

CHAPTER 326—H.F.No. 1585

An act relating to crime prevention; prohibiting drive-by shootings, possession of dangerous weapons and trespassing on school property, negligent storage of firearms, and reckless discharge of firearms; regulating the transfer of semiautomatic military-style assault weapons; prohibiting possession of a device for converting a firearm to fire at the rate of a machine gun; prohibiting carrying rifles and shotguns in public; increasing penalty for repeat violations of pistol carry permit law; providing for forfeiture of vehicles used in drive-by shootings and prostitution; revising and increasing penalties for stalking, harassment, and domestic abuse offenses; providing for improved training, investigation and enforcement of these laws; increasing penalties for and making revisions to certain controlled substance offenses; revising wiretap warrant law; providing for sentence of life without release for first-degree murder of a peace officer; increasing penalties for crimes committed by groups; increasing penalties and improving enforcement of arson and related crimes; making certain changes to restitution and other crime victim laws; revising laws relating to law enforcement agencies, and state and local corrections agencies; making terminology changes and technical corrections related to new felony sentencing law; expanding scope of sex offender registration and DNA specimen provisions; requiring certain counties to establish diversion programs; increasing certain surcharges and fees; expanding community crime reduction grant programs; appropriating money; amending Minnesota Statutes 1992, sections 8.16, subdivision 1; 13.87, subdivision 2; 13.99, by adding a subdivision; 16B.08, subdivision 7; 144.765; 144A.04, subdivisions 4 and 6; 144A.11, subdivision 3a; 144B.08, subdivision 3; 147.09; 152.021, subdivision 3; 152.022, subdivisions 1 and 3; 152.023, subdivisions 2 and 3; 152.024, subdivision 3; 152.025, subdivision 3; 152.026; 152.0971, subdivision 3, and by adding subdivisions; 152.0972, subdivision 1; 152.0973, subdivisions 2, 3, 4, and by adding subdivisions; 152.18, subdivision 1; 168.345, by adding a subdivision; 168.346; 169.121, subdivision 3a; 169.222, subdivision 6, and by adding a subdivision; 169.64, subdivision 3; 169.98, subdivision 1a; 171.12, by adding a subdivision; 214.10, by adding subdivisions; 238.16, subdivision 2; 241.09; 241.26, subdivision 5; 241.67, subdivisions 1, 2, and by adding a subdivision; 243.166, subdivisions 1, 2, 3, 4, 6, and by adding subdivisions; 243.18, subdivision 2, and by adding a subdivision; 243.23, subdivision 3; 244.01, subdivision 8, and by adding a subdivision; 244.05, subdivisions 1b, 4, 5, and by adding a subdivision; 244.065; 244.101; 244.14, subdivisions 2 and 3; 244.15, subdivision 1; 244.17, subdivision 3; 244.171, subdivisions 3 and 4; 244.172, subdivisions 1 and 2; 256.486; 260.185, subdivisions 1 and 1a; 260.193, subdivision 8; 260.251, subdivision 1; 289A.63, by adding a subdivision; 297B.10; 299A.35, subdivisions 1 and 2; 299C.065, subdivision 1; 299C.46, by adding a subdivision; 299C.54, by adding a subdivision; 299D.03, subdivision 1; 299D.06; 299F.04, by adding a subdivision; 299F.811; 299F.815, subdivision 1; 307.08, subdivision 2; 343.21, subdivisions 9 and 10; 357.021, subdivision 2; 388.23, subdivision 1; 390.11, by adding a subdivision; 390.32, by adding a subdivision; 401.02, subdivision 4; 473.386, by adding a subdivision; 480.0591, subdivision 6; 480.30; 518B.01, subdivisions 2, 3, 6, 7, 9, and 14; 540.18, subdivision 1; 541.15; 609.02, subdivision 6; 609.0341, subdivision 1; 609.035; 609.06; 609.101, subdivisions 1, 2, 3, 4, and by adding a subdivision; 609.11; 609.13, by adding a subdivision; 609.135, subdivisions 1, 1a, and 2; 609.1352, subdivision 1; 609.14, subdivision 1; 609.15, subdivision 2; 609.152, subdivision 1; 609.184, subdivision 2; 609.196; 609.224, subdivision 2, and by adding a subdivision; 609.229, subdivision 3; 609.251; 609.341, subdivisions 10, 17, and 19; 609.344, subdivision 1; 609.345, subdivision 1; 609.346, subdivisions 2, 2b, and 5; 609.3461,

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subdivision 2; 609.378, subdivision 1; 609.494; 609.495; 609.505; 609.531; 609.5311, subdivision 3; 609.5312, subdivision 2, and by adding a subdivision; 609.5314, subdivisions 1 and 3; 609.5315, subdivisions 1, 2, 4, and by adding a subdivision; 609.562; 609.563, subdivision 1; 609.576, subdivision 1; 609.582, subdivision 1a; 609.585; 609.605, subdivision 1, and by adding a subdivision; 609.66, subdivision 1a, and by adding subdivisions; 609.67, subdivisions 1 and 2; 609.686; 609.71; 609.713, subdivision 1; 609.748, subdivisions 1, 2, 3, 5, 6, 8, and by adding subdivisions; 609.79, subdivision 1; 609.795, subdivision 1; 609.856, subdivision 1; 609.891, subdivision 2; 609.902, subdivision 4; 611A.02, subdivision 2; 611A.031; 611A.0315; 611A.04, subdivisions 1, 1a, and 3; 611A.06, subdivision 1; 611A.52, subdivisions 5, 8, and 9; 611A.57, subdivisions 2, 3, and 5; 611A.66; 611A.71, subdivisions 1, 2, 3, and 7; 624.711; 624.712, subdivisions 5, 6, and by adding subdivisions; 624.713; 624.7131, subdivisions 1, 4, and 10; 624.7132; 624.714, subdivision 1; 626.05, subdivision 2; 626.13; 626.556, subdivision 10; 626.8451, subdivision 1a; 626A.05, subdivision 1; 626A.06, subdivisions 4, 5, and 6; 626A.10, subdivision 1; 626A.11, subdivision 1; 628.26; 629.291, subdivision 1; 629.34, subdivision 1; 629.341, subdivision 1; 629.342, subdivision 2; 629.72; 631.046, subdivision 1; 631.41; and 641.14; Laws 1991, chapter 279, section 41; Laws 1992, chapter 571, articles 7, section 13, subdivision 1; and 16, section 4; proposing coding for new law in Minnesota Statutes, chapters 121; 169; 174; 242; 254A; 260; 401; 471; 473; 609; 611A; and 624; repealing Minnesota Statutes 1992, sections 214.10, subdivisions 4, 5, 6, and 7; 241.25; 241.67, subdivision 5; 241.671; 243.165; 299A.325; 609.02, subdivisions 12 and 13; 609.131, subdivision 1a; 609.605, subdivision 3; 609.746, subdivisions 2 and 3; 609.747; 609.79, subdivision 1a; 609.795, subdivision 2; 611A.57, subdivision 1; and 629.40, subdivision 5.

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

ARTICLE 1

SAFE STREETS AND SCHOOLS

Section 1. [121.207] REPORTS OF DANGEROUS WEAPON INCIDENTS IN SCHOOL ZONES.

Subdivision 1. DEFINITIONS. As used in this section:

- (1) "dangerous weapon" has the meaning given it in section 609.02, subdivision 6;
- (2) "school" has the meaning given it in section 120.101, subdivision 4; and
- (3) "school zone" has the meaning given it in section 152.01, subdivision 14a, clauses (1) and (3).

Subd. 2. REPORTS; CONTENT. On or before January 1, 1994, the commissioner of education, in consultation with the criminal and juvenile information policy group, shall develop a standardized form to be used by schools to report incidents involving the use or possession of a dangerous weapon in school zones. The form shall include the following information:

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(1) a description of each incident, including a description of the dangerous weapon involved in the incident;

(2) where, at what time, and under what circumstances the incident occurred;

(3) information about the offender, other than the offender's name, including the offender's age; whether the offender was a student and, if so, where the offender attended school; and whether the offender was under school expulsion or suspension at the time of the incident;

(4) information about the victim other than the victim's name, if any, including the victim's age; whether the victim was a student and, if so, where the victim attended school; and if the victim was not a student, whether the victim was employed at the school;

(5) the cost of the incident to the school and to the victim; and

(6) the action taken by the school administration to respond to the incident.

Subd. 3. REPORTS; FILING REQUIREMENTS. By February 1 and July 1 of each year, each school shall report incidents involving the use or possession of a dangerous weapon in school zones to the commissioner of education. The reports shall be made on the standardized forms developed by the commissioner under subdivision 2. The commissioner shall compile the information it receives from the schools and report it annually to the commissioner of public safety, the criminal and juvenile information policy group, and the legislature.

Sec. 2. Minnesota Statutes 1992, section 260.185, subdivision 1a, is amended to read:

Subd. 1a. POSSESSION OF FIREARM OR DANGEROUS WEAPON.
If the child is petitioned and found delinquent by the court, and the court also finds that the child was in possession of a firearm at the time of the offense, in addition to any other disposition the court shall order that the firearm be immediately seized and shall order that the child be required to serve at least 100 hours of community work service unless the child is placed in a residential treatment program or a juvenile correctional facility. If the child is petitioned and found delinquent by the court, and the court finds that the child was in possession of a dangerous weapon in a school zone, as defined in section 152.01, subdivision 14a, clauses (1) and (3), at the time of the offense, the court also shall order that the child's driver's license be canceled or driving privileges denied until the child's 18th birthday. The court shall send a copy of its order to the commissioner of public safety and, upon receipt of the order, the commissioner is authorized to cancel the child's driver's license or deny the child's driving privileges without a hearing.

Sec. 3. [471.635] ZONING ORDINANCES.

Notwithstanding section 471.633, a governmental subdivision may regulate

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by reasonable, nondiscriminatory, and nonarbitrary zoning ordinances, the location of businesses where firearms are sold by a firearms dealer.

Sec. 4. Minnesota Statutes 1992, section 609.06, is amended to read:

609.06 AUTHORIZED USE OF FORCE.

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

~~(8)~~ (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

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(9) (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.

Sec. 5. Minnesota Statutes 1992, section 609.531, is amended to read:

609.531 **FORFEITURES.**

Subdivision 1. **DEFINITIONS.** For the purpose of sections 609.531 to ~~609.5317~~ 609.5318, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a weapon used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the bureau of criminal apprehension, the Minnesota state patrol, a county sheriff's department, the suburban Hennepin regional park district park rangers, the department of natural resources division of enforcement, the University of Minnesota police department, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter;

(2) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.66, subdivision 1e; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 617.246; or a gross misdemeanor or felony violation of section 609.891 or 624.7181.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

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Subd. 1a. **CONSTRUCTION.** Sections 609.531 to ~~609.5317~~ 609.5318 must be liberally construed to carry out the following remedial purposes:

- (1) to enforce the law;
- (2) to deter crime;
- (3) to reduce the economic incentive to engage in criminal enterprise;
- (4) to increase the pecuniary loss resulting from the detection of criminal activity; and
- (5) to forfeit property unlawfully used or acquired and divert the property to law enforcement purposes.

Subd. 4. **SEIZURE.** Property subject to forfeiture under sections 609.531 to ~~609.5317~~ 609.5318 may be seized by the appropriate agency upon process issued by any court having jurisdiction over the property. Property may be seized without process if:

- (1) the seizure is incident to a lawful arrest or a lawful search;
- (2) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this chapter; or
- (3) the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the property and that:
 - (i) the property was used or is intended to be used in commission of a felony; or
 - (ii) the property is dangerous to health or safety.

If property is seized without process under clause (3), subclause (i), the county attorney must institute a forfeiture action under section 609.5313 as soon as is reasonably possible.

Subd. 5. **RIGHT TO POSSESSION VESTS IMMEDIATELY; CUSTODY OF SEIZED PROPERTY.** All right, title, and interest in property subject to forfeiture under sections 609.531 to ~~609.5317~~ 609.5318 vests in the appropriate agency upon commission of the act or omission giving rise to the forfeiture. Any property seized under sections 609.531 to ~~609.5316~~ 609.5318 is not subject to replevin, but is deemed to be in the custody of the appropriate agency subject to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is so seized, the appropriate agency may:

- (1) place the property under seal;
- (2) remove the property to a place designated by it;

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(3) in the case of controlled substances, require the state board of pharmacy to take custody of the property and remove it to an appropriate location for disposition in accordance with law; and

(4) take other steps reasonable and necessary to secure the property and prevent waste.

Subd. 5a. **BOND BY OWNER FOR POSSESSION.** If the owner of property that has been seized under sections 609.531 to ~~609.5317~~ 609.5318 seeks possession of the property before the forfeiture action is determined, the owner may, subject to the approval of the appropriate agency, give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized property. On posting the security or bond, the seized property must be returned to the owner and the forfeiture action shall proceed against the security as if it were the seized property. This subdivision does not apply to contraband property.

Subd. 6a. **FORFEITURE A CIVIL PROCEDURE; CONVICTION RESULTS IN PRESUMPTION.** (a) An action for forfeiture is a civil in rem action and is independent of any criminal prosecution, except as provided in this subdivision and section 609.5318. The appropriate agency handling the forfeiture has the benefit of the evidentiary presumption of section 609.5314, subdivision 1, but otherwise bears the burden of proving the act or omission giving rise to the forfeiture by clear and convincing evidence, except that in cases arising under section 609.5312, the designated offense may only be established by a ~~felony level~~ criminal conviction.

(b) A court may not issue an order of forfeiture under section 609.5311 while the alleged owner of the property is in custody and related criminal proceedings are pending against the alleged owner. For forfeiture of a motor vehicle, the alleged owner is the registered owner according to records of the department of public safety. For real property, the alleged owner is the owner of record. For other property, the alleged owner is the person notified by the prosecuting authority in filing the forfeiture action.

Sec. 6. Minnesota Statutes 1992, section 609.5311, subdivision 3, is amended to read:

Subd. 3. **LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.** (a) A conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is \$25 or more and the conveyance device is associated with a felony-level controlled substance crime.

(b) Real property is subject to forfeiture under this section only if the retail value of the controlled substance or contraband is \$1,000 or more.

(c) Property used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if

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the owner of the property is a consenting party to, or is privity to, the use or intended use of the property as described in subdivision 2.

(d) Property is subject to forfeiture under this section only if its owner was privity to the use or intended use described in subdivision 2, or the unlawful use or intended use of the property otherwise occurred with the owner's knowledge or consent.

(e) Forfeiture under this section of a conveyance device or real property encumbered by a bona fide security interest is subject to the interest of the secured party unless the secured party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(f) Notwithstanding paragraphs (d) and (e), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the unlawful use or intended use of the property if: (1) ~~if~~ the owner or secured party took reasonable steps to terminate use of the property by the offender; or (2) the property is real property owned by the parent of the offender, unless the parent actively participated in, or knowingly acquiesced to, a violation of chapter 152, or the real property constitutes proceeds derived from or traceable to a use described in subdivision 2.

Sec. 7. Minnesota Statutes 1992, section 609.5312, subdivision 2, is amended to read:

Subd. 2. LIMITATIONS ON FORFEITURE OF PROPERTY ASSOCIATED WITH DESIGNATED OFFENSES. (a) Property used by a person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privity to, the commission of a designated offense.

(b) Property is subject to forfeiture under this ~~subdivision~~ section only if the owner was privity to the act or omission upon which the forfeiture is based, or the act or omission occurred with the owner's knowledge or consent.

(c) Property encumbered by a bona fide security interest is subject to the interest of the secured party unless the party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(d) Notwithstanding paragraphs (b) and (c), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the act or omission upon which the forfeiture is based if the owner or secured party took reasonable steps to terminate use of the property by the offender.

Sec. 8. Minnesota Statutes 1992, section 609.5314, subdivision 1, is amended to read: .

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Subdivision 1. **PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE; PRESUMPTION.** (a) The following are presumed to be subject to administrative forfeiture under this section:

- (1) all money, precious metals, and precious stones found in proximity to:
 - (i) controlled substances;
 - (ii) forfeitable drug manufacturing or distributing equipment or devices; or
 - (iii) forfeitable records of manufacture or distribution of controlled substances; ~~and~~

- (2) all conveyance devices containing controlled substances with a retail value of \$100 or more if possession or sale of the controlled substance would be a felony under chapter 152; and

- (3) all firearms, ammunition, and firearm accessories found:

- (i) in a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;

- (ii) on or in proximity to a person from whom a felony amount of controlled substance is seized; or

- (iii) on the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under chapter 152.

- (b) A claimant of the property bears the burden to rebut this presumption.

Sec. 9. Minnesota Statutes 1992, section 609.5314, subdivision 3, is amended to read:

Subd. 3. **JUDICIAL DETERMINATION.** (a) Within 60 days following service of a notice of seizure and forfeiture under this section, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the county attorney for that county, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is less than \$500, the claimant may file an action in conciliation court for recovery of the seized property without paying the conciliation court filing fee. No responsive pleading is required of the county attorney and no court fees may be charged for the county attorney's appearance in the matter. The proceedings are governed by the rules of civil procedure.

- (b) The complaint must be captioned in the name of the claimant as plaintiff; and the seized property as defendant, and must state with specificity the

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grounds on which the claimant alleges the property was improperly seized and ~~stating~~ the plaintiff's interest in the property seized. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(c) If the claimant makes a timely demand for judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under section 609.531, subdivision 6a.

(d) If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized property, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order the payment of reasonable costs, expenses, and attorney fees under section 549.21, subdivision 2. If the court orders payment of these costs, they must be paid from forfeited money or proceeds from the sale of forfeited property from the appropriate law enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, subdivision 5.

Sec. 10. Minnesota Statutes 1992, section 609.5315, subdivision 1, is amended to read:

Subdivision 1. **DISPOSITION.** If the court finds under section 609.5313, ~~or 609.5314, or 609.5318~~ that the property is subject to forfeiture, it shall order the appropriate agency to:

(1) sell property that is not required to be destroyed by law and is not harmful to the public and distribute the proceeds under subdivision 5;

(2) take custody of the property and remove it for disposition in accordance with law;

(3) forward the property to the federal drug enforcement administration;

(4) disburse money as provided under subdivision 5; or

(5) keep property other than money for official use by the agency and the prosecuting agency.

Sec. 11. Minnesota Statutes 1992, section 609.5315, subdivision 2, is amended to read:

Subd. 2. **DISPOSITION OF ADMINISTRATIVELY FORFEITED PROPERTY.** If property is forfeited administratively under section 609.5314 or 609.5318 and no demand for judicial determination is made, the appropriate agency may dispose of the property in any of the ways listed in subdivision 1.

Sec. 12. Minnesota Statutes 1992, section 609.5315, subdivision 4, is amended to read:

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Subd. 4. **DISTRIBUTION OF PROCEEDS OF THE OFFENSE.** Property that consists of proceeds derived from or traced to the commission of a designated offense or a violation of section 609.66, subdivision 1e, must be applied first to payment of seizure, storage, forfeiture, and sale expenses, and to satisfy valid liens against the property; and second, to any court-ordered restitution before being disbursed as provided under subdivision 5.

Sec. 13. [609.5318] FORFEITURE OF VEHICLES USED IN DRIVE-BY SHOOTINGS.

Subdivision 1. MOTOR VEHICLES SUBJECT TO FORFEITURE. A motor vehicle is subject to forfeiture under this section if the prosecutor establishes by clear and convincing evidence that the vehicle was used in a violation of section 609.66, subdivision 1e. The prosecutor need not establish that any individual was convicted of the violation, but a conviction of the owner for a violation of section 609.66, subdivision 1e, creates a presumption that the device was used in the violation.

Subd. 2. NOTICE. The registered owner of the vehicle must be notified of the seizure and intent to forfeit the vehicle within seven days after the seizure. Notice by certified mail to the address shown in department of public safety records is deemed to be sufficient notice to the registered owner. Notice must be given in the manner required by section 609.5314, subdivision 2, paragraph (b), and must specify that a request for a judicial determination of the forfeiture must be made within 60 days following the service of the notice. If related criminal proceedings are pending, the notice must also state that a request for a judicial determination of the forfeiture must be made within 60 days following the conclusion of those proceedings.

Subd. 3. HEARING (a) Within 60 days following service of a notice of seizure and forfeiture, a claimant may demand a judicial determination of the forfeiture. If a related criminal proceeding is pending, the 60-day period begins to run at the conclusion of those proceedings. The demand must be in the form of a civil complaint as provided in section 609.5314, subdivision 3, except as otherwise provided in this section.

(b) If the claimant makes a timely demand for judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under subdivision 4.

Subd. 4. PROCEDURE. (a) If a judicial determination of the forfeiture is requested, a separate complaint must be filed against the vehicle, stating the specific act giving rise to the forfeiture and the date, time, and place of the act. The action must be captioned in the name of the county attorney or the county attorney's designee as plaintiff and the property as defendant.

(b) If a demand for judicial determination of an administrative forfeiture is filed and the court orders the return of the seized property, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order the payment of reasonable costs, expenses, attorney fees, and towing and storage fees. If the court orders payment of these costs, they

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must be paid from forfeited money or proceeds from the sale of forfeited property from the appropriate law enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, subdivision 5.

Subd. 5. LIMITATIONS. (a) A vehicle used by a person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner is a consenting party to, or is privy to, the commission of the act giving rise to the forfeiture.

(b) A vehicle is subject to forfeiture under this section only if the registered owner was privy to the act upon which the forfeiture is based, the act occurred with the owner's knowledge or consent, or the act occurred due to the owner's gross negligence in allowing another to use the vehicle.

