to the legislature by July 1 each year. This monitoring activity shall be separate from the management evaluation survey sample required under federal regulations.

(b) On July 1 of each year, the commissioner of human services shall determine a statewide and county-by-county food stamp program participation rate. The commissioner may designate a different agency to administer the food stamp program in a county if the agency administering the program fails to increase the food stamp program participation rate among families or eligible individuals, or comply with all federal laws and regulations governing the food stamp program. The commissioner shall review agency performance annually to determine compliance with this paragraph.

(c) The county welfare board shall participate in a food stamp quality control system subject to the supervision of the commissioner of human services and pursuant to federal regulations.

Any person who commits any of the following acts is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses ~~(1)~~, (2), (3), and ~~(5)~~ (6):

(1) Obtains or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, or intentional concealment of a material fact, food stamps to which the person is not entitled or in an amount greater than that to which entitled; or

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(2) Presents or causes to be presented, coupons for payment or redemption knowing them to have been received, transferred or used in a manner contrary to existing state or federal law; or

(3) Willfully uses or transfers food stamp coupons or authorization to purchase cards in any manner contrary to existing state or federal law.

The amount of food stamps incorrectly issued shall be the difference between the amount of food stamps actually received and the amount to which the recipient would have been entitled under state and federal law had the welfare agency been informed of all material facts. The amount of any food stamps determined to have been incorrectly issued, used, transferred or presented shall, unless otherwise determined by the county welfare board in order to prevent undue hardship, be recoverable from the recipient, or user, or the recipient's or user's estate by the county as a debt due the county.

Sec. 9. Minnesota Statutes 1986, section 609.52, subdivision 3, is amended to read:

Subd. 3. **SENTENCE.** Whoever commits theft may be sentenced as follows:

(1) To imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both, if the value of the property or services stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause (3), (4), (15), or (16); or

(2) To imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the value of the property or services stolen exceeds \$2,500, or if the property stolen was a controlled substance listed in schedule 1 or 2 pursuant to section 152.02 with the exception of marijuana; or

~~(3)~~ (3) To imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the value of the property or services stolen is more than \$250 but not more than \$2,500, or if the property stolen was a controlled substance listed in schedule 3, 4, or 5 pursuant to section 152.02; or

~~(4)~~ (4) To imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, notwithstanding the value of the property or services stolen is not more than \$250, if any of the following circumstances exist:

(a) The property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or

(b) The property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

(c) The property is taken from a burning building or upon its removal

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therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

(d) The property consists of public funds belonging to the state or to any political subdivision or agency thereof; or

(e) The property is a firearm; or

(f) The property stolen was a motor vehicle as defined in section 609.55; or

(4) ~~(5)~~ To imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the property stolen is an article representing a trade secret; or if the property stolen is an explosive or an incendiary device; or

~~(5)~~ (6) In all other cases where the value of the property or services stolen is \$250 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both, provided, however, in any prosecution under clauses (1), (2), (3), (4), and (13) of subdivision 2 the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Sec. 10. Minnesota Statutes 1986, section 611A.01, is amended to read:

611A.01 DEFINITIONS.

For the purposes of sections 611A.01 to 611A.04 and 611A.06:

(a) "Crime" means 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, and for purposes of sections 611A.04 and 611A.045, also includes a corporation that incurs loss or harm as a result of a crime. 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. 11. Minnesota Statutes 1986, section 611A.04, subdivision 1, is amended to read:

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Subdivision 1. **REQUEST; DECISION.** (a) A victim of a crime has the right to request that restitution be considered as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender. The request for restitution shall be made by the victim in writing in affidavit form, describing the items or elements of loss and itemizing the total dollar amounts of restitution claimed, and the reasons justifying these amounts, if the request is for monetary or property restitution. In order to be considered by the court, the request 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 at least 24 hours before the sentencing or dispositional hearing.

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

(1) the offender is on probation or supervised release;

(2) a request for restitution is filed by the victim or prosecutor in affidavit form as required under paragraph (a); and

(3) the true extent of the victim's loss was not known at the time of the sentencing or dispositional hearing.

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 at least five business days before the hearing. The court's restitution decision is governed by this section and section 61A.045.

(c) The court shall grant or deny restitution, and shall state on the record its reasons for its decision on restitution if a request for restitution has been made.

Sec. 12. Minnesota Statutes 1986, section 628.26, is amended to read:

628.26 LIMITATIONS.

(a) Indictments or complaints for murder may be found or made at any time after the death of the person killed.

(b) Indictments or complaints for violation of section 609.42, subdivision 1, clause (1) or (2) shall be found or made and filed in the proper court within six years after the commission of the offense.

(c) Indictments or complaints for violation of sections 609.342 to 609.345 if the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within seven years after the commission of the offense.

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

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(e) Indictments or complaints for violation of section 609.52, subdivision 2, clause (3), items (a) to (c), (4), (15), or (16), where the value of the property or services stolen is more than \$35,000, shall be found or made and filed in the proper court within five years after the commission of the offense.

~~(e)~~ (f) In all other cases, indictments or complaints shall be found or made and filed in the proper court within three years after the commission of the offense; but the time during which the defendant shall not be an inhabitant of, or usually resident within, this state, shall not constitute any part of the limitations imposed by this section.

Sec. 13. **EFFECTIVE DATE.**

Sections 6 to 11 are effective August 1, 1987, and apply to crimes committed on or after that date. Sections 1 to 5, and 12, are effective August 1, 1987.

Approved May 27, 1987

CHAPTER 255—H.F.No. 813

An act relating to bicycles; requiring bicycles using a shoulder of a roadway to ride in the same direction as adjacent vehicular traffic; redefining the term roadway; defining the term shoulder; allowing designation of bikeways by resolution or ordinance; adopting additional definitions of bicycle terms; amending Minnesota Statutes 1986, sections 85.016; 160.02, by adding a subdivision; 160.263, subdivisions 2 and 3; 160.264; 160.265; 169.01, subdivisions 31 and 62, and by adding subdivisions; and 169.222, subdivision 4; repealing Minnesota Statutes 1986, section 160.263, subdivision 1.

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

Section 1. Minnesota Statutes 1986, section 85.016, is amended to read:

85.016 BICYCLE TRAIL PROGRAM.

The commissioner of natural resources shall establish a program for the development of bicycle trails utilizing the state trails authorized by section 85.015, other state parks and recreation land, and state forests. "Bicycle trails trail", as used in this section, ~~includes bicycle lanes and bicycle ways as these terms are used in sections 160.263 and 160.264~~ has the meaning given in section 169.01. The program shall be coordinated with the local park trail grant program established by the commissioner of energy and economic development pursuant to section 116J.406, with the ~~bicycle trail~~ bikeway program established by the commissioner of transportation pursuant to section 160.265, and with existing and proposed local ~~bicycle trails~~ bikeways. In the metropolitan area as defined in section 473.121, the program shall be developed in accordance with plans and priorities established by the metropolitan council. The commissioner

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