(c) A vehicle encumbered by a bona fide security interest is subject to the interest of the secured party unless the party had knowledge of or consented to the act upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

Sec. 14. Minnesota Statutes 1992, section 609.605, is amended by adding a subdivision to read:

Subd. 4. TRESPASSES ON SCHOOL PROPERTY. (a) It is a misdemeanor for a person to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless the person:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(b) It is a misdemeanor for a person to enter or be found on school property within six months after being told by the school principal or the principal's designee to leave the property and not to return, unless the principal or the principal's designee has given the person permission to return to the property. As used in this paragraph, "school property" has the meaning given in section 152.01, subdivision 14a, clauses (1) and (3).

(c) A school principal or a school employee designated by the school principal to maintain order on school property, who has reasonable cause to believe that a person is violating this subdivision may detain the person in a reasonable manner for a reasonable period of time pending the arrival of a peace officer. A school principal or designated school employee is not civilly or criminally liable

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for any action authorized under this paragraph if the person's action is based on reasonable cause.

(d) A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this subdivision within the preceding four hours. The arrest may be made even though the violation did not occur in the peace officer's presence.

Sec. 15. Minnesota Statutes 1992, 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; or

(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 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. 16. Minnesota Statutes 1992, section 609.66, is amended by adding a subdivision to read:

Subd. 1d. **FELONY; POSSESSION ON SCHOOL PROPERTY.** (a) Whoever possesses, stores, or keeps a dangerous weapon as defined in section 609.02, subdivision 6, on school property 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 \$5,000, or both.

(b) As used in this subdivision, "school property" means:

(1) a public or private elementary, middle, or secondary school building and its grounds, whether leased or owned by the school; and

(2) the area within a school bus when that bus is being used to transport one or more elementary, middle, or secondary school students.

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(c) This subdivision does not apply to:

(1) licensed peace officers, military personnel, or students participating in military training, who are performing official duties;

(2) persons who carry pistols according to the terms of a permit;

(3) persons who keep or store in a motor vehicle pistols in accordance with sections 624.714 and 624.715 or other firearms in accordance with section 97B.045;

(4) firearm safety or marksmanship courses or activities conducted on school property;

(5) possession of dangerous weapons by a ceremonial color guard;

(6) a gun or knife show held on school property; or

(7) possession of dangerous weapons with written permission of the principal.

Sec. 17. Minnesota Statutes 1992, section 609.66, is amended by adding a subdivision to read:

Subd. 1e. FELONY; DRIVE-BY SHOOTING. (a) Whoever, while in or having just exited from a motor vehicle, recklessly discharges a firearm at or toward a person, another motor vehicle, or a building 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 vehicle or building is occupied, 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.

(b) For purposes of this subdivision, "motor vehicle" has the meaning given in section 609.52, subdivision 1, and "building" has the meaning given in section 609.581, subdivision 2.

Sec. 18. **[609.666] NEGLIGENT STORAGE OF FIREARMS.**

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 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.

Subd. 2. ACCESS TO FIREARMS. A person is guilty of a gross misdemeanor

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nor who negligently stores or leaves a loaded firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access, unless reasonable action is taken to secure the firearm against access by the child.

Subd. 3. LIMITATIONS. Subdivision 2 does not apply to a child's access to firearms that was obtained as a result of an unlawful entry.

Sec. 19. Minnesota Statutes 1992, section 609.67, subdivision 1, is amended to read:

Subdivision 1. ~~DEFINITION~~ **DEFINITIONS.** (a) "Machine gun" means any firearm designed to discharge, or capable of discharging automatically more than once by a single function of the trigger.

(b) "Shotgun" means a weapon designed, redesigned, made or remade which is intended to be fired from the shoulder and uses the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(c) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun if such weapon as modified has an overall length less than 26 inches.

(d) "Trigger activator" means a removable manual or power driven trigger activating device constructed and designed so that, when attached to a firearm, the rate at which the trigger may be pulled increases and the rate of fire of the firearm increases to that of a machine gun.

(e) "Machine gun conversion kit" means any part or combination of parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled, but does not include a spare or replacement part for a machine gun that is possessed lawfully under section 609.67, subdivision 1.

Sec. 20. Minnesota Statutes 1992, section 609.67, subdivision 2, is amended to read:

Subd. 2. **ACTS PROHIBITED.** Except as otherwise provided herein, whoever owns, possesses, or operates a machine gun, any trigger activator or machine gun conversion kit, or a short-barreled shotgun 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. 21. **[609.672] PERMISSIVE INFERENCE; FIREARMS IN AUTOMOBILES.**

The presence of a firearm in a passenger automobile permits the factfinder to infer knowing possession of the firearm by the driver or person in control of the automobile when the firearm was in the automobile. The inference does not apply:

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(1) to a licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of the operator's trade;

(2) to any person in the automobile if one of them legally possesses a firearm; or

(3) when the firearm is concealed on the person of one of the occupants.

Sec. 22. Minnesota Statutes 1992, section 624.711, is amended to read:

624.711 DECLARATION OF POLICY.

It is not the intent of the legislature to regulate shotguns, rifles and other longguns of the type commonly used for hunting and not defined as pistols or semiautomatic military-style assault weapons, or to place costs of administration upon those citizens who wish to possess or carry pistols or semiautomatic military-style assault weapons lawfully, or to confiscate or otherwise restrict the use of pistols or semiautomatic military-style assault weapons by law-abiding citizens.

Sec. 23. Minnesota Statutes 1992, section 624.712, subdivision 5, is amended to read:

Subd. 5. "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, terroristic threats, use of drugs to injure or to facilitate crime, simple robbery, aggravated robbery, kidnapping, false imprisonment, criminal sexual conduct in the first, second, third, and fourth degrees, ~~felonious~~ theft of a firearm, arson in the first and second degrees, riot, burglary in the first, second, third, and fourth degrees, 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, ~~or~~ 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 chapter 152.

Sec. 24. Minnesota Statutes 1992, section 624.712, subdivision 6, is amended to read:

Subd. 6. "Transfer" means a sale, gift, loan, assignment or other delivery to another, whether or not for consideration, of a pistol or semiautomatic military-style assault weapon or the frame or receiver of a pistol or semiautomatic military-style assault weapon.

Sec. 25. Minnesota Statutes 1992, section 624.712, is amended by adding a subdivision to read:

Subd. 7. "Semiautomatic military-style assault weapon" means:

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(1) any of the following firearms:

- (i) Avtomat Kalashnikov (AK-47) semiautomatic rifle type;
- (ii) Beretta AR-70 and BM-59 semiautomatic rifle types;
- (iii) Colt AR-15 semiautomatic rifle type;
- (iv) Daewoo Max-1 and Max-2 semiautomatic rifle types;
- (v) Famas MAS semiautomatic rifle type;
- (vi) Fabrique Nationale FN-LAR and FN-FNC semiautomatic rifle types;
- (vii) Galil semiautomatic rifle type;
- (viii) Heckler & Koch HK-91, HK-93, and HK-94 semiautomatic rifle types;
- (ix) Ingram MAC-10 and MAC-11 semiautomatic pistol and carbine types;
- (x) Intratec TEC-9 semiautomatic pistol type;
- (xi) Sigarms SIG 550SP and SIG 551SP semiautomatic rifle types;
- (xii) SKS with detachable magazine semiautomatic rifle type;
- (xiii) Steyr AUG semiautomatic rifle type;
- (xiv) Street Sweeper and Striker-12 revolving-cylinder shotgun types;
- (xv) USAS-12 semiautomatic shotgun type;
- (xvi) Uzi semiautomatic pistol and carbine types; or
- (xvii) Valmet M76 and M78 semiautomatic rifle types;

(2) any firearm that is another model made by the same manufacturer as one of the firearms listed in clause (1), and has the same action design as one of the listed firearms, and is a redesigned, renamed, or renumbered version of one of the firearms listed in clause (1), or has a slight modification or enhancement, including but not limited to a folding or retractable stock; adjustable sight; case deflector for left-handed shooters; shorter barrel; wooden, plastic, or metal stock; larger clip size; different caliber; or a bayonet mount; and

(3) any firearm that has been manufactured or sold by another company under a licensing agreement with a manufacturer of one of the firearms listed in clause (1) entered into after the effective date of this act to manufacture or sell firearms that are identical or nearly identical to those listed in clause (1), or described in clause (2), regardless of the company of production or country of origin.

The weapons listed in clause (1), except those listed in items (iii), (ix), (x), (xiv), and (xv), are the weapons the importation of which was barred by the

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Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury in July 1989.

Except as otherwise specifically provided in paragraph (d), a firearm is not a "semiautomatic military-style assault weapon" if it is generally recognized as particularly suitable for or readily adaptable to sporting purposes under United States Code, title 18, section 925, paragraph (d)(3), or any regulations adopted pursuant to that law.

Sec. 26. Minnesota Statutes 1992, section 624.712, is amended by adding a subdivision to read:

Subd. 8. INCLUDED WEAPONS. By August 1, 1993, and annually thereafter, the superintendent of the bureau of criminal apprehension shall publish a current authoritative list of the firearms included within the definition of "semiautomatic military-style assault weapon" under this section. Dealers, purchasers, and other persons may rely on the list in complying with this chapter.

Sec. 27. Minnesota Statutes 1992, section 624.713, is amended to read:

624.713 CERTAIN PERSONS NOT TO HAVE PISTOLS OR SEMIAUTOMATIC MILITARY-STYLE ASSAULT WEAPONS; PENALTY.

Subdivision 1. INELIGIBLE PERSONS. The following persons shall not be entitled to possess a pistol or semiautomatic military-style assault weapon:

(a) a person under the age of 18 years except that a person under 18 may carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence or under the direct supervision of the person's parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has successfully completed a course designed to teach marksmanship and safety with a pistol or semiautomatic military-style assault weapon and approved by the commissioner of natural resources;

(b) a person who has been convicted in this state or elsewhere of a crime of violence unless ten years have elapsed since the person has been restored to civil rights or the sentence has expired, whichever occurs first, and during that time the person has not been convicted of any other crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state;

(c) a person who is or has ever been confined or committed in Minnesota or elsewhere as a "mentally ill," "mentally retarded," or "mentally ill and dangerous to the public" person as defined in section 253B.02, to a treatment facility,

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unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof that the person is no longer suffering from this disability;

(d) a person who has been convicted in Minnesota or elsewhere ~~for the unlawful use, possession, or sale of a controlled substance other than conviction for possession of a small amount of marijuana, as defined in section 152.01, subdivision 16 of a misdemeanor or gross misdemeanor violation of chapter 152,~~ or a person who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years;

(e) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as "chemically dependent" as defined in section 253B.02, unless the person has completed treatment. Property rights may not be abated but access may be restricted by the courts; ~~or~~

(f) a peace officer who is informally admitted to a treatment facility pursuant to section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility. Property rights may not be abated but access may be restricted by the courts;

(g) a person who has been charged with committing a crime of violence and has been placed in a pretrial diversion program by the court before disposition, until the person has completed the diversion program and the charge of committing the crime of violence has been dismissed; or

(h) a person who has been convicted in another state of committing an offense similar to the offense described in section 609.224 against a family or household member, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224 or a similar law of another state.

A person who issues a certificate pursuant to this subdivision in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm committed by the individual who is the subject of the certificate.

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. A person named in any other clause of subdivision 1 who possesses a pistol or semiautomatic military-style assault weapon is guilty of a gross misdemeanor.

Subd. 3. **NOTICE TO CONVICTED PERSONS.** (a) When a person is convicted of a crime of violence as defined in section 624.712, subdivision 5, the

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court shall inform the defendant that the defendant is prohibited from possessing a pistol or semiautomatic military-style assault weapon for a period of ten years after the person was restored to civil rights or since the sentence has expired, whichever occurs first, and that it is a felony 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 or semiautomatic military-style assault weapon possession prohibition or the felony penalty to that defendant.

(b) When a person is charged with committing a crime of violence and is placed in a pretrial diversion program by the court before disposition, the court shall inform the defendant that: (1) the defendant is prohibited from possessing a pistol or semiautomatic military-style assault weapon until the person has completed the diversion program and the charge of committing a crime of violence has been dismissed; (2) it is a gross misdemeanor offense to violate this prohibition; and (3) if the defendant violates this condition of participation in the diversion program, the charge of committing a crime of violence may be prosecuted. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol or semiautomatic military-style assault weapon possession prohibition or the gross misdemeanor penalty to that defendant.

Sec. 28. Minnesota Statutes 1992, section 624.7131, subdivision 1, is amended to read:

Subdivision 1. **INFORMATION.** Any person may apply for a ~~pistol~~ transferee permit by providing the following information in writing to the chief of police of an organized full time police department of the municipality in which the person resides or to the county sheriff if there is no such local chief of police:

(a) the name, residence, telephone number and driver's license number or nonqualification certificate number, if any, of the proposed transferee;

(b) the sex, date of birth, height, weight and color of eyes, and distinguishing physical characteristics, if any, of the proposed transferee; and

(c) a statement by the proposed transferee that the proposed transferee is not prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon.

The statement shall be signed by the person applying for a permit. At the time of application, the local police authority shall provide the applicant with a dated receipt for the application.

Sec. 29. Minnesota Statutes 1992, section 624.7131, subdivision 4, is amended to read:

Subd. 4. **GROUNDS FOR DISQUALIFICATION.** A determination by the chief of police or sheriff that the applicant is prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon shall be the only basis for refusal to grant a transferee permit.

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Sec. 30. Minnesota Statutes 1992, section 624.7131, subdivision 10, is amended to read:

Subd. 10. **TRANSFER REPORT NOT REQUIRED.** A person who transfers a pistol or semiautomatic military-style assault weapon to a licensed peace officer, as defined in section 626.84, subdivision 1, exhibiting a valid peace officer identification, or to a person exhibiting a valid transferee permit issued pursuant to this section or a valid permit to carry issued pursuant to section 624.714 is not required to file a transfer report pursuant to section 624.7132, subdivision 1.

Sec. 31. Minnesota Statutes 1992, section 624.7132, is amended to read:

624.7132 REPORT OF TRANSFER.

Subdivision 1. **REQUIRED INFORMATION.** Except as provided in this section and section 624.7131, every person who agrees to transfer a pistol or semiautomatic military-style assault weapon shall report the following information in writing to the chief of police of the organized full-time police department of the municipality where the agreement is made or to the appropriate county sheriff if there is no such local chief of police:

(a) the name, residence, telephone number and driver's license number or nonqualification certificate number, if any, of the proposed transferee;

(b) the sex, date of birth, height, weight and color of eyes, and distinguishing physical characteristics, if any, of the proposed transferee;

(c) a statement by the proposed transferee that the transferee is not prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon; and

(d) the address of the place of business of the transferor.

The report shall be signed by the transferor and the proposed transferee. The report shall be delivered by the transferor to the chief of police or sheriff no later than three days after the date of the agreement to transfer, excluding weekends and legal holidays.

Subd. 2. **INVESTIGATION.** Upon receipt of a transfer report, the chief of police or sheriff shall check criminal histories, records and warrant information relating to the proposed transferee through the Minnesota crime information system.

Subd. 3. **NOTIFICATION.** The chief of police or sheriff shall notify the transferor and proposed transferee in writing as soon as possible if the chief or sheriff determines that the proposed transferee is prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon. The notification to the transferee shall specify the grounds for the disqualification of the proposed transferee and shall set forth in detail the transferee's right of appeal under subdivision 13.

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Subd. 4. **DELIVERY.** Except as otherwise provided in subdivision 7 or 8, no person shall deliver a pistol or semiautomatic military-style assault weapon to a proposed transferee until seven days after the date of the agreement to transfer as stated on the report delivered to a chief of police or sheriff in accordance with subdivision 1 unless the chief of police or sheriff waives all or a portion of the seven day waiting period.

No person shall deliver a pistol or semiautomatic military-style assault weapon to a proposed transferee after receiving a written notification that the chief of police or sheriff has determined that the proposed transferee is prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon.

If the transferor makes a report of transfer and receives no written notification of disqualification of the proposed transferee within seven days of the date of the agreement to transfer, the pistol or semiautomatic military-style assault weapon may be delivered to the transferee.

Subd. 5. **GROUND FOR DISQUALIFICATION.** A determination by the chief of police or sheriff that the proposed transferee is prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon shall be the sole basis for a notification of disqualification under this section.

Subd. 6. **TRANSFEREE PERMIT.** If a chief of police or sheriff determines that a transferee is not a person prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon, the transferee may, within 30 days after the determination, apply to that chief of police or sheriff for a transferee permit, and the permit shall be issued.

Subd. 7. **IMMEDIATE TRANSFERS.** The chief of police or sheriff may waive all or a portion of the seven day waiting period for a transfer.

Subd. 8. **REPORT NOT REQUIRED.** (1) If the proposed transferee presents a valid transferee permit issued under section ~~624.714, subdivision 9~~ 624.7131 or a valid permit to carry issued under section 624.714, or if the transferee is a licensed peace officer, as defined in section 626.84, subdivision 1, who presents a valid peace officer photo identification and badge, the transferor need not file a transfer report.

(2) If the transferor makes a report of transfer and receives no written notification of disqualification of the proposed transferee within seven days of the date of the agreement to transfer, no report or investigation shall be required under this section for any additional transfers between that transferor and that transferee which are made within 30 days of the date on which delivery of the first pistol or semiautomatic military-style assault weapon may be made under subdivision 4.

Subd. 9. **NUMBER OF PISTOLS OR SEMIAUTOMATIC MILITARY-STYLE ASSAULT WEAPONS.** Any number of pistols or semiautomatic mili-

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tary-style assault weapons may be the subject of a single transfer agreement and report to the chief of police or sheriff. Nothing in this section or section 624.7131 shall be construed to limit or restrict the number of pistols or semiautomatic military-style assault weapons a person may acquire.

Subd. 10. **RESTRICTION ON RECORDS.** If, after a determination that the transferee is not a person prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon, a transferee requests that no record be maintained of the fact of who is the transferee of a pistol or semiautomatic military-style assault weapon, the chief of police or sheriff shall sign the transfer report and return it to the transferee as soon as possible. Thereafter, no government employee or agency shall maintain a record of the transfer that identifies the transferee, and the transferee shall retain the report of transfer.

Subd. 11. **FORMS; COST.** Chiefs of police and sheriffs shall make transfer report forms available throughout the community. There shall be no charge for forms, reports, investigations, notifications, waivers or any other act performed or materials provided by a government employee or agency in connection with a pistol transfer.

Subd. 12. **EXCLUSIONS.** This section shall not apply to transfers of antique firearms as curiosities or for their historical significance or value, transfers to or between federally licensed firearms dealers, transfers by order of court, involuntary transfers, transfers at death or the following transfers:

- (a) A transfer by a person other than a federally licensed firearms dealer;
- (b) A loan to a prospective transferee if the loan is intended for a period of no more than one day;
- (c) The delivery of a pistol or semiautomatic military-style assault weapon to a person for the purpose of repair, reconditioning or remodeling;
- (d) A loan by a teacher to a student in a course designed to teach marksmanship or safety with a pistol and approved by the commissioner of natural resources;
- (e) A loan between persons at a firearms collectors exhibition;
- (f) A loan between persons lawfully engaged in hunting or target shooting if the loan is intended for a period of no more than 12 hours;
- (g) A loan between law enforcement officers who have the power to make arrests other than citizen arrests; and
- (h) A loan between employees or between the employer and an employee in a business if the employee is required to carry a pistol or semiautomatic military-style assault weapon by reason of employment and is the holder of a valid permit to carry a pistol.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 13. **APPEAL.** A person aggrieved by the determination of a chief of police or sheriff that the person is prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon may appeal the determination as provided in this subdivision. In Hennepin and Ramsey counties the municipal court shall have jurisdiction of proceedings under this subdivision. In the remaining counties of the state, the county court shall have jurisdiction of proceedings under this subdivision.

On review pursuant to this subdivision, the court shall be limited to a determination of whether the proposed transferee is a person prohibited from possessing a pistol or semiautomatic military-style assault weapon by section 624.713.

Subd. 14. **TRANSFER TO UNKNOWN PARTY.** (a) No person shall transfer a pistol or semiautomatic military-style assault weapon to another who is not personally known to the transferor unless the proposed transferee presents evidence of identity to the transferor. A person who transfers a pistol or semiautomatic military-style assault weapon in violation of this clause is guilty of a misdemeanor.

(b) No person who is not personally known to the transferor shall become a transferee of a pistol or semiautomatic military-style assault weapon unless the person presents evidence of identity to the transferor. A person who becomes a transferee of a pistol or semiautomatic military-style assault weapon in violation of this clause is guilty of a misdemeanor.

Subd. 15. **PENALTIES.** A person who does any of the following is guilty of a gross misdemeanor:

(a) Transfers a pistol or semiautomatic military-style assault weapon in violation of subdivisions 1 to 13;

(b) Transfers a pistol or semiautomatic military-style assault weapon to a person who has made a false statement in order to become a transferee, if the transferor knows or has reason to know the transferee has made the false statement;

(c) Knowingly becomes a transferee in violation of subdivisions 1 to 13; or

(d) Makes a false statement in order to become a transferee of a pistol or semiautomatic military-style assault weapon knowing or having reason to know the statement is false.

Subd. 16. **LOCAL REGULATION.** This section shall be construed to supersede municipal or county regulation of the transfer of pistols.

Sec. 32. Minnesota Statutes 1992, section 624.714, subdivision 1, is amended to read:

Subdivision 1. **PENALTY.** (a) A person, other than a law enforcement offi-

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cer who has authority to make arrests other than citizens arrests, who carries, holds or possesses a pistol in a motor vehicle, snowmobile or boat, or on or about the person's clothes or the person, or otherwise in possession or control in a public place or public area without first having obtained a permit to carry the pistol is guilty of a gross misdemeanor. A person who is convicted a second or subsequent time is guilty of a felony.

(b) A person who has been issued a permit and who engages in activities other than those for which the permit has been issued, is guilty of a misdemeanor.

Sec. 33. [624.7162] FIREARMS DEALERS; SAFETY REQUIREMENTS.

Subdivision 1. FIREARMS DEALERS. For purposes of this section, a firearms dealer is any person who is federally licensed to sell firearms from any location.

Subd. 2. NOTICE REQUIRED. In each business location where firearms are sold by a firearms dealer, the dealer shall post in a conspicuous location the following warning in block letters not less than one inch in height: "IT IS UNLAWFUL TO STORE OR LEAVE A LOADED FIREARM WHERE A CHILD CAN OBTAIN ACCESS."

Subd. 3. FINE. A person who violates the provisions of this section is guilty of a petty misdemeanor and may be fined not more than \$200.

Sec. 34. [624.7181] RIFLES AND SHOTGUNS IN PUBLIC PLACES.

Subdivision 1. DEFINITIONS. For purposes of this section, the following terms have the meanings given them.

(a) "Carry" does not include:

(1) the carrying of a rifle or shotgun to, from, or at a place where firearms are repaired, bought, sold, traded, or displayed, or where hunting, target shooting, or other lawful activity involving firearms occurs, or at funerals, parades, or other lawful ceremonies;

(2) the carrying by a person of a rifle or shotgun that is unloaded and in a gun case expressly made to contain a firearm, if the case fully encloses the firearm by being zipped, snapped, buckled, tied, or otherwise fastened, and no portion of the firearm is exposed;

(3) the carrying of a rifle or shotgun by a person who has a permit under section 624.714;

(4) the carrying of an antique firearm as a curiosity or for its historical significance or value; or

(5) the transporting of a rifle or shotgun in compliance with section 97B.045.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) "Public place" means property owned, leased, or controlled by a governmental unit and private property that is regularly and frequently open to or made available for use by the public in sufficient numbers to give clear notice of the property's current dedication to public use but does not include: a person's dwelling house or premises, the place of business owned or managed by the person, or land possessed by the person; a gun show, gun shop, or hunting or target shooting facility; or the woods, fields, or waters of this state where the person is present lawfully for the purpose of hunting or target shooting or other lawful activity involving firearms.

Subd. 2. GROSS MISDEMEANOR. Whoever carries a rifle or shotgun on or about the person in a public place is guilty of a gross misdemeanor.

Subd. 3. EXCEPTIONS. This section does not apply to officers, employees, or agents of law enforcement agencies or the armed forces of this state or the United States, or private detectives or protective agents, to the extent that these persons are authorized by law to carry firearms and are acting in the scope of official duties.

Sec. 35. EFFECTIVE DATE.

Sections 4 to 25 and 27 to 34 are effective August 1, 1993, and apply to crimes committed on or after that date. Section 25 is effective the day following final enactment.

Section 3 is effective the day following final enactment and only applies to zoning of future sites of business locations where firearms are sold by a firearms dealer.

ARTICLE 2

HARASSMENT, STALKING, AND DOMESTIC ABUSE

Section 1. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 105a. DATA FOR ASSESSMENT OF OFFENDERS. Access to data for the purpose of a mental health assessment of a convicted harassment offender is governed by section 609.749, subdivision 6.

Sec. 2. Minnesota Statutes 1992, section 168.346, is amended to read:

168.346 PRIVACY OF NAME OR RESIDENCE ADDRESS.

The registered owner of a motor vehicle may request in writing that the owner's residence address or name and residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the

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owner that the classification is required for the safety of the owner or the owner's family, if the statement also provides a valid, existing address where the owner consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the motor vehicle. The residence address or name and residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies.

Sec. 3. Minnesota Statutes 1992, section 480.30, is amended to read:

480.30 JUDICIAL TRAINING ON DOMESTIC ABUSE, HARASSMENT, AND STALKING.

The supreme court's judicial education program ~~on domestic abuse~~ must include ongoing training for district court judges on domestic abuse, harassment, and stalking laws and related civil and criminal court issues. The program must include education on the causes of family violence and culturally responsive approaches to serving victims. The program must emphasize the need for the coordination of court and legal victim advocacy services and include education on domestic abuse programs and policies within law enforcement agencies and prosecuting authorities as well as the court system.

Sec. 4. Minnesota Statutes 1992, section 518B.01, subdivision 2, is amended to read:

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

(a) "Domestic abuse" means: (i) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or (ii) terroristic threats, within the meaning of section 609.713, subdivision 1, or criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, or 609.345, committed against a ~~minor~~ family or household member by ~~an adult~~ a family or household member.

(b) "Family or household members" means spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time. "Family or household member" also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time. Issuance of an order for protection on this ground does not affect a determination of paternity under sections 257.51 to 257.74.

Sec. 5. Minnesota Statutes 1992, section 518B.01, subdivision 3, is amended to read:

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Subd. 3. **COURT JURISDICTION.** An application for relief under this section may be filed in the court having jurisdiction over dissolution actions in the county of residence of either party, in the county in which a pending or completed family court proceeding involving the parties or their minor children was brought, or in the county in which the alleged domestic abuse occurred. In a jurisdiction which utilizes referees in dissolution actions, the court or judge may refer actions under this section to a referee to take and report the evidence therein in the action in the same manner and subject to the same limitations as is provided in section 518.13. Actions under this section shall be given docket priorities by the court.

Sec. 6. Minnesota Statutes 1992, section 518B.01, subdivision 6, is amended to read:

Subd. 6. **RELIEF BY THE COURT.** (a) Upon notice and hearing, the court may provide relief as follows:

- (1) restrain the abusing party from committing acts of domestic abuse;
- (2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;
- (3) award temporary custody or establish temporary visitation with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. Except for cases in which custody is contested, findings under section 257.025, 518.17, or 518.175 are not required. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and visitation shall in no way delay the issuance of an order for protection granting other reliefs provided for in this section;
- (4) on the same basis as is provided in chapter 518, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518;
- (5) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;
- (6) order the abusing party to participate in treatment or counseling services;
- (7) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

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(8) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment;

(9) order the abusing party to pay restitution to the petitioner; ~~and~~

(10) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation; and

(11) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or constable, as provided by this section.

(b) Any relief granted by the order for protection shall be for a fixed period not to exceed one year, except when the court determines a longer fixed period is appropriate.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

(f) An order for restitution issued under this subdivision is enforceable as civil judgment.

Sec. 7. Minnesota Statutes 1992, section 518B.01, subdivision 7, is amended to read:

Subd. 7. **TEMPORARY ORDER.** (a) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte temporary order for protection, pending a full hearing, and granting relief as the court deems proper, including an order:

(1) restraining the abusing party from committing acts of domestic abuse;

(2) excluding any party from the dwelling they share or from the residence of the other except by further order of the court; ~~and~~

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(3) excluding the abusing party from the place of employment of the petitioner or otherwise limiting access to the petitioner by the abusing party at the petitioner's place of employment; and

(4) continuing all currently available insurance coverage without change in coverage or beneficiary designation.

(b) A finding by the court that there is a basis for issuing an ex parte temporary order for protection constitutes a finding that sufficient reasons exist not to require notice under applicable court rules governing applications for ex parte temporary relief.

(c) An ex parte temporary order for protection shall be effective for a fixed period not to exceed 14 days, except for good cause as provided under paragraph (d). A full hearing, as provided by this section, shall be set for not later than seven days from the issuance of the temporary order. The respondent shall be served forthwith a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(d) When service is made by published notice, as provided under subdivision 5, the petitioner may apply for an extension of the period of the ex parte order at the same time the petitioner files the affidavit required under that subdivision. The court may extend the ex parte temporary order for an additional period not to exceed 14 days. The respondent shall be served forthwith a copy of the modified ex parte order along with a copy of the notice of the new date set for the hearing.

Sec. 8. Minnesota Statutes 1992, section 518B.01, subdivision 9, is amended to read:

Subd. 9. ASSISTANCE OF SHERIFF IN SERVICE OR EXECUTION. When an order is issued under this section upon request of the petitioner, the court shall order the sheriff or constable to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in execution or service of the order of protection. If the application for relief is brought in a county in which the respondent is not present, the sheriff shall forward the pleadings necessary for service upon the respondent to the sheriff of the county in which the respondent is present. This transmittal must be expedited to allow for timely service.

Sec. 9. Minnesota Statutes 1992, 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

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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 who violates this paragraph within ~~two~~ five years after being discharged from sentence for a previous conviction under this paragraph or within ~~two~~ five years after being discharged from sentence for a previous conviction under a similar law of another state, is guilty of a gross misdemeanor. 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

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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 ~~may~~ 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.

(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).

Sec. 10. Minnesota Statutes 1992, section 609.13, is amended by adding a subdivision to read:

Subd. 3. MISDEMEANORS. If a defendant is convicted of a misdemeanor and is sentenced, or if the imposition of sentence is stayed, and the defendant is thereafter discharged without sentence, the conviction is deemed to be for a misdemeanor for purposes of determining the penalty for a subsequent offense.

Sec. 11. Minnesota Statutes 1992, 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 within five years ~~of~~ after being discharged from sentence for a previous conviction under ~~subdivision 1 and this section,~~ sections 609.221 to 609.2231, ~~609.342 to 609.345, or 609.713,~~ or any similar law of another state, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than \$3,000, or both. Whoever violates the provisions of subdivision 1 against a family or household member as defined in section 518B.01, subdivision 2, within five years ~~of~~ after being discharged from sentence for a previous conviction under ~~subdivision 1 and this section~~ or sections 609.221 to 609.2231, ~~609.342 to 609.345, or 609.713~~ against a family or household member; 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

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previous conviction under ~~subdivision 1~~ this section or sections 609.221 to 609.2231 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.

Sec. 12. Minnesota Statutes 1992, section 609.224, is amended by adding a subdivision to read:

Subd. 4. FELONY. (a) Whoever violates the provisions of subdivision 1 against the same victim within five years after being discharged from sentence for the first of two or more previous convictions under this section or sections 609.221 to 609.2231, 609.342 to 609.345, or 609.713 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 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. 13. Minnesota Statutes 1992, section 609.605, subdivision 1, is amended to read:

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

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

(ii) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a full-time or a part-time basis. A dwelling may be part of a multidwelling or multipurpose building, or a manufactured home as defined in section 168.011, subdivision 8.

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

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

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

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

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

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

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

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

Sec. 14. Minnesota Statutes 1992, section 609.748, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** ~~As used in~~ For the purposes of this section, the following terms have the meanings given them in this subdivision.

(a) "Harassment" means includes:

(1) repeated, intrusive, or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target;

(2) targeted residential picketing; and

(3) a pattern of attending public events after being notified that the actor's presence at the event is harassing to another.

(b) "Respondent" includes any individuals alleged to have engaged in harassment or organizations alleged to have sponsored or promoted harassment.

(c) "Targeted residential picketing" includes the following acts when committed on more than one occasion:

(1) marching, standing, or patrolling by one or more persons directed solely at a particular residential building in a manner that adversely affects the safety, security, or privacy of an occupant of the building; or

(2) marching, standing, or patrolling by one or more persons which prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located.

Sec. 15. Minnesota Statutes 1992, section 609.748, subdivision 2, is amended to read:

Subd. 2. **RESTRAINING ORDER; JURISDICTION.** A person who is a victim of harassment may seek a restraining order from the district court in the manner provided in this section. The parent or guardian of a minor who is a victim of harassment may seek a restraining order from the juvenile district court on behalf of the minor.

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Sec. 16. Minnesota Statutes 1992, section 609.748, subdivision 3, is amended to read:

Subd. 3. **CONTENTS OF PETITION; HEARING; NOTICE.** (a) A petition for relief must allege facts sufficient to show the following:

- (1) the name of the alleged harassment victim;
- (2) the name of the respondent; and
- (3) that the respondent has engaged in harassment.

The petition shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section and shall advise the petitioner of the right to sue in forma pauperis under section 563.01. Upon receipt of the petition, the court shall order a hearing, which must be held not later than 14 days from the date of the order. Personal service must be made upon the respondent not less than five days before the hearing. If personal service cannot be completed in time to give the respondent the minimum notice required under this paragraph, the court may set a new hearing date.

(b) Notwithstanding paragraph (a), the order for a hearing and a temporary order issued under subdivision 4 may be served on the respondent by means of a one-week published notice under section 645.11, if:

(1) the petitioner files an affidavit with the court stating that an attempt at personal service made by a sheriff was unsuccessful because the respondent is avoiding service by concealment or otherwise; and

(2) a copy of the petition and order for hearing and any temporary restraining order has been mailed to the respondent at the respondent's residence or place of business, if the respondent is an organization, or the respondent's residence or place of business is not known to the petitioner.

Sec. 17. Minnesota Statutes 1992, section 609.748, is amended by adding a subdivision to read:

Subd. 3a. FILING FEE WAIVED. The filing fees for a restraining order under this section are waived for the petitioner. The court administrator and the sheriff of any county in this state shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff is unavailable or if service is made by publication, without requiring the petitioner to make application under section 563.01. The court may direct a respondent to pay to the court administrator the petitioner's filing fees and reasonable costs of service of process if the court determines that the respondent has the ability to pay the petitioner's fees and costs.

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Sec. 18. Minnesota Statutes 1992, section 609.748, subdivision 5, is amended to read:

Subd. 5. **RESTRAINING ORDER.** (a) The court may grant a restraining order ordering the respondent to cease or avoid the harassment of another person or to have no contact with that person if all of the following occur:

(1) the petitioner has filed a petition under subdivision 3;

(2) the sheriff has served respondent with a copy of the temporary restraining order obtained under subdivision 4, and with notice of the time and place of the hearing, or service has been made by publication under subdivision 3, paragraph (b); and

(3) the court finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment.

A restraining order may be issued only against the respondent named in the petition; except that if the respondent is an organization, the order may be issued against and apply to all of the members of the organization. Relief granted by the restraining order must be for a fixed period of not more than two years.

(b) An order issued under this subdivision must be personally served upon the respondent.

Sec. 19. Minnesota Statutes 1992, section 609.748, subdivision 6, is amended to read:

Subd. 6. **VIOLATION OF RESTRAINING ORDER.** (a) When a temporary restraining order or a restraining order is granted under this section and the respondent knows of the order, violation of the order is a misdemeanor. A person is guilty of a gross misdemeanor who knowingly violates the order within five years after being discharged from sentence for a previous conviction under this subdivision; sections 609.221 to 609.224; 518B.01, subdivision 14; 609.713, subdivisions 1 or 3; or 609.749.

(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 issued under subdivision 4 or 5 if the existence of the order can be verified by the officer.

(c) A violation of a temporary restraining order or restraining order shall also constitute contempt of court.

(d) 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 an order issued under subdivision 4 or 5, the court may issue an order to the respondent requiring the respondent to appear within 14 days and show cause why the respondent should not be held in contempt of court. The court

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also shall refer the violation of the order to the appropriate prosecuting authority for possible prosecution under paragraph (a).

Sec. 20. Minnesota Statutes 1992, section 609.748, subdivision 8, is amended to read:

Subd. 8. **NOTICE.** An order granted under this section must contain a conspicuous notice to the respondent:

(1) of the specific conduct that will constitute a violation of the order;

(2) that violation of an order is a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$700, or both, and that a subsequent violation is a gross misdemeanor punishable by imprisonment for up to one year or a fine of up to \$3,000, or both; and

(3) that a peace officer must arrest without warrant and take into custody a person if the peace officer has probable cause to believe the person has violated a restraining order.

Sec. 21. Minnesota Statutes 1992, section 609.748, is amended by adding a subdivision to read:

Subd. 9. EFFECT ON LOCAL ORDINANCES. Nothing in this section shall supersede or preclude the continuation or adoption of any local ordinance which applies to a broader scope of targeted residential picketing conduct than that described in subdivision 1.

Sec. 22. **[609.749] HARASSMENT; STALKING; PENALTIES.**

Subdivision 1. DEFINITION. As used in this section, "harass" means to engage in intentional conduct in a manner that:

(1) would cause a reasonable person under the circumstances to feel oppressed, persecuted, or intimidated; and

(2) causes this reaction on the part of the victim.

Subd. 2. HARASSMENT AND STALKING CRIMES. A person who harasses another by committing any of the following acts is guilty of a gross misdemeanor:

(1) directly or indirectly manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;

(2) stalks, follows, or pursues another;

(3) returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;

(4) repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;

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(5) makes or causes the telephone of another repeatedly or continuously to ring;

(6) repeatedly uses the mail or delivers or causes the delivery of letters, telegrams, packages, or other objects; or

(7) engages in any other harassing conduct that interferes with another person or intrudes on the person's privacy or liberty.

The conduct described in clauses (4) and (5) may be prosecuted either at the place where the call is made or where it is received. The conduct described in clause (6) may be prosecuted either where the mail is deposited or where it is received.

Subd. 3. AGGRAVATED VIOLATIONS. A person who commits any of the following acts is guilty of a felony:

(1) commits any offense described in subdivision 2 because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363.01, age, or national origin;

(2) commits any offense described in subdivision 2 by falsely impersonating another;

(3) commits any offense described in subdivision 2 and possesses a dangerous weapon at the time of the offense;

(4) commits a violation of subdivision 1 with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(5) commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim.

Subd. 4. SECOND OR SUBSEQUENT VIOLATIONS; FELONY. A person is guilty of a felony who violates any provision of subdivision 2 within ten years after being discharged from sentence for a previous conviction under this section; sections 609.221 to 609.224; 518B.01, subdivision 14; 609.748, subdivision 6; or 609.713, subdivision 1, 3, or 4.

Subd. 5. PATTERN OF HARASSING CONDUCT. (a) A person who engages in a pattern of harassing conduct with respect to a single victim or one or more members of a single household in a manner that would cause a reasonable person under the circumstances to feel terrorized or to fear bodily harm and that does cause this reaction on the part of the victim, 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.

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(b) For purposes of this subdivision, a "pattern of harassing conduct" means two or more acts within a five-year period that violate the provisions of any of the following:

- (1) this section;
- (2) section 609.713;
- (3) section 609.224;
- (4) section 518B.01, subdivision 14;
- (5) section 609.748, subdivision 6;
- (6) section 609.605, subdivision 1, paragraph (a), clause (7);
- (7) section 609.79; or
- (8) section 609.795.

Subd. 6. MENTAL HEALTH ASSESSMENT AND TREATMENT. (a) When a person is convicted of a felony offense under this section, or another felony offense arising out of a charge based on this section, the court shall order an independent professional mental health assessment of the offender's need for mental health treatment. The court may waive the assessment if an adequate assessment was conducted prior to the conviction.

(b) Notwithstanding section 13.42, 13.85, 144.335, or 260.161, the assessor has access to the following private or confidential data on the person if access is relevant and necessary for the assessment:

- (1) medical data under section 13.42;
- (2) welfare data under section 13.46;
- (3) corrections and detention data under section 13.85;
- (4) health records under section 144.335; and
- (5) juvenile court records under section 260.161.

Data disclosed under this section may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

(c) If the assessment indicates that the offender is in need of and amenable to mental health treatment, the court shall include in the sentence a requirement that the offender undergo treatment.

(d) The court shall order the offender to pay the costs of assessment under this subdivision unless the offender is indigent under section 563.01.

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Subd. 7. EXCEPTION. Conduct is not a crime under this section if it is performed under terms of a valid license, to ensure compliance with a court order, or to carry out a specific lawful commercial purpose or employment duty, is authorized or required by a valid contract, or is authorized, required, or protected by state or federal law or the state or federal constitutions. Subdivision 2, clause (2), does not impair the right of any individual or group to engage in speech protected by the federal constitution, the state constitution, or federal or state law, including peaceful and lawful handbilling and picketing.

Sec. 23. Minnesota Statutes 1992, section 609.79, subdivision 1, is amended to read:

Subdivision 1. Whoever,

(1) By means of a telephone,

(a) makes any comment, request, suggestion or proposal which is obscene, lewd, or lascivious,

(b) Repeatedly makes telephone calls, whether or not conversation ensues, with intent to abuse, ~~threaten, or harass,~~ disturb, or cause distress,

(c) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to ~~harass~~ abuse, disturb, or cause distress in any person at the called number, or

(2) Having control of a telephone, knowingly permits it to be used for any purpose prohibited by this section, shall be guilty of a misdemeanor.

Sec. 24. Minnesota Statutes 1992, section 609.795, subdivision 1, is amended to read:

Subdivision 1. **MISDEMEANORS.** Whoever does any of the following is guilty of a misdemeanor:

(1) knowing that the actor does not have the consent of either the sender or the addressee, intentionally opens any sealed letter, telegram, or package addressed to another; or

(2) knowing that a sealed letter, telegram, or package has been opened without the consent of either the sender or addressee, intentionally publishes any of the contents thereof; or

(3) with the intent to ~~harass, abuse, or threaten,~~ disturb, or cause distress, repeatedly uses the mails or delivers letters, telegrams, or packages.

Sec. 25. Minnesota Statutes 1992, section 611A.031, is amended to read:

611A.031 VICTIM INPUT REGARDING PRETRIAL DIVERSION.

A prosecutor shall make every reasonable effort to notify and seek input

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from the victim prior to referring a person into a pretrial diversion program in lieu of prosecution for a violation of sections 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.224, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, 609.582, subdivision 1, ~~and 609.687, 609.713, and 609.749.~~

Sec. 26. Minnesota Statutes 1992, section 611A.0315, is amended to read:

611A.0315 VICTIM NOTIFICATION; DOMESTIC ASSAULT; HARASSMENT.

Subdivision 1. **NOTICE OF DECISION NOT TO PROSECUTE.** (a) A prosecutor shall make every reasonable effort to notify a ~~domestic assault~~ victim of domestic assault or harassment that the prosecutor has decided to decline prosecution of the case or to dismiss the criminal charges filed against the defendant. Efforts to notify the victim should include, in order of priority: (1) contacting the victim or a person designated by the victim by telephone; and (2) contacting the victim by mail. If a suspect is still in custody, the notification attempt shall be made before the suspect is released from custody.

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

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

Subd. 2. **DEFINITIONS.** For the purposes of this section, the following terms have the meanings given them.

(a) "Assault" has the meaning given it in section 609.02, subdivision 10.

(b) "Domestic assault" means an assault committed by the actor against a family or household member.

(c) "Family or household member" has the meaning given it in section 518B.01, subdivision 2.

(d) "Harassment" means a violation of section 609.749.

Sec. 27. Minnesota Statutes 1992, section 626.8451, subdivision 1a, is amended to read:

Subd. 1a. **TRAINING COURSE; CRIMES OF VIOLENCE.** In consultation with the crime victim and witness advisory council and the school of law

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enforcement, the board shall prepare a training course to assist peace officers in responding to crimes of violence and to enhance peace officer sensitivity in interacting with and assisting crime victims. For purposes of this course, harassment and stalking crimes are "crimes of violence." The course must include information about:

- (1) the needs of victims of these crimes and the most effective and sensitive way to meet those needs or arrange for them to be met;
- (2) the extent and causes of crimes of violence, including physical and sexual abuse, physical violence, harassment and stalking, and neglect;
- (3) the identification of crimes of violence and patterns of violent behavior; and
- (4) culturally responsive approaches to dealing with victims and perpetrators of violence.

Sec. 28. Minnesota Statutes 1992, section 629.34, subdivision 1, is amended to read:

Subdivision 1. **PEACE OFFICERS AND CONSTABLES.** (a) A peace officer, as defined in section 626.84, subdivision 1, clause (c), or a constable, as defined in section 367.40, subdivision 3, who is on or off duty within the jurisdiction of the appointing authority, or on duty outside the jurisdiction of the appointing authority pursuant to section 629.40, may arrest a person without a warrant as provided under paragraph (c).

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

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

- (1) when a public offense has been committed or attempted in the officer's or constable's presence;
- (2) when the person arrested has committed a felony, although not in the officer's or constable's presence;
- (3) when a felony has in fact been committed, and the officer or constable has reasonable cause for believing the person arrested to have committed it;
- (4) upon a charge based upon reasonable cause of the commission of a felony by the person arrested; ~~or~~
- (5) under the circumstances described in clause (2), (3), or (4), when the

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offense is a gross misdemeanor violation of section 609.52, 609.595, 609.631, 609.749, or 609.821; or

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

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

Sec. 29. Minnesota Statutes 1992, section 629.341, subdivision 1, is amended to read:

Subdivision 1. **ARREST.** Notwithstanding section 629.34 or any other law or rule, a peace officer may arrest a person anywhere without a warrant, including at the person's residence if the peace officer has probable cause to believe that the person within the preceding four hours has assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm the person's spouse, former spouse, ~~or~~ other person with whom the person resides or has formerly resided, or other person with whom the person has a child or an unborn child in common, regardless of whether they have been married or have lived together at any time. The arrest may be made even though the assault did not take place in the presence of the peace officer.

Sec. 30. Minnesota Statutes 1992, section 629.342, subdivision 2, is amended to read:

Subd. 2. **POLICIES REQUIRED.** (a) By July 1, 1993, each law enforcement agency shall develop, adopt, and implement a written policy regarding arrest procedures for domestic abuse incidents. In the development of a policy, each law enforcement agency shall consult with domestic abuse advocates, community organizations, and other law enforcement agencies with expertise in the recognition and handling of domestic abuse incidents. The policy shall discourage dual arrests, include consideration of whether one of the parties acted in self defense, and provide guidance to officers concerning instances in which officers should remain at the scene of a domestic abuse incident until the likelihood of further imminent violence has been eliminated.

(b) The bureau of criminal apprehension, the board of peace officer standards and training, and the battered women's advisory council appointed by the commissioner of corrections under section 611A.34, in consultation with the Minnesota chiefs of police association, the Minnesota sheriffs association, and the Minnesota police and peace officers association, shall develop a written model policy regarding arrest procedures for domestic abuse incidents for use by local law enforcement agencies. Each law enforcement agency may adopt the model policy in lieu of developing its own policy under the provisions of paragraph (a).

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(c) Local law enforcement agencies that have already developed a written policy regarding arrest procedures for domestic abuse incidents before July 1, 1992, are not required to develop a new policy but must review their policies and consider the written model policy developed under paragraph (b).

Sec. 31. Minnesota Statutes 1992, section 629.72, is amended to read:

629.72 BAIL IN CASES OF DOMESTIC ASSAULT OR HARASSMENT.

Subdivision 1. **ALLOWING DETENTION IN LIEU OF CITATION; RELEASE.** Notwithstanding any other law or rule, an arresting officer may not issue a citation in lieu of arrest and detention to an individual charged with harassment or charged with assaulting the individual's spouse or other individual with whom the charged person resides.

Notwithstanding any other law or rule, an individual who is arrested on a charge of harassing any person or of assaulting the individual's spouse or other person with whom the individual resides must be brought to the police station or county jail. The officer in charge of the police station or the county sheriff in charge of the jail shall issue a citation in lieu of continued detention unless it reasonably appears to the officer or sheriff that detention is necessary to prevent bodily harm to the arrested person or another, or there is a substantial likelihood the arrested person will fail to respond to a citation.

If the arrested person is not issued a citation by the officer in charge of the police station or the county sheriff, the arrested person must be brought before the nearest available judge of the county district court or county municipal court in the county in which the alleged harassment or assault took place without unnecessary delay as provided by court rule.

Subd. 2. **JUDICIAL REVIEW; RELEASE; BAIL.** (a) The judge before whom the arrested person is brought shall review the facts surrounding the arrest and detention. The arrested person must be ordered released pending trial or hearing on the person's personal recognizance or on an order to appear or upon the execution of an unsecured bond in a specified amount unless the judge determines that release (1) will be inimical to public safety, (2) will create a threat of bodily harm to the arrested person, the victim of the alleged harassment or assault, or another, or (3) will not reasonably assure the appearance of the arrested person at subsequent proceedings.

(b) If the judge determines release is not advisable, the judge may impose any conditions of release that will reasonably assure the appearance of the person for subsequent proceedings, or will protect the victim of the alleged harassment or assault, or may fix the amount of money bail without other conditions upon which the arrested person may obtain release. If conditions of release are imposed, the judge shall issue a written order for conditional release. The court administrator shall immediately distribute a copy of the order for conditional release to the agency having custody of the arrested person and shall provide the agency having custody of the arrested person with any available information on

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the location of the victim in a manner that protects the victim's safety. Either the court or its designee or the agency having custody of the arrested person shall serve upon the defendant a copy of the order. Failure to serve the arrested person with a copy of the order for conditional release does not invalidate the conditions of release.

(c) If the judge imposes as a condition of release a requirement that the person have no contact with the victim of the alleged harassment or assault, the judge may also, on its own motion or that of the prosecutor or on request of the victim, issue an ex parte temporary restraining order under section 609.748, subdivision 4, or an ex parte temporary order for protection under section 518B.01, subdivision 7. Notwithstanding section 518B.01, subdivision 7, paragraph (b), or 609.748, subdivision 4, paragraph (c), the temporary order is effective until the defendant is convicted or acquitted, or the charge is dismissed, provided that upon request the defendant is entitled to a full hearing on the restraining order under section 609.748, subdivision 5, or on the order for protection under section 518B.01. The hearing must be held within seven days of the defendant's request.

Subd. 2a. ELECTRONIC MONITORING AS A CONDITION OF PRETRIAL RELEASE. (a) Until the commissioner of corrections has adopted standards governing electronic monitoring devices used to protect victims of domestic abuse, the court, as a condition of release, may not order a person arrested for a crime described in section 609.135, subdivision 5a, paragraph (b), to use an electronic monitoring device to protect a victim's safety.

(b) Notwithstanding paragraph (a), district courts in the tenth judicial district may order, as a condition of a release, a person arrested on a charge of a crime described in section 609.135, subdivision 5a, paragraph (b), to use an electronic monitoring device to protect the victim's safety. The courts shall make data on the use of electronic monitoring devices to protect a victim's safety in the tenth judicial district available to the commissioner of corrections to evaluate and to aid in development of standards for the use of devices to protect victims of domestic abuse.

Subd. 3. RELEASE. If the arrested person is not issued a citation by the officer in charge of the police station or the county sheriff pursuant to subdivision 1, and is not brought before a judge within the time limits prescribed by court rule, the arrested person ~~must~~ shall be released by the arresting authorities, and a citation must be issued in lieu of continued detention.

Subd. 4. SERVICE OF RESTRAINING ORDER OR ORDER FOR PROTECTION. If a restraining order is issued under section 609.748 or an order for protection is issued under section 518B.01 while the arrested person is still in detention, the order must be served upon the arrested person during detention if possible.

Subd. 5. VIOLATIONS OF CONDITIONS OF RELEASE. The judge who released the arrested person shall issue a warrant directing that the person be arrested and taken immediately before the judge, if the judge:

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(1) ~~the judge~~ receives an application alleging that the arrested person has violated the conditions of release; and

(2) ~~the judge~~ finds that probable cause exists to believe that the conditions of release have been violated.

Subd. 6. **NOTICE TO VICTIM REGARDING RELEASE OF ARRESTED PERSON.** (a) Immediately after ~~the~~ issuance of a citation in lieu of continued detention under subdivision 1, or the entry of an order for release under subdivision 2, but before the arrested person is released, the agency having custody of the arrested person or its designee must make a reasonable and good faith effort to inform orally the alleged victim of:

(1) the conditions of release, if any;

(2) the time of release;

(3) the time, date, and place of the next scheduled court appearance of the arrested person and the victim's right to be present at the court appearance; and

(4) if the arrested person is charged with domestic assault, the location and telephone number of the area battered women's shelter as designated by the department of corrections.

(b) As soon as practicable after an order for conditional release is entered, the agency having custody of the arrested person or its designee must personally deliver or mail to the alleged victim a copy of the written order and written notice of the information in clauses (2) and (3).

Sec. 32. TRAINING FOR PROSECUTORS.

By December 31, 1993, the county attorneys association, in conjunction with the attorney general's office, shall prepare and conduct a training course for county attorneys and city attorneys to familiarize them with this act and provide other information regarding the prosecution of harassment and stalking offenses. The course may be combined with other training conducted by the county attorneys association or other groups.

Sec. 33. SEVERABILITY.

It is the intent of the legislature that the provisions of this article shall be severable as provided in Minnesota Statutes, section 645.20.

Sec. 34. REPEALER.

Minnesota Statutes 1992, sections 609.02, subdivisions 12 and 13; 609.605, subdivision 3; 609.746, subdivisions 2 and 3; 609.747; 609.79, subdivision 1a; and 609.795, subdivision 2, are repealed.

Sec. 35. EFFECTIVE DATE.

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Sections 1, 2, 4 to 26, 28, 29, 31, 33, and 34 are effective June 1, 1993, and apply to crimes committed on or after that date. Sections 3, 27, and 32 are effective the day following final enactment. Section 30 is effective retroactive to July 1, 1992.

ARTICLE 3

CONTROLLED SUBSTANCES

Section 1. Minnesota Statutes 1992, section 152.022, subdivision 1, is amended to read:

Subdivision 1. **SALE CRIMES.** A person is guilty of controlled substance crime in the second degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of three grams or more containing cocaine;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing a narcotic drug other than cocaine;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 50 or more dosage units;

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols;

(5) the person unlawfully sells any amount of a schedule I or II narcotic drug to a person under the age of 18, or conspires with or employs a person under the age of 18 to unlawfully sell the substance; or

(6) the person unlawfully sells any of the following in a school zone, a park zone, or a public housing zone:

(i) any amount of a schedule I or II narcotic drug, or lysergic acid diethylamide (LSD);

(ii) one or more mixtures containing methamphetamine or amphetamine; or

(iii) one or more mixtures of a total weight of five kilograms or more containing marijuana or Tetrahydrocannabinols.

Sec. 2. Minnesota Statutes 1992, section 152.023, subdivision 2, is amended to read:

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Subd. 2. **POSSESSION CRIMES.** A person is guilty of controlled substance crime in the third degree if:

(1) the person unlawfully possesses one or more mixtures of a total weight of three grams or more containing cocaine;

(2) the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug other than cocaine;

(3) the person unlawfully possesses one or more mixtures containing a narcotic drug, it is packaged in dosage units, and equals 50 or more dosage units;

(4) the person unlawfully possesses any amount of a schedule I or II narcotic drug or five or more dosage units of lysergic acid diethylamide (LSD) in a school zone, a park zone, or a public housing zone;

(5) the person unlawfully possesses one or more mixtures of a total weight of ten kilograms or more containing marijuana or Tetrahydrocannabinols; or

(6) the person unlawfully possesses one or more mixtures containing methamphetamine or amphetamine in a school zone, a park zone, or a public housing zone.

Sec. 3. Minnesota Statutes 1992, section 152.0971, is amended by adding a subdivision to read:

Subd. 1a. AUTHORIZED AGENT. An "authorized agent" is an individual representing a business who is responsible for the disbursement or custody of precursor substances.

Sec. 4. Minnesota Statutes 1992, section 152.0971, is amended by adding a subdivision to read:

Subd. 2a. PURCHASER. A "purchaser" is a manufacturer, wholesaler, retailer, or any other person in this state who receives or seeks to receive a precursor substance.

Sec. 5. Minnesota Statutes 1992, section 152.0971, is amended by adding a subdivision to read:

Subd. 2b. RECEIVE. "Receive" means to purchase, receive, collect, or otherwise obtain a precursor substance from a supplier.

Sec. 6. Minnesota Statutes 1992, section 152.0971, subdivision 3, is amended to read:

Subd. 3. **SUPPLIER.** A "supplier" is a manufacturer, wholesaler, retailer, or any other person in this or any other state who furnishes a precursor substance to another person in this state.

Sec. 7. Minnesota Statutes 1992, section 152.0972, subdivision 1, is amended to read:

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Subdivision 1. **PRECURSOR SUBSTANCES.** The following precursors of controlled substances are "precursor substances":

- (1) phenyl-2-propanone;
- (2) methylamine;
- (3) ethylamine;
- (4) d-lysergic acid;
- (5) ergotamine tartrate;
- (6) diethyl malonate;
- (7) malonic acid;
- (8) hydriodic acid;
- (9) ethyl malonate;
- ~~(9)~~ (10) barbituric acid;
- ~~(10)~~ (11) piperidine;
- ~~(11)~~ (12) n-acetylanthranilic acid;
- ~~(12)~~ (13) pyrrolidine;
- ~~(13)~~ (14) phenylacetic acid;
- ~~(14)~~ (15) anthranilic acid;
- ~~(15)~~ morpholine;
- (16) ephedrine;
- (17) pseudoephedrine;
- (18) norpseudoephedrine;
- (19) phenylpropanolamine;
- (20) propionic anhydride;
- (21) isosafrole;
- (22) safrole;
- (23) piperonal;
- (24) thionylchloride;

New language is indicated by underline, deletions by ~~strikeout~~.

- (25) benzyl cyanide;
- (26) ergonovine maleate;
- (27) n-methylephedrine;
- (28) n-ethylpseudoephedrine;
- (29) n-methylpseudoephedrine;
- (30) chloroephedrine;
- (31) chloropseudoephedrine; and

(32) any substance added to this list by rule adopted by the state board of pharmacy.

Sec. 8. Minnesota Statutes 1992, section 152.0973, is amended by adding a subdivision to read:

Subd. 1a. REPORT OF PRECURSOR SUBSTANCES RECEIVED FROM OUT OF STATE. A purchaser of a precursor substance from outside of Minnesota shall, not less than 21 days before taking possession of the substance, submit to the bureau of criminal apprehension a report of the transaction that includes the identification information specified in subdivision 3.

Sec. 9. Minnesota Statutes 1992, section 152.0973, subdivision 2, is amended to read:

Subd. 2. REGULAR REPORTS. The bureau may authorize a purchaser or supplier to submit the reports on a monthly basis with respect to repeated, regular transactions between the supplier and the purchaser involving the same substance if the superintendent of the bureau of criminal apprehension determines that:

- (1) a pattern of regular supply of the precursor substance exists between the supplier and the purchaser of the substance; or
- (2) the purchaser has established a record of utilizing the precursor substance for lawful purposes.

Sec. 10. Minnesota Statutes 1992, section 152.0973, is amended by adding a subdivision to read:

Subd. 2a. REPORT OF MISSING PRECURSOR SUBSTANCE. A supplier or purchaser who discovers a discrepancy between the quantity of precursor substance shipped and the quantity of precursor substance received shall report the discrepancy to the bureau of criminal apprehension within three days of knowledge of the discrepancy. The report must include:

- (1) the complete name and address of the purchaser;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) the type of precursor substance missing;

(3) whether the precursor substance is missing due to theft, loss, or shipping discrepancy;

(4) the method of delivery used;

(5) the name of the common carrier or person who transported the substance; and

(6) the date of shipment.

Sec. 11. Minnesota Statutes 1992, section 152.0973, subdivision 3, is amended to read:

Subd. 3. **PROPER IDENTIFICATION.** A report submitted by a supplier or purchaser under this section must include:

(1) a the purchaser's driver's license number or state identification card that contains a photograph of the purchaser and includes the number and residential or mailing address of the purchaser, other than a post office box number taken from the purchaser's driver's license or state identification card, if the purchaser is not an authorized agent;

(2) the motor vehicle license number of any the motor vehicle owned or operated by the purchaser at the time of sale, if the purchaser is not an authorized agent;

(3) a complete description of how the precursor substance will be used, if the purchaser is not an authorized agent;

(4) a letter of authorization from the business for which the precursor substance is being furnished, including the business license state tax identification number and address of the business, a full description of how the precursor substance is to be used, and the signature of the authorized agent for the purchaser;

~~(4)~~ (5) the signature of the supplier as a witness to the signature and identification of the purchaser;

~~(5)~~ (6) the type and quantity of the precursor substance; and

~~(6)~~ (7) the method of delivery used; and

(8) the complete name and address of the supplier.

Sec. 12. Minnesota Statutes 1992, section 152.0973, subdivision 4, is amended to read:

Subd. 4. **RETENTION OF RECORDS.** A supplier shall retain a copy of ~~the report~~ reports filed under this section ~~subdivisions 1, 2, and 2a~~ subdivisions 1, 2, and 2a for five years. A purchaser shall retain a copy of reports filed under subdivisions 1a and 2a for five years.

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Sec. 13. Minnesota Statutes 1992, section 152.0973, is amended by adding a subdivision to read:

Subd. 5. INSPECTIONS. All records relating to sections 152.0971 to 152.0974 shall be open to inspection by the bureau of criminal apprehension during regular business hours.

Sec. 14. Minnesota Statutes 1992, section 152.0973, is amended by adding a subdivision to read:

Subd. 6. PENALTIES. (a) A person who does not submit a report as required by this section is guilty of a misdemeanor.

(b) A person who knowingly submits a report required by this section with false or fictitious information is guilty of a gross misdemeanor.

(c) A person who is convicted a second or subsequent time of violating paragraph (a) is guilty of a gross misdemeanor if the subsequent offense occurred after the earlier conviction.

Sec. 15. EFFECTIVE DATE.

Sections 1 to 13 are effective August 1, 1993. Section 14 is effective August 1, 1993, and applies to crimes committed on or after that date.

ARTICLE 4

MISCELLANEOUS

Section 1. Minnesota Statutes 1992, section 144.765, is amended to read:

144.765 PATIENT'S RIGHT TO REFUSE TESTING.

Upon notification of a significant exposure, the facility shall ask the patient to consent to blood testing to determine the presence of the HIV virus or the hepatitis B virus. The patient shall be informed that the test results without personally identifying information will be reported to the emergency medical services personnel. The patient shall be informed of the right to refuse to be tested. If the patient refuses to be tested, the patient's refusal will be forwarded to the emergency medical services agency and to the emergency medical services personnel. The right to refuse a blood test under the circumstances described in this section does not apply to a prisoner who is in the custody or under the jurisdiction of the commissioner of corrections or a local correctional authority as a result of a criminal conviction.

Sec. 2. Minnesota Statutes 1992, section 169.222, subdivision 6, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. **BICYCLE EQUIPMENT.** (a) No person shall operate a bicycle at nighttime unless the bicycle or its operator is equipped with a lamp which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector of a type approved by the department of public safety which is visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. No person may operate a bicycle at any time when there is not sufficient light to render persons and vehicles on the highway clearly discernible at a distance of 500 feet ahead unless the bicycle or its operator is equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of head lamps on a motor vehicle.

The reflective surfaces shall include reflective materials on each side of each pedal to indicate their presence from the front or the rear and with a minimum of 20 square inches of reflective material on each side of the bicycle or its operator. Any bicycle equipped with side reflectors as required by regulations for new bicycles prescribed by the United States Consumer Product Safety Commission shall be considered to meet the requirements for side reflectorization contained in this subdivision.

A bicycle may be equipped with a rear lamp that emits a red flashing signal.

(b) No person shall operate a bicycle unless it is equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(c) No person shall operate upon a highway any bicycle equipped with handlebars so raised that the operator must elevate the hands above the level of the shoulders in order to grasp the normal steering grip area.

(d) No person shall operate upon a highway any bicycle which is of such a size as to prevent the operator from stopping the bicycle, supporting it with at least one foot on the highway surface and restarting in a safe manner.

Sec. 3. Minnesota Statutes 1992, section 169.64, subdivision 3, is amended to read:

Subd. 3. **FLASHING LIGHTS.** Flashing lights are prohibited, except on an authorized emergency vehicle, school bus, bicycle as provided in section 169.222, subdivision 6, road maintenance equipment, tow truck or towing vehicle, service vehicle, farm tractors, self-propelled farm equipment or on any vehicle as a means of indicating a right or left turn, or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing. All flashing warning lights shall be of the type authorized by section 169.59, subdivision 4, unless otherwise permitted or required in this chapter.

Sec. 4. **[174.295] ELIGIBILITY CERTIFICATION; PENALTY FOR FRAUDULENT STATEMENTS.**

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. NOTICE. A provider of special transportation service, as defined in section 174.29, receiving financial assistance under section 174.24, shall include on the application form for special transportation service, and on the eligibility certification form if different from the application form, a notice of the penalty for fraudulent certification under subdivision 4.

Subd. 2. CERTIFIER STATEMENT. A provider shall include on the application or eligibility certification form a place for the person certifying the applicant as eligible for special transportation service to sign, and the person certifying the applicant shall sign, stating that the certifier understands the penalty for fraudulent certification and that the certifier believes the applicant to be eligible.

Subd. 3. APPLICANT STATEMENT. A provider shall include on the application form a place for the applicant to sign, and the applicant shall sign, stating that the applicant understands the penalty for fraudulent certification and that the information on the application is true.

Subd. 4. PENALTY. A person is guilty of a misdemeanor if:

(1) the person fraudulently certifies to the special transportation service provider that the applicant is eligible for special transportation service; or

(2) the person obtains certification for special transportation service by misrepresentation or fraud.

Sec. 5. Minnesota Statutes 1992, section 244.05, subdivision 4, is amended to read:

Subd. 4. MINIMUM IMPRISONMENT, LIFE SENTENCE. An inmate serving a mandatory life sentence under section 609.184 must not be given supervised release under this section. An inmate serving a mandatory life sentence under section 609.185, clause (1), (3), ~~(4)~~, (5), or (6); or 609.346, subdivision 2a, must not be given supervised release under this section without having served a minimum term of 30 years. An inmate serving a mandatory life sentence under section 609.385 must not be given supervised release under this section without having served a minimum term of imprisonment of 17 years.

Sec. 6. Minnesota Statutes 1992, section 244.05, subdivision 5, is amended to read:

Subd. 5. SUPERVISED RELEASE, LIFE SENTENCE. The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence under section 609.185, clause (1), (3), ~~(4)~~, (5), or (6); 609.346, subdivision 2a; or 609.385 after the inmate has served the minimum term of imprisonment specified in subdivision 4.

Sec. 7. Minnesota Statutes 1992, section 289A.63, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 11. CONSOLIDATION OF VENUE. If two or more offenses in this section are committed by the same person in more than one county, the accused may be prosecuted for all the offenses in any county in which one of the offenses was committed.

Sec. 8. Minnesota Statutes 1992, section 297B.10, is amended to read:

297B.10 PENALTIES.

(1) Any person, including persons other than the purchaser, who prepares, completes, or submits a false or fraudulent motor vehicle purchaser's certificate with intent to defeat or evade the tax imposed under this chapter or any purchaser who fails to complete or submit a motor vehicle purchaser's certificate with intent to defeat or evade the tax or who attempts to defeat or evade the tax in any manner, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony. The term "person" as used in this section includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member, or employee is under a duty to perform the act with respect to which the violation occurs. Notwithstanding the provisions of section 628.26 or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this section, in the proper court within six years after the commission of the offense.

(2) Any person who violates any of the provisions of this chapter, unless the violation be of the type referred to in clause (1), is guilty of a misdemeanor ~~and shall be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not less than 30 days; or both.~~

(3) When two or more offenses in clause (1) are committed by the same person within six months, the offenses may be aggregated; further, if the offenses are committed in more than one county, the accused may be prosecuted for all the offenses aggregated under this paragraph in any county in which one of the offenses was committed.

Sec. 9. Minnesota Statutes 1992, section 307.08, subdivision 2, is amended to read:

Subd. 2. A person who intentionally, willfully, and knowingly destroys, mutilates, injures, disturbs, or removes human skeletal remains or human ~~burials~~ burial grounds, is guilty of a felony. A person who intentionally, willfully, or knowingly removes any tombstone, monument, or structure placed in any public or private cemetery or unmarked human burial ground, or any fence, railing, or other work erected for protection or ornament, or any tree, shrub, or plant or grave goods and artifacts within the limits of the cemetery or burial ground, and a person who, without authority from the trustees, state archaeologist, or Indian affairs intertribal board, discharges any firearms upon or over the grounds of any public or private cemetery or authenticated and identified Indian burial ground, is guilty of a gross misdemeanor.

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Sec. 10. Minnesota Statutes 1992, section 343.21, subdivision 9, is amended to read:

Subd. 9. **PENALTY.** A person who fails to comply with any provision of this section is guilty of a misdemeanor. A person convicted of a second or subsequent violation of subdivision 1 or 7 within five years of a previous violation of subdivision 1 or 7 is guilty of a gross misdemeanor.

Sec. 11. Minnesota Statutes 1992, section 343.21, subdivision 10, is amended to read:

Subd. 10. **RESTRICTIONS.** If a person is convicted of violating this section, the court ~~may~~ shall require that pet or companion animals, as defined in section 346.36, subdivision 6, that have not been seized by a peace officer or agent and are in the custody of the person must be turned over to a peace officer or other appropriate officer or agent ~~if~~ unless the court determines that the person is ~~unable or unfit~~ able and fit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may limit the person's further possession or custody of pet or companion animals, and may impose other conditions the court considers appropriate, including, but not limited to:

- (1) imposing a probation period during which the person may not have ownership, custody, or control of a pet or companion animal;
- (2) requiring periodic visits of the person by an animal control officer or agent appointed pursuant to section 343.01, subdivision 1;
- (3) requiring performance by the person of community service in a humane facility; and
- (4) requiring the person to receive behavioral counseling.

Sec. 12. Minnesota Statutes 1992, section 473.386, is amended by adding a subdivision to read:

Subd. 2a. **ELIGIBILITY CERTIFICATION.** The board shall include the notice of penalty for fraudulent certification, and require the person certifying the applicant to sign the eligibility certification form and the applicant to sign the application form, as provided in section 174.295.

Sec. 13. Minnesota Statutes 1992, section 609.035, is amended to read:

609.035 CRIME PUNISHABLE UNDER DIFFERENT PROVISIONS.

Except as provided 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

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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. 14. Minnesota Statutes 1992, section 609.101, subdivision 4, is amended to read:

Subd. 4. **MINIMUM FINES; OTHER CRIMES.** Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3, it must impose a fine of not less than 20 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than 20 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law, unless the fine is set at a lower amount on a uniform fine schedule established by the conference of chief judges in consultation with affected state and local agencies. This schedule shall be promulgated and reported to the legislature not later than January 1 of each year and shall become effective on August 1 of that year unless the legislature, by law, provides otherwise.

The court may not waive payment of the minimum fine or authorize payment of it in installments unless the court makes written findings on the record that the convicted person is indigent or that the fine would create undue hardship for the convicted person or that person's immediate family.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any term of imprisonment or restitution imposed or ordered by the court.

Sec. 15. Minnesota Statutes 1992, section 609.184, subdivision 2, is amended to read:

Subd. 2. **LIFE WITHOUT RELEASE.** The court shall sentence a person to life imprisonment without possibility of release under the following circumstances:

(1) the person is convicted of first degree murder under section 609.185, clause (2) or (4); or

(2) the person is convicted of first degree murder under section 609.185, clause (1), (3), ~~(4)~~; (5), or (6), and the court determines on the record at the time of sentencing that the person has one or more previous convictions for a heinous crime.

Sec. 16. Minnesota Statutes 1992, section 609.251, is amended to read:

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609.251 **DOUBLE JEOPARDY; KIDNAPPING.**

Notwithstanding section 609.04, a prosecution for or conviction of the crime of kidnapping is not a bar to conviction of or punishment for any other crime committed during the time of the kidnapping.

Sec. 17. Minnesota Statutes 1992, section 609.341, subdivision 10, is amended to read:

Subd. 10. "Position of authority" includes but is not limited to any person who is a parent or acting in the place of a parent and charged with any of a parent's rights, duties or responsibilities to a child, or a person who is charged with any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of the act. For the purposes of subdivision 11, "position of authority" includes a psychotherapist.

Sec. 18. Minnesota Statutes 1992, section 609.341, subdivision 17, is amended to read:

Subd. 17. "Psychotherapist" means a person who is or purports to be a physician, psychologist, nurse, chemical dependency counselor, social worker, ~~clergy, marriage and family therapist counselor, or other~~ mental health service provider; or any other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

Sec. 19. Minnesota Statutes 1992, section 609.341, subdivision 19, is amended to read:

Subd. 19. "Emotionally dependent" means that the nature of the ~~patient's~~ ~~or~~ former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the ~~patient or~~ former patient is unable to withhold consent to sexual contact or sexual penetration by the psychotherapist.

Sec. 20. Minnesota Statutes 1992, section 609.344, subdivision 1, is amended to read:

Subdivision 1. **CRIME DEFINED.** A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant. In any such case it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor believes the complainant to be 16 years of age or older. If

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the actor in such a case is no more than 48 months but more than 24 months older than the complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant, and uses this authority to cause the complainant to submit. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred;

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a ~~patient~~ or former patient of the psychotherapist and the ~~patient~~ or former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense; ~~or~~

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(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose by a health care professional. Consent by the complainant is not a defense; or

(1) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and;

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private.

Consent by the complainant is not a defense.

Sec. 21. Minnesota Statutes 1992, section 609.345, subdivision 1, is amended to read:

Subdivision 1. **CRIME DEFINED.** A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant and uses this authority to cause the complainant to submit. In any such case, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor believes the complainant to be 16 years of age or older;

(c) the actor uses force or coercion to accomplish the sexual contact;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant, and uses this authority to cause the complainant to submit. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

New language is indicated by underline, deletions by ~~strikeout~~.

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a ~~patient~~ or former patient of the psychotherapist and the ~~patient~~ or former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense; ~~or~~

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose ~~by a health care professional~~. Consent by the complainant is not a defense; or

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private.

Consent by the complainant is not a defense.

Sec. 22. Minnesota Statutes 1992, section 609.378, subdivision 1, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **PERSONS GUILTY OF NEGLIGENCE OR ENDANGERMENT.** ~~The following people are guilty of neglect or endangerment of a child 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.~~

(a) **NEGLECT.** (1) A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and the deprivation ~~substantially~~ harms or is likely to substantially harm the child's physical, mental, or emotional health is guilty of neglect of a child 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. If the deprivation results in substantial harm to the child's physical, mental, or emotional health, 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. If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment or care is "health care," for purposes of this clause.

(2) A parent, legal guardian, or caretaker who knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child 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) **ENDANGERMENT.** A parent, legal guardian, or caretaker who endangers the child's person or health by:

(1) intentionally or recklessly causing or permitting a child to be placed in a situation likely to substantially harm the child's physical ~~or~~, mental, or emotional health or cause the child's death; or

(2) knowingly causing or permitting the child to be present where any person is selling or possessing a controlled substance, as defined in section 152.01, subdivision 4, in violation of section 152.021, 152.022, 152.023, or 152.024; is guilty of child endangerment 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.

If the endangerment results in substantial harm to the child's physical, mental, or emotional health, 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.

This paragraph does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, or from selecting health care as defined in subdivision 1, paragraph (a).

(c) **ENDANGERMENT BY FIREARM ACCESS.** A person who intentionally or recklessly causes a child under 14 years of age to be placed in a situation

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likely to substantially harm the child's physical health or cause the child's death as a result of the child's access to a loaded firearm is guilty of child endangerment 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.

If the endangerment results in substantial harm to the child's physical health, 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. 23. [609.493] SOLICITATION OF MENTALLY IMPAIRED PERSONS.

Subdivision 1. CRIME. A person is guilty of a crime and may be sentenced as provided in subdivision 2 if the person solicits a mentally impaired person to commit a criminal act.

Subd. 2. SENTENCE. (a) A person who violates subdivision 1 is guilty of a misdemeanor if the intended criminal act is a misdemeanor, and is guilty of a gross misdemeanor if the intended criminal act is a gross misdemeanor.

(b) A person who violates subdivision 1 is guilty of a felony if the intended criminal act is a felony, and may be sentenced to imprisonment for not more than one-half the statutory maximum term for the intended criminal act or to payment of a fine of not more than one-half the maximum fine for the intended criminal act, or both.

Subd. 3. DEFINITIONS. As used in this section:

(1) "mentally impaired person" means a person who, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give a reasoned consent to commit the criminal act; and

(2) "solicit" means commanding, entreating, or attempting to persuade a specific person.

Sec. 24. Minnesota Statutes 1992, section 609.494, is amended to read:

609.494 SOLICITATION OF JUVENILES.

Subdivision 1. CRIME. A person is guilty of a crime and may be sentenced as provided in subdivision 2 if the person is an adult and solicits or conspires with a minor to commit a criminal crime or delinquent act or is an accomplice to a minor in the commission of a crime or delinquent act.

Subd. 2. SENTENCE. (a) A person who violates subdivision 1 is guilty of a misdemeanor if the intended criminal act is a misdemeanor or would be a misdemeanor if committed by an adult, and is guilty of a gross misdemeanor if the intended criminal act is a gross misdemeanor or would be a gross misdemeanor if committed by an adult.

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(b) A person who violates subdivision 1 is guilty of a felony if the intended criminal act is a felony or would be a felony if committed by an adult, and may be sentenced to imprisonment for not more than one-half the statutory maximum term for the intended criminal act or to payment of a fine of not more than one-half the maximum fine for the intended criminal act, or both.

Subd. 3. MULTIPLE SENTENCES. Notwithstanding section 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. CONSECUTIVE SENTENCES. Notwithstanding any provision of the sentencing guidelines, the court may provide that a sentence imposed for a violation of this section shall run consecutively to any sentence imposed for the intended criminal act. A decision by the court to impose consecutive sentences under this subdivision is not a departure from the sentencing guidelines.

Subd. 5. DEFINITION. "Solicit" means commanding, entreating, or attempting to persuade a specific person.

Sec. 25. Minnesota Statutes 1992, section 609.495, is amended to read:

609.495 AIDING AN OFFENDER ~~TO AVOID ARREST.~~

Subdivision 1. Whoever harbors, conceals, or aids another known by the actor to have committed a felony under the laws of this or another state or of the United States with intent that such offender shall avoid or escape from arrest, trial, conviction, or punishment, 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.

Subd. 2. This section does not apply if the actor at the time of harboring, concealing, or aiding an offender in violation of subdivision 1, or aiding an offender in violation of subdivision 3, is related to the offender as spouse, parent, or child.

Subd. 3. Whoever intentionally aids another person known by the actor to have committed a criminal act, by destroying or concealing evidence of that crime, providing false or misleading information about that crime, receiving the proceeds of that crime, or otherwise obstructing the investigation or prosecution of that crime is an accomplice after the fact and may be sentenced to not more than one-half of the statutory maximum sentence of imprisonment or to payment of a fine of not more than one-half of the maximum fine that could be imposed on the principal offender for the crime of violence. For purposes of this subdivision, "criminal act" means an act that is a crime listed in section 609.11, subdivision 9, under the laws of this or another state, or of the United States, and also includes an act that would be a criminal act if committed by an adult.

Sec. 26. Minnesota Statutes 1992, section 609.505, is amended to read:

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609.505 FALSELY REPORTING CRIME.

Whoever informs a law enforcement officer that a crime has been committed, knowing that it is false and intending that the officer shall act in reliance upon it, is guilty of a misdemeanor. A person who is convicted a second or subsequent time under this section is guilty of a gross misdemeanor.

Sec. 27. Minnesota Statutes 1992, section 609.531, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purpose of sections 609.531 to 609.5317, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a weapon used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the bureau of criminal apprehension, the Minnesota state patrol, a county sheriff's department, the suburban Hennepin regional park district park rangers, the department of natural resources division of enforcement, the University of Minnesota police department, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter;

(2) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 617.246; or a gross misdemeanor or felony violation of section 609.891; or any violation of section 609.324.

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(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Sec. 28. Minnesota Statutes 1992, section 609.531, subdivision 5a, is amended to read:

Subd. 5a. **BOND BY OWNER FOR POSSESSION.** (a) If the owner of property that has been seized under sections 609.531 to 609.5317 seeks possession of the property before the forfeiture action is determined, the owner may, subject to the approval of the appropriate agency, give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized property. On posting the security or bond, the seized property must be returned to the owner and the forfeiture action shall proceed against the security as if it were the seized property. This subdivision does not apply to contraband property.

(b) If the owner of a motor vehicle that has been seized under this section seeks possession of the vehicle before the forfeiture action is determined, the owner may surrender the vehicle's certificate of title in exchange for the vehicle. The motor vehicle must be returned to the owner within 24 hours if the owner surrenders the motor vehicle's certificate of title to the appropriate agency, pending resolution of the forfeiture action. If the certificate is surrendered, the owner may not be ordered to post security or bond as a condition of release of the vehicle. When a certificate of title is surrendered under this provision, the agency shall notify the department of public safety and any secured party noted on the certificate. The agency shall also notify the department and the secured party when it returns a surrendered title to the motor vehicle owner.

Sec. 29. Minnesota Statutes 1992, section 609.5312, is amended by adding a subdivision to read:

Subd. 3. VEHICLE FORFEITURE FOR PROSTITUTION OFFENSES.

(a) A motor vehicle is subject to forfeiture under this subdivision if it was used to commit or facilitate, or used during the commission of, a violation of section 609.324 or a violation of a local ordinance substantially similar to section 609.324. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense. Except as otherwise provided in this subdivision, a forfeiture under this subdivision is governed by sections 609.531, 609.5312, and 609.5313.

(b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance of a judicial forfeiture order, a hearing before a judge or referee must be held within 96 hours of the seizure. Notice of the hearing must be given to the registered owner within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of the hearing, that it has filed or intends to file charges against the alleged violator for violating section 609.324 or a local ordinance substantially similar to section 609.324. After conducting the hearing, the court shall order that the motor vehicle be returned to the owner if:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) the prosecutor has failed to make the certification required by paragraph (b);

(2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the owner has a defense to the forfeiture, including but not limited to the defenses contained in subdivision 2; or

(3) the court determines that seizure of the vehicle creates or would create an undue hardship for members of the owner's family.

(d) If the defendant is acquitted or prostitution charges against the defendant are dismissed, neither the owner nor the defendant is responsible for paying any costs associated with the seizure or storage of the vehicle.

(e) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180 days or less is not subject to forfeiture under this subdivision.

Sec. 30. Minnesota Statutes 1992, section 609.5315, is amended by adding a subdivision to read:

Subd. 5a. DISPOSITION OF CERTAIN FORFEITED PROCEEDS; PROSTITUTION. The proceeds from the sale of motor vehicles forfeited under section 609.5312, subdivision 3, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the vehicle, shall be distributed as follows:

(1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;

(2) 20 percent of the proceeds must be forwarded to the city attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining 40 percent of the proceeds must be forwarded to the city treasury for distribution to neighborhood crime prevention programs.

Sec. 31. Minnesota Statutes 1992, section 609.585, is amended to read:

609.585 **DOUBLE JEOPARDY.**

Notwithstanding section 609.04, a prosecution for or conviction of the crime of burglary is not a bar to conviction of or punishment for any other crime committed on entering or while in the building entered.

Sec. 32. Minnesota Statutes 1992, section 609.605, subdivision 1, is amended to read:

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

(ii) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a full-time or a part-time basis. A dwelling may be part of a multidwelling or multipurpose building, or a manufactured home as defined in section 168.011, subdivision 8.

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

(iv) "Owner or lawful possessor," as used in clause (8), means the person on whose behalf a building or dwelling is being constructed, altered, painted, or repaired and the general contractor or subcontractor engaged in that work.

(v) "Posted," as used in clause (8), means the placement of a sign at least 11 inches square in a conspicuous place on the exterior of the building that is under construction, alteration, or repair, and additional signs in at least two conspicuous places for each ten acres being protected. The sign must carry an appropriate notice and the name of the person giving the notice, followed by the word "owner" if the person giving the notice is the holder of legal title to the land on which the construction site is located or by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land.

(vi) "Business licensee," as used in paragraph (b), clause (8), includes a representative of a building trades labor or management organization.

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

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

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

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

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

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

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

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

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

(8) returns to the property of another within 30 days after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent; or

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

Sec. 33. Minnesota Statutes 1992, section 609.71, is amended to read:

609.71 RIOT.

Subdivision 1. RIOT FIRST DEGREE. When three or more persons assembled disturb the public peace by an intentional act or threat of unlawful force or violence to person or property and a death results, and one of the persons is armed with a dangerous weapon, that person is guilty of riot first degree and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$35,000, or both.

Subd. 2. RIOT SECOND DEGREE. When three or more persons assembled disturb the public peace by an intentional act or threat of unlawful force or violence to person or property, each participant who is armed with a dangerous weapon or knows that any other participant is armed with a dangerous weapon is guilty of riot second degree 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.

Subd. 3. RIOT THIRD DEGREE. When three or more persons assembled disturb the public peace by an intentional act or threat of unlawful force or violence to person or property, each participant therein is guilty of riot third degree and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both; ~~or, if the offender, or to the offender's knowledge any other participant, is armed with a dangerous weapon or is disguised, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.~~

Sec. 34. Minnesota Statutes 1992, section 609.713, subdivision 1, is amended to read:

Subdivision 1. Whoever threatens, directly or indirectly, to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly or facility of public transportation or otherwise to cause serious public inconvenience, or in a reckless disregard of the risk of causing such terror or inconvenience may be sentenced to imprisonment for not more than five years. As used in this subdivision, "crime of violence" has the meaning given "violent crime" in section 609.152, subdivision 1, paragraph (d).

New language is indicated by underline, deletions by strikeout.

Sec. 35. Minnesota Statutes 1992, section 609.856, subdivision 1, is amended to read:

Subdivision 1. **ACTS CONSTITUTING.** Whoever has in possession or uses a radio or device capable of receiving or transmitting a police radio signal, message, or transmission of information used for law enforcement purposes, while in the commission of a felony or violation of section 609.487 or the attempt to commit a felony or violation of section 609.487, 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. Notwithstanding section 609.04, a prosecution for or conviction of the crime of use or possession of a police radio under this section is not a bar to conviction of or punishment for any other crime committed while possessing or using the police radio by the defendant as part of the same conduct.

Sec. 36. Minnesota Statutes 1992, 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 or, if the victim failed to report the offense within this limitation period, within three years after the offense was reported to law enforcement authorities.

(d) Indictments or complaints for violation of sections 609.342 to 609.344 if the victim was 18 years old or older 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.

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

(f) Indictments or complaints for violation of section 609.52, subdivision 2, clause (3), items (a) and (b), (4), (15), or (16), 609.631, or 609.821, 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.

(g) Except for violations relating to false material statements, representations or omissions, indictments or complaints for violations of section 609.671

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shall be found or made and filed in the proper court within five years after the commission of the offense.

(h) 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.~~

(i) The limitations periods contained in this section shall exclude any period of time during which the defendant was not an inhabitant of or usually resident within this state.

Sec. 37. Minnesota Statutes 1992, section 641.14, is amended to read:

641.14 JAILS; SEPARATION OF PRISONERS.

The sheriff of each county is responsible for the operation and condition of the jail. If construction of the jail permits, the sheriff shall maintain strict separation of prisoners to the extent that separation is consistent with prisoners' security, safety, health, and welfare. The sheriff shall not keep in the same room or section of the jail:

(1) a minor under 18 years old and a prisoner who is 18 years old or older, unless the minor has been committed to the commissioner of corrections under section 609.105 or the minor has been referred for adult prosecution and the prosecuting authority has filed a notice of intent to prosecute the matter for which the minor is being held under section 260.125; and

~~(2) an insane prisoner and another prisoner;~~

~~(3) a prisoner awaiting trial and a prisoner who has been convicted of a crime;~~

~~(4) a prisoner awaiting trial and another prisoner awaiting trial, unless consistent with the safety, health, and welfare of both; and~~

~~(5) a female prisoner and a male prisoner.~~

Sec. 38. Laws 1992, chapter 571, article 7, section 13, subdivision 1, is amended to read:

Subdivision 1. **MEMBERSHIP.** The supreme court shall conduct a study of the juvenile justice system. To conduct the study, the court shall convene an advisory task force on the juvenile justice system, consisting of the following ~~20~~ 27 members:

(1) four judges appointed by the chief justice of the supreme court;

(2) ~~two~~ three members of the house of representatives, one of whom must be a member of the minority party, appointed by the speaker, and ~~two~~ three

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members of the senate, one of whom must be a member of the minority party, appointed by the subcommittee on committees of the senate committee on rules and administration;

(3) two professors of law appointed by the chief justice of the supreme court;

(4) the state public defender;

(5) one county attorney who is responsible for juvenile court matters, appointed by the chief justice of the supreme court on recommendation of the Minnesota county attorneys association;

(6) two corrections administrators appointed by the governor, one from a community corrections act county and one from a noncommunity corrections act county;

(7) the commissioner of human services;

(8) the commissioner of corrections;

(9) two public members appointed by the governor, one of whom is a victim of crime, and five public members appointed by the chief justice of the supreme court; and

(10) two law enforcement officers who are responsible for juvenile delinquency matters, appointed by the governor.

Sec. 39. CONFERENCE OF CHIEF JUDGES; STUDY REQUESTED.

The conference of chief judges is requested to study whether the rules of criminal procedure should be changed to make the pretrial procedures for gross misdemeanor offenses the same as those currently applicable to misdemeanor offenses.

Sec. 40. REPEALER.

Minnesota Statutes 1992, section 609.131, subdivision 1a, is repealed.

Sec. 41. EFFECTIVE DATE.

(a) Sections 1 to 9, and 11 to 39 are effective August 1, 1993, and apply to crimes committed on or after that date. Section 40 is effective retroactive to April 30, 1992, and applies to cases pending on or after that date.

(b) Section 10 is effective August 1, 1993, and applies to crimes committed on or after that date, but previous convictions occurring before that date may serve as the basis for enhancing penalties under section 10.

Sec. 42. APPLICATION.

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Section 4 applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 43. APPLICATION.

The intent of section 36 is to clarify the provisions of Minnesota Statutes, section 628.26.

ARTICLE 5

ARSON CRIMES AND RELATED OFFENSES

Section 1. Minnesota Statutes 1992, section 299F.04, is amended by adding a subdivision to read:

Subd. 5. NOTIFICATION. (a) As used in this subdivision, "chief officer" means the city fire marshal or chief officer of a law enforcement agency's arson investigation unit in a city of the first class.

(b) The officer making investigation of a fire resulting in a human death shall immediately notify either the state fire marshal or a chief officer. The state fire marshal or chief officer may conduct an investigation to establish the origin and cause regarding the circumstance of the death. If the chief officer undertakes the investigation, the officer shall promptly notify the state fire marshal of the investigation and, after the investigation is completed, shall forward a copy of the investigative report to the state fire marshal. Unless the investigating officer does so, the state fire marshal or chief officer shall immediately notify the appropriate coroner or medical examiner of a human death occurring as a result of a fire. The coroner or medical examiner shall perform an autopsy in the case of a human death as provided in section 390.11, subdivision 2a, or 390.32, subdivision 2a, as appropriate.

Sec. 2. Minnesota Statutes 1992, section 299F.811, is amended to read:

299F.811 POSSESSION FOR CRIMINAL PURPOSE OF EXPLOSIVE OR INCENDIARY DEVICE.

Whoever possesses, manufactures, or transports any explosive compound, timing or detonating device for use with any explosive compound or incendiary device and ~~either intends to use the explosive or device to commit a crime or knows that another intends to use the explosive or device to commit a crime~~ is not licensed to so possess an explosive compound or device, 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. 3. Minnesota Statutes 1992, section 299F.815, subdivision 1, is amended to read:

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Subdivision 1. **UNLAWFUL PURPOSE POSSESSION.** (a) Whoever shall possess, manufacture, transport, or store a chemical self-igniting device or a molotov cocktail ~~with intent to use the same for any unlawful purpose~~ 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.

(b) Whoever possesses, manufactures, transports, or stores a device or compound that, when used or mixed has the potential to cause an explosion, with intent to use the device or compound to damage property or cause injury, 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. 4. Minnesota Statutes 1992, section 390.11, is amended by adding a subdivision to read:

Subd. 2a. DEATHS CAUSED BY FIRE; AUTOPSIES. The coroner shall conduct an autopsy in the case of any human death reported to the coroner by the state fire marshal or a chief officer under section 299F.04, subdivision 5, and apparently caused by fire.

Sec. 5. Minnesota Statutes 1992, section 390.32, is amended by adding a subdivision to read:

Subd. 2a. DEATHS CAUSED BY FIRE; AUTOPSIES. The medical examiner shall conduct an autopsy in the case of any human death reported to the medical examiner by the state fire marshal or a chief officer under section 299F.04, subdivision 5, and apparently caused by fire.

Sec. 6. Minnesota Statutes 1992, section 609.02, subdivision 6, is amended to read:

Subd. 6. **DANGEROUS WEAPON.** "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, ~~or~~ any combustible or flammable liquid or other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm.

As used in this subdivision, "flammable liquid" means ~~Class I flammable liquids as defined in section 9-108 of the Uniform Fire Code~~ any liquid having a flash point below 100 degrees Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 degrees Fahrenheit but does not include intoxicating liquor as defined in section 340A.101. As used in this subdivision, "combustible liquid" is a liquid having a flash point at or above 100 degrees Fahrenheit.

Sec. 7. Minnesota Statutes 1992, section 609.562, is amended to read:

609.562 ARSON IN THE SECOND DEGREE.

New language is indicated by underline, deletions by ~~strikeout~~.

Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building not covered by section 609.561, no matter what its value, or any other real or personal property valued at more than ~~\$2,500~~ \$1,000, whether the property of the actor or another, 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. 8. Minnesota Statutes 1992, section 609.563, subdivision 1, is amended to read:

Subdivision 1. Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any real or personal property may be sentenced to imprisonment for not more than five years or to payment of a fine of \$10,000, or both, if:

(a) the property intended by the accused to be damaged or destroyed had a value of more than \$300 but less than ~~\$2,500~~ \$1,000; or

(b) property of the value of \$300 or more was unintentionally damaged or destroyed but such damage or destruction could reasonably have been foreseen; or

(c) the property specified in clauses (a) and (b) in the aggregate had a value of \$300 or more.

Sec. 9. Minnesota Statutes 1992, section 609.576, subdivision 1, is amended to read:

Subdivision 1. **NEGLIGENT FIRE RESULTING IN INJURY OR PROPERTY DAMAGE.** Whoever is culpably negligent in causing a fire to burn or get out of control thereby causing damage or injury to another, and as a result thereof:

(a) a human being is injured and great bodily harm incurred, is guilty of a crime and may be sentenced to imprisonment of not more than five years or to payment of a fine of not more than \$10,000, or both; or

(b) property of another is injured, thereby, is guilty of a crime and may be sentenced as follows:

(1) to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both, if the value of the property damage is under \$300;

(2) to imprisonment for not more than one year, or to payment of a fine of \$3,000, or both, if the value of the property damaged is at least \$300 but is less than ~~\$10,000~~ \$2,500;

(3) to imprisonment for not ~~less than 90 days nor~~ more than three years, or to payment of a fine of not more than \$5,000, or both, if the value of the property damaged is ~~\$10,000~~ \$2,500 or more.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 10. Minnesota Statutes 1992, section 609.686, is amended to read:

609.686 FALSE FIRE ALARMS; TAMPERING WITH OR INJURING A FIRE ALARM SYSTEM.

Subdivision 1. MISDEMEANOR. Whoever intentionally gives a false alarm of fire, or unlawfully tampers or interferes with any fire alarm system, fire protection device, or the station or signal box of any fire alarm system or any auxiliary fire appliance, or unlawfully breaks, injures, defaces, or removes any such system, device, box or station, or unlawfully breaks, injures, destroys, disables, renders inoperable, or disturbs any of the wires, poles, or other supports and appliances connected with or forming a part of any fire alarm system or fire protection device or any auxiliary fire appliance is guilty of a misdemeanor.

Subd. 2. FELONY. Whoever violates subdivision 1 by tampering and knows or has reason to know that the tampering creates the potential for bodily harm or the tampering results in bodily harm 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.

Subd. 3. TAMPERING. For purpose of this section, tampering means to intentionally disable, alter, or change the fire alarm system, fire protective device, or the station or signal box of any fire alarm system of any auxiliary fire appliance, with knowledge that it will be disabled or rendered inoperable.

Sec. 11. Minnesota Statutes 1992, section 609.902, subdivision 4, is amended to read:

Subd. 4. CRIMINAL ACT. "Criminal act" means conduct constituting, or a conspiracy or attempt to commit, a felony violation of chapter 152, or a felony violation of section 297D.09; 299F.79; 299F.80; 299F.811; 299F.815; 299F.82; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.228; 609.235; 609.245; 609.25; 609.27; 609.322; 609.323; 609.342; 609.343; 609.344; 609.345; 609.42; 609.48; 609.485; 609.495; 609.496; 609.497; 609.498; 609.52, subdivision 2, if the offense is punishable under subdivision 3, clause (3)(b) or clause 3(d)(v) or (vi); section 609.52, subdivision 2, clause (4); 609.53; 609.561; 609.562; 609.582, subdivision 1 or 2; 609.67; 609.687; 609.713; 609.86; 624.713; or 624.74. "Criminal act" also includes conduct constituting, or a conspiracy or attempt to commit, a felony violation of section 609.52, subdivision 2, clause (3), (4), (15), or (16) if the violation involves an insurance company as defined in section 60A.02, subdivision 4, a nonprofit health service plan corporation regulated under chapter 62C, a health maintenance organization regulated under chapter 62D, or a fraternal benefit society regulated under chapter 64B.

Sec. 12. Minnesota Statutes 1992, section 628.26, is amended to read:

628.26 LIMITATIONS.

New language is indicated by underline, deletions by ~~strikeout~~.

(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 or, if the victim failed to report the offense within this limitation period, within three years after the offense was reported to law enforcement authorities.

(d) Indictments or complaints for violation of sections 609.342 to 609.344 if the victim was 18 years old or older 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.

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

(f) Indictments or complaints for violation of section 609.52, subdivision 2, clause (3), items (a) and (b), (4), (15), or (16), 609.631, or 609.821, 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.

(g) Except for violations relating to false material statements, representations or omissions, indictments or complaints for violations of section 609.671 shall be found or made and filed in the proper court within five years after the commission of the offense.

(h) Indictments or complaints for violation of sections 609.561 to 609.563, shall be found or made and filed in the proper court within five years after the commission of the offense.

(i) 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 2, 3, and 6 to 12 are effective August 1, 1993, and apply to crimes committed on or after that date.

New language is indicated by underline, deletions by ~~strikeout~~.

ARTICLE 6

CRIME VICTIMS

Section 1. [169.042] TOWING; NOTICE TO VICTIM OF VEHICLE THEFT; FEES PROHIBITED.

Subdivision 1. NOTIFICATION. A law enforcement agency shall make a reasonable and good-faith effort to notify the victim of a reported vehicle theft within 48 hours after the agency recovers the vehicle. The notice must specify when the agency expects to release the vehicle to the owner and how the owner may pick up the vehicle.

Subd. 2. VIOLATION DISMISSAL. A traffic violation citation given to the owner of the vehicle as a result of the vehicle theft must be dismissed if the owner presents, by mail or in person, a police report or other verification that the vehicle was stolen at the time of the violation.

Sec. 2. [260.013] SCOPE OF VICTIM RIGHTS.

The rights granted to victims of crime in sections 611A.01 to 611A.06 are applicable to adult criminal cases, juvenile delinquency proceedings, juvenile traffic proceedings involving driving under the influence of alcohol or drugs, and proceedings involving any other act committed by a juvenile that would be a crime as defined in section 609.02, if committed by an adult.

Sec. 3. Minnesota Statutes 1992, section 260.193, subdivision 8, is amended to read:

Subd. 8. If the juvenile court finds that the child is a juvenile major highway or water traffic offender, it may make any one or more of the following dispositions of the case:

- (a) Reprimand the child and counsel with the child and the parents;
- (b) Continue the case for a reasonable period under such conditions governing the child's use and operation of any motor vehicles or boat as the court may set;
- (c) Require the child to attend a driver improvement school if one is available within the county;
- (d) Recommend to the department of public safety suspension of the child's driver's license as provided in section 171.16;
- (e) If the child is found to have committed two moving highway traffic violations or to have contributed to a highway accident involving death, injury, or physical damage in excess of \$100, the court may recommend to the commissioner of public safety or to the licensing authority of another state the cancellation of the child's license until the child reaches the age of 18 years, and the

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commissioner of public safety is hereby authorized to cancel the license without hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety, or to the licensing authority of another state, that the child's license be returned, and the commissioner of public safety is authorized to return the license;

(f) Place the child under the supervision of a probation officer in the child's own home under conditions prescribed by the court including reasonable rules relating to operation and use of motor vehicles or boats directed to the correction of the child's driving habits;

(g) If the child is found to have violated a state or local law or ordinance and the violation resulted in damage to the person or property of another, the court may order the child to make reasonable restitution for the damage;

(h) Require the child to pay a fine of up to \$700. The court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

~~(h)~~ (i) If the court finds that the child committed an offense described in section 169.121, the court shall order that a chemical use assessment be conducted and a report submitted to the court in the manner prescribed in section 169.126. If the assessment concludes that the child meets the level of care criteria for placement under rules adopted under section 254A.03, subdivision 3, the report must recommend a level of care for the child. The court may require that level of care in its disposition order. In addition, the court may require any child ordered to undergo an assessment to pay a chemical dependency assessment charge of \$75. The court shall forward the assessment charge to the commissioner of finance to be credited to the general fund. The state shall reimburse counties for the total cost of the assessment in the manner provided in section 169.126, subdivision 4c.

Sec. 4. Minnesota Statutes 1992, section 260.251, subdivision 1, is amended to read:

Subdivision 1. **CARE, EXAMINATION, OR TREATMENT.** (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a county welfare board, or

(2) whenever legal custody is transferred to a person other than the county welfare board, but under the supervision of the county welfare board,

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The court shall order, and the county welfare board shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, social security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the county welfare board shall require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the county welfare board shall require, the parents to contribute to the cost of care, examination, or treatment of the child. Except in delinquency cases where the victim is a member of the child's immediate family, when determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the county welfare board and approved by the commissioner of human services. In delinquency cases where the victim is a member of the child's immediate family, the court shall use the fee schedule, but may also take into account the seriousness of the offense and any expenses which the parents have incurred as a result of the offense. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518 from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, copayments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

Sec. 5. Minnesota Statutes 1992, section 540.18, subdivision 1, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. The parent or guardian of the person of a minor who is under the age of 18 and who is living with the parent or guardian and who willfully or maliciously causes injury to any person or damage to any property is jointly and severally liable with such minor for such injury or damage to an amount not exceeding ~~\$500~~ \$1,000, if such minor would have been liable for such injury or damage if the minor had been an adult. Nothing in this subdivision shall be construed to relieve such minor from personal liability for such injury or damage. The liability provided in this subdivision is in addition to and not in lieu of any other liability which may exist at law. Recovery under this section shall be limited to special damages.

Sec. 6. [611A.015] SCOPE OF VICTIM RIGHTS.

The rights afforded to crime victims in sections 611A.01 to 611A.06 are applicable to adult criminal cases, juvenile delinquency proceedings, juvenile traffic proceedings involving driving under the influence of alcohol or drugs, and proceedings involving any other act committed by a juvenile that would be a crime as defined in section 609.02, if committed by an adult.

Sec. 7. Minnesota Statutes 1992, section 611A.02, subdivision 2, is amended to read:

Subd. 2. VICTIMS' RIGHTS. (a) ~~The commissioner of public safety, in consultation with~~ The crime victim and witness advisory council; ~~must shall~~ develop a notice two model notices of the rights of crime victims. ~~The notice must include a form for the preparation of a preliminary written victim impact summary. A preliminary victim impact summary is a concise statement of the immediate and expected damage to the victim as a result of the crime. A victim desiring to file a preliminary victim impact summary must file the summary with the investigating officer no more than five days after the victim receives the notice from a peace officer. If a preliminary victim impact statement is filed with the investigating officer, it must be sent to the prosecutor with other investigative materials. If a prosecutor has received a preliminary victim impact summary, the prosecutor must present the summary to the court. This subdivision does not relieve a probation officer of the notice requirements imposed by section 611A.037, subdivision 2.~~

(b) The initial notice of the rights of crime victims must be distributed by a peace officer to each victim, as defined in section 611A.01, ~~when the peace officer takes a formal statement from the victim. A peace officer is not obligated to distribute the notice if a victim does not make a formal statement at the time of initial contact with the victim.~~ The notice must inform a victim of:

(1) the victim's right to request restitution under section 611A.04 apply for reparations to cover losses, not including property losses, resulting from a violent crime and the telephone number to call to request an application;

(2) the victim's right to be notified of any plea negotiations under section 611A.03 request that the law enforcement agency withhold public access to data

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revealing the victim's identity under section 13.82, subdivision 10, paragraph (d);

(3) the victim's right to be present at sentencing, and to object orally or in writing to a proposed agreement or disposition; and additional rights of domestic abuse victims as described in section 629.341;

(4) the victim's right to be notified of the final disposition of the case. information on the nearest crime victim assistance program or resource; and

(5) the victim's rights, if an offender is charged, to be informed of and participate in the prosecution process, including the right to request restitution.

(c) A supplemental notice of the rights of crime victims must be distributed by the city or county attorney's office to each victim, within a reasonable time after the offender is charged or petitioned. This notice must inform a victim of all the rights of crime victims under this chapter.

Sec. 8. Minnesota Statutes 1992, 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, and funeral expenses. 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 ~~and must also be provided to the offender at least three business days before the sentencing or dispositional hearing. If the victim's noncooperation prevents the court or its designee from obtaining competent evidence regarding restitution, the court is not obligated to consider information regarding restitution in 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 reserved or the sentencing or disposition continued if the affidavit or other competent evidence 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.

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

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- (1) the offender is on probation or supervised release;
- (2) information regarding restitution was submitted 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 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.

Sec. 9. Minnesota Statutes 1992, 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 a ~~claim for reparations submitted under sections 611A.52 to 611A.67, along with~~ orders of the board, if any, which detail any amounts paid by the board to the victim. The board may file the claim 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 claim payment order not less than three business days before the sentencing or dispositional hearing. ~~If the board submits the claim directly to the court administrator, it shall also provide a copy to the offender. The court administrator shall provide copies of the payment order 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 reserved or the sentencing or disposition continued if the payment order is not received in time.~~ The filing of a claim 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, restitution may be made directly to the victim. If the board has paid reparations to the victim, the court shall order restitution payments to be made directly to the board.

Sec. 10. Minnesota Statutes 1992, section 611A.04, subdivision 3, is amended to read:

Subd. 3. **EFFECT OF ORDER FOR RESTITUTION.** An order of restitu-

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tion may be enforced by any person named in the order to receive the restitution in the same manner as a judgment in a civil action. 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 by the court administrator of the district court in the county in which the order of restitution was entered. 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. 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. 11. Minnesota Statutes 1992, section 611A.06, subdivision 1, is amended to read:

Subdivision 1. **NOTICE OF RELEASE REQUIRED.** The commissioner of corrections or other custodial authority shall make a good faith effort to notify the victim that the offender is to be released from imprisonment or incarceration, including release on extended furlough and for work release; released from a juvenile correctional facility; released from a facility in which the offender was confined due to incompetency, mental illness, or mental deficiency, or commitment under section 253B.18; or transferred ~~from one correctional facility to another when the correctional program involves less security to a~~ minimum security setting, if the victim has mailed to the commissioner of corrections or to the head of the facility in which the offender is confined a written request for this notice. The good faith effort to notify the victim must occur prior to the release, transfer, or change in security status. For a victim of a felony crime against the person for which the offender was sentenced to a term of imprisonment of more than 18 months, the good faith effort to notify the victim must occur 60 days before the offender's release, transfer, or change ~~in~~ to minimum security status.

Sec. 12. Minnesota Statutes 1992, section 611A.52, subdivision 5, is amended to read:

Subd. 5. **COLLATERAL SOURCE.** "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable under sections 611A.51 to 611A.67 which the victim or claimant has received, or which is readily available to the victim, from:

- (1) the offender;
- (2) the government of the United States or any agency thereof, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 611A.51 to 611A.67;

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- (3) social security, medicare, and medicaid;
- (4) state required temporary nonoccupational disability insurance;
- (5) workers' compensation;
- (6) wage continuation programs of any employer;
- (7) proceeds of a contract of insurance payable to the victim for economic loss sustained because of the crime;
- (8) a contract providing prepaid hospital and other health care services, or benefits for disability; ~~or~~
- (9) any private source as a voluntary donation or gift; or
- (10) proceeds of a lawsuit brought as a result of the crime.

The term does not include a life insurance contract.

Sec. 13. Minnesota Statutes 1992, section 611A.52, subdivision 8, is amended to read:

Subd. 8. **ECONOMIC LOSS.** "Economic loss" means actual economic detriment incurred as a direct result of injury or death.

(a) In the case of injury the term is limited to:

(1) reasonable expenses incurred for necessary medical, chiropractic, hospital, rehabilitative, and dental products, services, or accommodations, including ambulance services, drugs, appliances, and prosthetic devices;

(2) reasonable expenses associated with recreational therapy where a claimant has suffered amputation of a limb;

(3) reasonable expenses incurred for psychological or psychiatric products, services, or accommodations where the nature of the injury or the circumstances of the crime are such that the treatment is necessary to the rehabilitation of the victim, subject to the following limitations:

(i) if treatment is likely to continue longer than six months after the date the claim is filed and the cost of the additional treatment will exceed \$1,500, or if the total cost of treatment in any case will exceed \$4,000, the provider shall first submit to the board a plan which includes the measurable treatment goals, the estimated cost of the treatment, and the estimated date of completion of the treatment. Claims submitted for treatment that was provided more than 30 days after the estimated date of completion may be paid only after advance approval by the board of an extension of treatment; and

(ii) the board may, in its discretion, elect to pay claims under this clause on a quarterly basis;

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(4) loss of income that the victim would have earned had the victim not been injured;

(5) reasonable expenses incurred for substitute child care or household services to replace those the victim would have performed had the victim not been injured. As used in this clause, "child care services" means services provided by facilities licensed under and in compliance with either Minnesota Rules, parts 9502.0315 to 9502.0445, or 9545.0510 to 9545.0670, or exempted from licensing requirements pursuant to section 245A.03. Licensed facilities must be paid at a rate not to exceed their standard rate of payment. Facilities exempted from licensing requirements must be paid at a rate not to exceed \$3 an hour per child for daytime child care or \$4 an hour per child for evening child care; and

(6) reasonable expenses actually incurred to return a child who was a victim of a crime under section 609.25 or 609.26 to the child's parents or lawful custodian. These expenses are limited to transportation costs, meals, and lodging from the time the child was located until the child was returned home.

(b) In the case of death the term is limited to:

(1) reasonable expenses actually incurred for funeral, burial, or cremation, not to exceed an amount to be determined by the board on the first day of each fiscal year;

(2) reasonable expenses for medical, chiropractic, hospital, rehabilitative, psychological and psychiatric services, products or accommodations which were incurred prior to the victim's death and for which the victim's survivors or estate are liable;

(3) loss of support, including contributions of money, products or goods, but excluding services which the victim would have supplied to dependents if the victim had lived; and

(4) reasonable expenses incurred for substitute child care and household services to replace those which the victim would have performed for the benefit of dependents if the victim had lived.

Claims for loss of support for minor children made under clause (3) must be paid for three years or until the child reaches 18 years old, whichever is the shorter period. After three years, if the child is ~~less~~ younger than 18 years old a claim for loss of support may be resubmitted to the board, and the board staff shall evaluate the claim giving consideration to the child's financial need and to the availability of funds to the board. Claims for loss of support for a spouse made under clause (3) shall also be reviewed at least once every three years. The board staff shall evaluate the claim giving consideration to the spouse's financial need and to the availability of funds to the board.

Claims for substitute child care services made under clause (4) must be limited to the actual care that the deceased victim would have provided to enable

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surviving family members to pursue economic, educational, and other activities other than recreational activities.

Sec. 14. Minnesota Statutes 1992, section 611A.52, subdivision 9, is amended to read:

Subd. 9. **INJURY.** "Injury" means actual bodily harm including pregnancy and ~~mental or nervous shock~~ emotional trauma.

Sec. 15. Minnesota Statutes 1992, section 611A.57, subdivision 2, is amended to read:

Subd. 2. The board ~~member to whom the claim is assigned~~ staff shall examine the papers filed in support of the claim and cause an investigation to be conducted into the validity of ~~the~~ a claim to the extent that an investigation is necessary.

Sec. 16. Minnesota Statutes 1992, section 611A.57, subdivision 3, is amended to read:

Subd. 3. **CLAIM DECISION.** The board ~~member to whom a claim is assigned~~ executive director may decide the claim in favor of a claimant in the amount claimed on the basis of the papers filed in support of it and the report of the investigation of such claim. If unable to decide the claim upon the basis of the papers and any report of investigation, the board ~~member~~ executive director shall discuss the matter with other members of the board present at a board meeting. After discussion the board shall vote on whether to grant or deny the claim or whether further investigation is necessary. A decision granting or denying the claim shall then be issued by the executive director ~~or the board member to whom the claim was assigned~~.

Sec. 17. Minnesota Statutes 1992, section 611A.57, subdivision 5, is amended to read:

Subd. 5. **RECONSIDERATION.** The claimant may, within 30 days after receiving the decision of the board, apply for reconsideration before the entire board. Upon request for reconsideration, the board shall reexamine all information filed by the claimant, including any new information the claimant provides, and all information obtained by investigation. The board may also conduct additional examination into the validity of the claim. Upon reconsideration, the board may affirm, modify, or reverse ~~its~~ the prior ruling. A claimant denied reparations upon reconsideration is entitled to a contested case hearing within the meaning of chapter 14.

Sec. 18. Minnesota Statutes 1992, section 611A.66, is amended to read:

611A.66 LAW ENFORCEMENT AGENCIES; DUTY TO INFORM VICTIMS OF RIGHT TO FILE CLAIM.

All law enforcement agencies investigating crimes shall provide ~~forms~~ to

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each person who may be eligible to file a claim pursuant to sections 611A.51 to 611A.67 and to inform them of their rights hereunder. All law enforcement agencies shall obtain from the board and maintain a supply of all forms necessary for the preparation and presentation of claims victims with notice of their right to apply for reparations with the telephone number to call to request an application form.

Law enforcement agencies shall assist the board in performing its duties under sections 611A.51 to 611A.67. Law enforcement agencies within ten days after receiving a request from the board shall supply the board with requested reports, notwithstanding any provisions to the contrary in chapter 13, and including reports otherwise maintained as confidential or not open to inspection under section 260.161. All data released to the board retains the data classification that it had in the possession of the law enforcement agency.

Sec. 19. Minnesota Statutes 1992, section 611A.71, subdivision 1, is amended to read:

Subdivision 1. **CREATION.** The Minnesota crime victim and witness advisory council is established and shall consist of ~~15~~ 16 members.

Sec. 20. Minnesota Statutes 1992, section 611A.71, subdivision 2, is amended to read:

Subd. 2. **MEMBERSHIP.** (a) The crime victim and witness advisory council shall consist of the following members, appointed by the commissioner of public safety after consulting with the commissioner of corrections:

(1) one district court judge appointed upon recommendation of the chief justice of the supreme court;

(2) one county attorney appointed upon recommendation of the Minnesota county attorneys association;

(3) one public defender appointed upon recommendation of the state public defender;

(4) one peace officer;

(5) one medical or osteopathic physician licensed to practice in this state;

(6) five members who are crime victims or crime victim assistance representatives; ~~and~~

(7) three public members; and

(8) one member appointed on recommendation of the Minnesota general crime victim coalition.

The appointments should take into account sex, race, and geographic distribution. No more than seven of the members appointed under this paragraph

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may be of one gender. One of the nonlegislative members must be designated by the commissioner of public safety as chair of the council.

(b) Two members of the council shall be members of the legislature who have demonstrated expertise and interest in crime victims issues, one senator appointed under rules of the senate and one member of the house of representatives appointed under rules of the house of representatives.

Sec. 21. Minnesota Statutes 1992, section 611A.71, subdivision 3, is amended to read:

Subd. 3. **TERMS OF OFFICE.** ~~Each appointed member must be appointed for a four-year term coterminous with the governor's term of office, and shall continue to serve during that time as long as the member occupies the position which made that member eligible for the appointment. Each member shall continue in office until that member's successor is duly appointed.~~ Section 15.059 governs the terms of office, filling of vacancies, and removal of members of the crime victim and witness advisory council. Members are eligible for reappointment and appointment may be made to fill an unexpired term. The members of the council shall elect any additional officers necessary for the efficient discharge of their duties.

Sec. 22. Minnesota Statutes 1992, section 611A.71, subdivision 7, is amended to read:

Subd. 7. **EXPIRATION.** The council expires ~~as provided in section 45.059, subdivision 5~~ on June 30, 1995.

Sec. 23. Minnesota Statutes 1992, section 626.556, subdivision 10, is amended to read:

Subd. 10. **DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.** (a) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, the local welfare agency shall immediately conduct an assessment and offer protective social services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse or physical abuse, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

(b) When a local agency receives a report or otherwise has information indi-

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cating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97.

(c) Authority of the local welfare agency responsible for assessing the child abuse report and of the local law enforcement agency for investigating the alleged abuse includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged perpetrator. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found and or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the perpetrator or parent, legal custodian, guardian, or school official. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 49.02 of the Minnesota rules of procedure for juvenile courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare or local law enforcement agency determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the county welfare board or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded. Until that time, the local welfare or law enforcement agency shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged perpetrator is believed to be a school official or employee, the time and place, and manner of the interview on school premises

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shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the perpetrator or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the perpetrator or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph (d), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner, the ombudsman for mental health and mental retardation, the local welfare agencies responsible for investigating reports, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

Sec. 24. Minnesota Statutes 1992, section 631.046, subdivision 1, is amended to read:

Subdivision 1. **CHILD ABUSE AND VIOLENT CRIME CASES.** Notwithstanding any other law, a prosecuting witness under 18 years of age in a case involving child abuse as defined in section 630.36, subdivision 2, a crime of violence, as defined in section 624.712, subdivision 5, or an assault under section 609.224, may choose to have in attendance or be accompanied by a parent, guardian, or other supportive person, whether or not a witness, at the omnibus

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hearing or at the trial, during testimony of the prosecuting witness. If the person so chosen is also a prosecuting witness, the prosecution shall present on noticed motion, evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony.

Sec. 25. **APPLICABILITY.**

The gender balance requirement of section 20 applies only to appointments made after the effective date of that section and does not require displacement of incumbents before the end of their term.

Sec. 26. **REPEALER.**

Minnesota Statutes 1992, section 611A.57, subdivision 1, is repealed.

ARTICLE 7

LAW ENFORCEMENT

Section 1. Minnesota Statutes 1992, section 8.16, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY.** The attorney general, or any deputy, assistant, or special assistant attorney general whom the attorney general authorizes in writing, has the authority in any county of the state to subpoena and require the production of any records of telephone companies, cellular phone companies, paging companies, electric companies, gas companies, water utilities, chemical suppliers, hotels and motels, pawn shops, airlines, buses, taxis, and other entities engaged in the business of transporting people, and freight companies, self-service storage facilities, warehousing companies, package delivery companies, and other entities engaged in the businesses of transport, storage, or delivery, and records of the existence of safe deposit box account numbers and customer savings and checking account numbers maintained by financial institutions and safe deposit companies. Subpoenas may only be issued for records that are relevant to an ongoing legitimate law enforcement investigation.

Sec. 2. Minnesota Statutes 1992, section 169.222, is amended by adding a subdivision to read:

Subd. 11. PEACE OFFICERS OPERATING BICYCLES. The provisions of this section governing operation of bicycles do not apply to bicycles operated by peace officers while performing their duties.

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Sec. 3. Minnesota Statutes 1992, section 169.98, subdivision 1a, is amended to read:

Subd. 1a. **VEHICLE STOPS.** ~~Except as otherwise permitted under sections 221.221 and 299D.06,~~ Only a person who is licensed as a peace officer, constable, or part-time peace officer under sections 626.84 to section 626.863 may use a motor vehicle governed by subdivision 1 to stop a vehicle as defined in section 169.01, subdivision 2. In addition, a hazardous materials specialist employed by the department of transportation may, in the course of responding to an emergency, use a motor vehicle governed by subdivision 1 to stop a vehicle as defined in section 169.01, subdivision 2.

Sec. 4. Minnesota Statutes 1992, section 214.10, is amended by adding a subdivision to read:

Subd. 10. RECEIPT OF COMPLAINT. Notwithstanding the provisions of subdivision 1 to the contrary, when the executive director or any member of the board of peace officer standards and training produces or receives a written statement or complaint that alleges a violation of a statute or rule that the board is empowered to enforce, the executive director shall designate the appropriate law enforcement agency to investigate the complaint and shall order it to conduct an inquiry into the complaint's allegations. The investigating agency must complete the inquiry and submit a written summary of it to the executive director within 30 days of the order for inquiry.

Sec. 5. Minnesota Statutes 1992, section 214.10, is amended by adding a subdivision to read:

Subd. 11. REASONABLE GROUNDS DETERMINATION. (a) After the investigation is complete, the executive director shall convene a three-member committee of the board to determine if the complaint constitutes reasonable grounds to believe that a violation within the board's enforcement jurisdiction has occurred. At least two members of the committee must be board members who are peace officers. No later than 30 days before the committee meets, the executive director shall give the licensee who is the subject of the complaint and the complainant written notice of the meeting. The executive director shall also give the licensee a copy of the complaint. Before making its determination, the committee shall give the complaining party and the licensee who is the subject of the complaint a reasonable opportunity to be heard.

(b) The committee shall, by majority vote, after considering the information supplied by the investigating agency and any additional information supplied by the complainant or the licensee who is the subject of the complaint, take one of the following actions:

(1) find that reasonable grounds exist to believe that a violation within the board's enforcement jurisdiction has occurred and order that an administrative hearing be held;

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(2) decide that no further action is warranted; or

(3) continue the matter.

The executive director shall promptly give notice of the committee's action to the complainant and the licensee.

(c) If the committee determines that a complaint does not relate to matters within its enforcement jurisdiction but does relate to matters within another state or local agency's enforcement jurisdiction, it shall refer the complaint to the appropriate agency for disposition.

Sec. 6. Minnesota Statutes 1992, section 214.10, is amended by adding a subdivision to read:

Subd. 12. ADMINISTRATIVE HEARING; BOARD ACTION. (a) Notwithstanding the provisions of subdivision 2 to the contrary, an administrative hearing shall be held if ordered by the committee under subdivision 11, paragraph (b). After the administrative hearing is held, the administrative law judge shall refer the matter to the full board for final action.

(b) Before the board meets to take action on the matter and the executive director must notify the complainant and the licensee who is the subject of the complaint. After the board meets, the executive director must promptly notify these individuals and the chief law enforcement officer of the agency employing the licensee of the board's disposition.

Sec. 7. Minnesota Statutes 1992, section 214.10, is amended by adding a subdivision to read:

Subd. 13. DEFINITION. As used in subdivisions 10 to 12, "appropriate law enforcement agency" means the law enforcement agency assigned by the executive director and the chair of the committee of the board convened under subdivision 11.

Sec. 8. Minnesota Statutes 1992, section 299D.03, subdivision 1, is amended to read:

Subdivision 1. **MEMBERS.** The commissioner is hereby authorized to employ and designate a chief supervisor, a chief assistant supervisor, and such assistant supervisors, sergeants and officers as are provided by law, who shall comprise the Minnesota state patrol. The members of the Minnesota state patrol shall have the power and authority:

(1) As peace officers to enforce the provisions of the law relating to the protection of and use of trunk highways.

(2) At all times to direct all traffic on trunk highways in conformance with law, and in the event of a fire or other emergency, or to expedite traffic or to insure safety, to direct traffic on other roads as conditions may require notwithstanding the provisions of law.

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(3) To serve search warrants related to criminal motor vehicle and traffic violations and arrest warrants, and legal documents anywhere in the state.

(4) To serve orders of the commissioner of public safety or the commissioner's duly authorized agents issued under the provisions of the Drivers License Law, the Safety Responsibility Act, or relating to authorized brake and light testing stations, anywhere in the state and to take possession of any license, permit or certificate ordered to be surrendered.

(5) To inspect official brake and light adjusting stations.

(6) To make appearances anywhere within the state for the purpose of conducting traffic safety educational programs and school bus clinics.

(7) To exercise upon all trunk highways the same powers with respect to the enforcement of laws relating to crimes, as sheriffs, constables and police officers.

(8) To cooperate, under instructions and rules of the commissioner of public safety, with all sheriffs and other police officers anywhere in the state, provided that said employees shall have no power or authority in connection with strikes or industrial disputes.

(9) To assist and aid any peace officer whose life or safety is in jeopardy.

(10) As peace officers to provide security and protection to the governor, governor elect, either or both houses of the legislature, and state buildings or property in the manner and to the extent determined to be necessary after consultation with the governor, or a designee. Pursuant to this clause, members of the state patrol, acting as peace officers have the same powers with respect to the enforcement of laws relating to crimes, as sheriffs, constables and police officers have within their respective jurisdictions.

(11) To inspect school buses anywhere in the state for the purposes of determining compliance with vehicle equipment, pollution control, and registration requirements.

(12) As peace officers to make arrests for public offenses committed in their presence anywhere within the state. Persons arrested for violations other than traffic violations shall be referred forthwith to the appropriate local law enforcement agency for further investigation or disposition.

The state may contract for state patrol members to render the services described in this section in excess of their regularly scheduled duty hours and patrol members rendering such services shall be compensated in such amounts, manner and under such conditions as the agreement provides.

Employees thus employed and designated shall subscribe an oath.

Sec. 9. Minnesota Statutes 1992, section 299D.06, is amended to read:

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299D.06 INSPECTIONS; WEIGHING.

Personnel to enforce the laws relating to motor vehicle equipment, school bus equipment, drivers license, motor vehicle registration, motor vehicle size and weight, and motor vehicle petroleum tax, to enforce public utilities commission rules relating to motor carriers, to enforce pollution control agency rules relating to motor vehicle noise abatement, and to enforce laws relating to directing the movement of vehicles shall be classified employees of the commissioner of public safety assigned to the division of state patrol. Employees engaged in these duties, while actually on the job during their working hours only, shall have power to issue citations in lieu of arrest and continued detention and to prepare notices to appear in court for violation of these laws and rules, in the manner provided in section 169.91, subdivision 3. They shall not be armed and shall have none of the other powers and privileges reserved to peace officers.

Sec. 10. Minnesota Statutes 1992, section 388.23, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY.** The county attorney, or any deputy or assistant county attorney whom the county attorney authorizes in writing, has the authority to subpoena and require the production of any records of telephone companies, cellular phone companies, paging companies, electric companies, gas companies, water utilities, chemical suppliers, hotels and motels, pawn shops, airlines, buses, taxis, and other entities engaged in the business of transporting people, and freight companies, warehousing companies, self-service storage facilities, package delivery companies, and other entities engaged in the businesses of transport, storage, or delivery, and records of the existence of safe deposit box account numbers and customer savings and checking account numbers maintained by financial institutions and safe deposit companies. Subpoenas may only be issued for records that are relevant to an ongoing legitimate law enforcement investigation.

Sec. 11. **[473.407] METROPOLITAN TRANSIT COMMISSION POLICE.**

Subdivision 1. AUTHORIZATION. The metropolitan transit commission may appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), and establish a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (h), known as the metropolitan transit commission police, to police its property and routes and to make arrests under sections 629.30 and 629.34. The jurisdiction of the law enforcement agency is limited to offenses relating to commission property, equipment, employees, and passengers.

Subd. 2. LIMITATIONS. The initial processing of a person arrested by the transit commission police for an offense within the agency's jurisdiction is the responsibility of the transit commission police unless otherwise directed by the law enforcement agency with primary jurisdiction. A subsequent investigation is the responsibility of the law enforcement agency of the jurisdiction in which the crime was committed. The transit commission police are not authorized to apply for a search warrant as prescribed in section 626.05.

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Subd. 3. POLICIES. Before the commission begins to operate its law enforcement agency within a city or county with an existing law enforcement agency, the transit commission police shall develop, in conjunction with the law enforcement agencies, written policies that describe how the issues of joint jurisdiction will be resolved. The policies must also address the operation of emergency vehicles by transit commission police responding to commission emergencies. These policies must be filed with the board of peace officer standards and training by August 1, 1993. Revisions of any of these policies must be filed with the board within ten days of the effective date of the revision. The commission shall train all of its peace officers regarding the application of these policies.

Subd. 4. CHIEF LAW ENFORCEMENT OFFICER. The commission shall appoint a peace officer employed full time to be the chief law enforcement officer and to be responsible for the management of the law enforcement agency. The person shall possess the necessary police and management experience and have the title of chief of metropolitan transit commission police services. All other police management and supervisory personnel must be employed full time by the commission. Supervisory personnel must be on duty and available any time transit commission police are on duty. The commission may not hire part-time peace officers as defined in section 626.84, subdivision 1, paragraph (f), except that the commission may appoint peace officers to work on a part-time basis not to exceed 30 full-time equivalents.

Subd. 5. EMERGENCIES. (a) The commission shall ensure that all emergency vehicles used by transit commission police are equipped with radios capable of receiving and transmitting on the same frequencies utilized by the law enforcement agencies that have primary jurisdiction.

(b) When the transit commission police receive an emergency call they shall notify the public safety agency with primary jurisdiction and coordinate the appropriate response.

(c) Transit commission police officers shall notify the primary jurisdictions of their response to any emergency.

Subd. 6. COMPLIANCE. Except as otherwise provided in this section, the transit commission police shall comply with all statutes and administrative rules relating to the operation and management of a law enforcement agency.

Sec. 12. Minnesota Statutes 1992, section 480.0591, subdivision 6, is amended to read:

Subd. 6. PRESENT LAWS EFFECTIVE UNTIL MODIFIED; RIGHTS RESERVED. Present statutes relating to evidence shall be effective until modified or superseded by court rule; If a rule of evidence is promulgated which is in conflict with a statute, the statute shall thereafter be of no force and effect. The supreme court, however, shall not have the power to promulgate rules of evidence which conflict, modify, or supersede the following statutes:

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(a) statutes which relate to the competency of witnesses to testify, found in sections 595.02 to 595.025;

(b) statutes which establish the prima facie evidence as proof of a fact;

(c) statutes which establish a presumption or a burden of proof;

(d) statutes which relate to the admissibility of statistical probability evidence based on genetic or blood test results, found in sections 634.25 to 634.30;

(e) statutes which relate to the privacy of communications; and

(f) statutes which relate to the admissibility of certain documents.

The legislature may enact, modify, or repeal any statute or modify or repeal any rule of evidence promulgated under this section.

Sec. 13. Minnesota Statutes 1992, section 626.05, subdivision 2, is amended to read:

Subd. 2. The term "peace officer," as used in sections 626.04 to 626.17, means a person who is licensed as a peace officer in accordance with section 626.84, subdivision 1, and who serves as a sheriff, deputy sheriff, police officer, constable, conservation officer, agent of the bureau of criminal apprehension, agent of the division of gambling enforcement, or University of Minnesota peace officer, or state patrol trooper as authorized by section 299D.03.

Sec. 14. Minnesota Statutes 1992, section 626.13, is amended to read:

626.13 SERVICE; PERSONS MAKING.

A search warrant may in all cases be served by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on the officer's requiring it, the officer being present and acting in its execution. If the warrant is to be served by an agent of the bureau of criminal apprehension, an agent of the division of gambling enforcement, a state patrol trooper, or a conservation officer, the agent, state patrol trooper, or conservation officer shall notify the chief of police of an organized full-time police department of the municipality or, if there is no such local chief of police, the sheriff or a deputy sheriff of the county in which service is to be made prior to execution.

Sec. 15. Minnesota Statutes 1992, section 626A.05, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION FOR WARRANT.** The attorney general; ~~or not more than one assistant or special assistant attorney general specifically designated by the attorney general,~~ or a county attorney of any county; ~~or not more than one assistant county attorney specifically designated by the county attorney,~~ may make application as provided in section 626A.06, to a judge of the district court, of the court of appeals, or of the supreme court for a warrant authorizing

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or approving the interception of wire, electronic, or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made. No court commissioner shall issue a warrant under this chapter.

Sec. 16. Minnesota Statutes 1992, section 626A.06, subdivision 4, is amended to read:

Subd. 4. **THE WARRANT.** Each warrant to intercept communications shall be directed to a law enforcement officer, commanding the officer to hold the recording of all intercepted communications conducted under said warrant in custody subject to the further order of the court issuing the warrant. The warrant shall contain the grounds for its issuance with findings, as to the existence of the matters contained in subdivision 1 and shall also specify:

(a) the identity of the person, if known, whose communications are to be intercepted and recorded;

(b) the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted, and in the case of telephone or telegraph communications the general designation of the particular line or lines involved;

(c) a particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(d) the identity of the law enforcement office or agency authorized to intercept the communications, the name of the officer or officers thereof authorized to intercept communications, and of the person authorizing the application;

(e) the period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained;

(f) any other limitations on the interception of communications being authorized, for the protection of the rights of third persons;

(g) a statement that using, divulging, or disclosing any information concerning such application and warrant for intercepting communications is prohibited and that any violation is punishable by the penalties of this chapter.

(h) a statement that the warrant shall be executed as soon as practicable, shall be executed in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter and must terminate upon attainment of the authorized objective, or in any event in ~~ten~~ 30 days. The ~~ten-day~~ 30-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is received. In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception.

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An order authorizing the interception of a wire, oral, or electronic communication under this chapter must, upon request of the applicant, direct that a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish the applicant immediately all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that the service provider, landlord, custodian, or person is according the person whose communications are to be intercepted. A provider of wire or electronic communication service, landlord, custodian, or other person furnishing facilities or technical assistance must be compensated by the applicant for reasonable expenses incurred in providing the facilities or assistance.

Denial of an application for a warrant to intercept communications or of an application for renewal of such warrant shall be by written order that shall include a statement as to the offense or offenses designated in the application, the identity of the official applying for the warrant and the name of the law enforcement office or agency.

Sec. 17. Minnesota Statutes 1992, section 626A.06, subdivision 5, is amended to read:

Subd. 5. **DURATION OF WARRANT.** No warrant entered under this section may authorize or approve the interception of any wire, electronic, or oral communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than ~~ten~~ 30 days.

The effective period of any warrant for intercepting communications shall terminate immediately when any person named in the warrant has been charged with an offense specified in the warrant.

Sec. 18. Minnesota Statutes 1992, section 626A.06, subdivision 6, is amended to read:

Subd. 6. **EXTENSIONS.** Any judge of the district court, of the court of appeals, or of the supreme court may grant extensions of a warrant, but only upon application for an extension made in accordance with subdivision 1 and the court making the findings required by subdivision 3. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than ~~ten~~ 30 days. In addition to satisfying the requirements of subdivision 1, an application for a ~~renewal~~ an extension of any warrant for intercepting communications shall also:

- (a) contain a statement that all interception of communications under prior warrants has been in compliance with this chapter;
 - (b) contain a statement setting forth the results thus far obtained from the interception or a reasonable explanation of the failure to obtain results;
 - (c) state the continued existence of the matters contained in subdivision 1;
- and

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(d) specify the facts and circumstances of the interception of communications under prior warrants which are relied upon by the applicant to show that such continued interception of communications is necessary and in the public interest.

~~Any application to intercept communications of a person previously the subject of such a warrant for any offense designated in a prior warrant shall constitute a renewal of such warrant.~~

Sec. 19. Minnesota Statutes 1992, section 626A.10, subdivision 1, is amended to read:

Subdivision 1. **NOTICE OF ORDER.** Within a reasonable time but not later than 90 days after the termination of the period of a warrant or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the warrant and the application, and such other parties to intercepted communications as the judge may determine that is in the interest of justice, an inventory which shall include notice of:

- (1) the fact of the issuance of the warrant or the application;
- (2) the date of the issuance and the period of authorized, approved or disapproved interception, or the denial of the application; and
- (3) the fact that during the period wire, electronic, or oral communications were or were not intercepted.

On an ex parte showing to a court of competent jurisdiction that there is a need to continue the investigation and that the investigation would be harmed by service of the inventory at this time, service of the inventory required by this subdivision may be postponed for an additional 90-day period.

Sec. 20. Minnesota Statutes 1992, section 626A.11, subdivision 1, is amended to read:

Subdivision 1. **ILLEGALLY OBTAINED EVIDENCE INADMISSIBLE.** Evidence obtained by any act of intercepting wire, oral, or electronic communications, in violation of section 626A.02, and all evidence obtained through or resulting from information obtained by any such act, shall be inadmissible for any purpose in any action, proceeding, or hearing; provided, however, that: (1) any such evidence shall be admissible in any civil or criminal action, proceeding, or hearing against the person who has, or is alleged to have, violated this chapter; and (2) any evidence obtained by a lawfully executed warrant to intercept wire, oral, or electronic communications issued by a federal court or by a court of competent jurisdiction of another state shall be admissible in any civil or criminal proceeding.

Sec. 21. **INSTRUCTION TO REVISOR.**

The revisor shall substitute the reference "473.407" for the reference "629.40, subdivision 5" in Minnesota Statutes, section 352.01, subdivision 2b, clause (34).

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Sec. 22. REPEALER.

Minnesota Statutes 1992, section 214.10, subdivisions 4, 5, 6, and 7, are repealed.

Minnesota Statutes 1992, section 629.40, subdivision 5, is repealed.

Sec. 23. APPLICATION.

Sections 473.407 and the repeal of section 629.40, subdivision 5, apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

ARTICLE 8**CORRECTIONS**

Section 1. Minnesota Statutes 1992, section 16B.08, subdivision 7, is amended to read:

Subd. 7. **SPECIFIC PURCHASES.** (a) The following may be purchased without regard to the competitive bidding requirements of this chapter:

- (1) merchandise for resale at state park refectories or facility operations;
- (2) farm and garden products, which may be sold at the prevailing market price on the date of the sale;
- (3) meat for other state institutions from the technical college maintained at Pipestone by independent school district No. 583; and
- (4) ~~furniture~~ products and services from the Minnesota correctional facilities.

(b) Supplies, materials, equipment, and utility services for use by a community-based residential facility operated by the commissioner of human services may be purchased or rented without regard to the competitive bidding requirements of this chapter.

(c) Supplies, materials, or equipment to be used in the operation of a hospital licensed under sections 144.50 to 144.56 that are purchased under a shared service purchasing arrangement whereby more than one hospital purchases supplies, materials, or equipment with one or more other hospitals, either through one of the hospitals or through another entity, may be purchased without regard to the competitive bidding requirements of this chapter if the following conditions are met:

- (1) the hospital's governing authority authorizes the arrangement;

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(2) the shared services purchasing program purchases items available from more than one source on the basis of competitive bids or competitive quotations of prices; and

(3) the arrangement authorizes the hospital's governing authority or its representatives to review the purchasing procedures to determine compliance with these requirements.

Sec. 2. Minnesota Statutes 1992, section 147.09, is amended to read:

147.09 EXEMPTIONS.

Section 147.081 does not apply to, control, prevent or restrict the practice, service, or activities of:

(1) A person who is a commissioned medical officer of, a member of, or employed by, the armed forces of the United States, the United States Public Health Service, the Veterans Administration, any federal institution or any federal agency while engaged in the performance of official duties within this state, if the person is licensed elsewhere.

(2) A licensed physician from a state or country who is in actual consultation here.

(3) A licensed or registered physician who treats the physician's home state patients or other participating patients while the physicians and those patients are participating together in outdoor recreation in this state as defined by section 86A.03, subdivision 3. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to promulgate the contents of that form by rule. No fee shall be charged for this registration.

(4) A student practicing under the direct supervision of a preceptor while the student is enrolled in and regularly attending a recognized medical school.

(5) A student who is in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the board to be the equivalent of an internship or residency in any hospital or institution approved for training by the board.

(6) A person employed in a scientific, sanitary, or teaching capacity by the state university, the state department of education, or by any public or private school, college, or other bona fide educational institution, or the state department of health, whose duties are entirely of a public health or educational character, while engaged in such duties.

(7) Physician's assistants registered in this state.

(8) A doctor of osteopathy duly licensed by the state board of osteopathy under Minnesota Statutes 1961, sections 148.11 to 148.16, prior to May 1, 1963,

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who has not been granted a license to practice medicine in accordance with this chapter provided that the doctor confines activities within the scope of the license.

(9) Any person licensed by a health related licensing board, as defined in section 214.01, subdivision 2, or registered by the commissioner of health pursuant to section 214.13, including psychological practitioners with respect to the use of hypnosis; provided that the person confines activities within the scope of the license.

(10) A person who practices ritual circumcision pursuant to the requirements or tenets of any established religion.

(11) A Christian Scientist or other person who endeavors to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer.

(12) A physician licensed to practice medicine in another state who is in this state for the sole purpose of providing medical services at a competitive athletic event. The physician may practice medicine only on participants in the athletic event. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to adopt the contents of the form by rule. The physician shall provide evidence satisfactory to the board of a current unrestricted license in another state. The board shall charge a fee of \$50 for the registration.

(13) A psychologist licensed under section 148.91 or a social worker licensed under section 148B.21 who uses or supervises the use of a penile or vaginal plethysmograph in assessing and treating individuals suspected of engaging in aberrant sexual behavior and sex offenders.

Sec. 3. Minnesota Statutes 1992, section 241.09, is amended to read:

241.09 UNCLAIMED MONEY OR PERSONAL PROPERTY OF INMATES OF CORRECTIONAL FACILITIES.

Subdivision 1. **MONEY.** When the chief executive officer of any state correctional facility under the jurisdiction of the commissioner of corrections obtains money belonging to inmates of the facility who have died, been released or escaped, and the chief executive officer knows no claimant or person entitled to it, the chief executive officer shall, if the money is unclaimed within ~~two years~~ six months, deposit it in the inmate social welfare fund for the benefit of the inmates of the facility. No money shall be so deposited until it has remained unclaimed for at least ~~two years~~ six months. If, at any time after the expiration of the ~~two years~~ six months, the inmate or the legal heirs appear and make proper proof of identity or heirship, the inmate or heirs are entitled to receive from the state treasurer any money belonging to the inmate and deposited in the inmate social welfare fund pursuant to this subdivision.

Subd. 2. **UNCLAIMED PERSONAL PROPERTY.** When any inmate of a

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state correctional facility under the jurisdiction of the commissioner of corrections has died, been released or escaped therefrom leaving in the custody of the chief executive officer thereof personal property, other than money, which remains unclaimed for a period of ~~two years~~ 90 days, and the chief executive officer knows no person entitled to it, the chief executive officer or the chief executive officer's agent may sell or otherwise dispose of the property in the manner provided by law for the sale or disposition of state property. The proceeds of any sale, after deduction of the costs shall be deposited in the inmate social welfare fund for expenditure as provided in subdivision 1. Any inmate whose property has been sold under this subdivision, or heirs of the inmate, may file with, and make proof of ownership to, the chief executive officer of the institution who caused the sale of the property within two years after the sale, and, upon satisfactory proof to the chief executive officer, the chief executive officer shall certify to the state treasurer the amount received by the sale of such property for payment to the inmate or heirs. No suit shall be brought for damages consequent to the disposal of personal property or use of money in accordance with this section against the state or any official, employee, or agent thereof.

Sec. 4. Minnesota Statutes 1992, section 241.26, subdivision 5, is amended to read:

Subd. 5. **EARNINGS; WORK RELEASE ACCOUNT.** The net earnings of each inmate participating in the work release program provided by this section may be collected by or forwarded to the commissioner of corrections for deposit to the account of the inmate in the work release account in the state treasury, or the inmate may be permitted to collect, retain, and expend the net earnings from the inmate's employment under rules established by the commissioner of corrections. The money collected by or forwarded to the commissioner under the rules shall remain under the control of the commissioner for the sole benefit of the inmate. After making deductions for the payment of state and local taxes, if necessary, and for repayment of advances and gate money as provided in section 243.24, wages under the control of the commissioner and wages retained by the inmate may be disbursed by the commissioner or expended by the inmate for the following purposes and in the following order:

(1) The cost of the inmate's keep as determined by subdivision 7, which money shall be deposited in the general fund of the state treasury if the inmate is housed in a state correctional facility, or shall be paid directly to the place of confinement as designated by the commissioner pursuant to subdivision 1;

(2) Necessary travel expense to and from work and other incidental expenses of the inmate;

(3) Support of inmate's dependents, if any;

(4) Court-ordered restitution, if any;

(5) Fines, surcharges, or other fees assessed or ordered by the court;

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(6) Contribution to any programs established by law to aid victims of crime, provided that the contribution must not be more than 20 percent of the inmate's gross wages;

(6) (7) Restitution to the commissioner of corrections ordered by a prison disciplinary hearing officer for damage to property caused by an inmate's conduct;

(7) (8) After the above expenditures, the inmate shall have discretion to direct payment of the balance, if any, upon proper proof of personal legal debts;

(8) (9) The balance, if any, shall be disbursed to the inmate as provided in section 243.24, subdivision 1.

The commissioner may authorize the payment of court-ordered restitution from an inmate's wages when the restitution was court ordered as a sanction for the conviction of an offense which is not the offense of commitment, including offenses which occurred prior to the offense for which the inmate was committed to the commissioner. All money in the work release account are appropriated annually to the commissioner of corrections for the purposes of the work release program.

Sec. 5. Minnesota Statutes 1992, section 241.67, subdivision 1, is amended to read:

Subdivision 1. **SEX OFFENDER TREATMENT.** A sex offender treatment system is established under the administration of the commissioner of corrections to provide and finance a range of sex offender treatment programs for eligible adults and juveniles. Offenders who are eligible to receive treatment, within the limits of available funding, are:

- (1) adults and juveniles committed to the custody of the commissioner;
- (2) adult offenders for whom treatment is required by the court as a condition of probation; and
- (3) juvenile offenders who have been found delinquent or received a stay of adjudication, for whom the juvenile court has ordered treatment; ~~and~~
- (4) ~~adults and juveniles who are eligible for community-based treatment under the sex offender treatment fund established in section 241.671.~~

Sec. 6. Minnesota Statutes 1992, section 241.67, subdivision 2, is amended to read:

Subd. 2. **TREATMENT PROGRAM STANDARDS.** (a) The commissioner shall adopt rules under chapter 14 for the certification of adult and juvenile sex offender treatment programs in state and local correctional facilities and state-operated adult and juvenile sex offender treatment programs not operated in state or local correctional facilities. The rules shall require that sex offender

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treatment programs be at least four months in duration. A correctional facility may not operate a sex offender treatment program unless the program has met the standards adopted by and been certified by the commissioner of corrections. As used in this subdivision, "correctional facility" has the meaning given it in section 241.021, subdivision 1, clause (5).

~~(b) By July 1, 1994, the commissioner shall adopt rules under chapter 14 for the certification of community-based adult and juvenile sex offender treatment programs not operated in state or local correctional facilities.~~

(e) In addition to other certification requirements established under ~~paragraphs~~ paragraph (a) and (b), rules adopted by the commissioner must require all certified programs certified under this subdivision to participate in ~~an~~ the sex offender program ~~ongoing outcome-based evaluation and quality management system project~~ established by the commissioner under section 3.

Sec. 7. Minnesota Statutes 1992, section 241.67, is amended by adding a subdivision to read:

Subd. 8. COMMUNITY-BASED SEX OFFENDER PROGRAM EVALUATION PROJECT. (a) For the purposes of this project, a sex offender is an adult who has been convicted, or a juvenile who has been adjudicated, for a sex offense or a sex-related offense and has been sentenced to sex offender treatment as a condition of probation.

(b) The commissioner shall develop a long-term project to accomplish the following:

(1) provide follow-up information on each sex offender for a period of three years following the offender's completion of or termination from treatment;

(2) provide treatment programs in several geographical areas in the state;

(3) provide the necessary data to form the basis to recommend a fiscally sound plan to provide a coordinated statewide system of effective sex offender treatment programming; and

(4) provide an opportunity to local and regional governments, agencies, and programs to establish models of sex offender programs that are suited to the needs of that region.

(c) The commissioner shall provide the legislature with an annual report of the data collected and the status of the project by October 15 of each year, beginning in 1993.

(d) The commissioner shall establish an advisory task force consisting of county probation officers from community corrections act counties and other counties, court services providers, and other interested officials. The commissioner shall consult with the task force concerning the establishment and operation of the project.

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Sec. 8. Minnesota Statutes 1992, section 243.23, subdivision 3, is amended to read:

Subd. 3. **EXCEPTIONS.** Notwithstanding sections 241.26, subdivision 5, and 243.24, subdivision 1, the commissioner may promulgate rules for the disbursement of funds earned under subdivision 1, or other funds in an inmate account, and section 243.88, subdivision 2; The commissioner shall first make deductions for the following expenses: federal and state taxes; repayment of advances; gate money as provided in section 243.24; and, where applicable, mandatory savings as provided by United States Code, title 18, section 1761, as amended. The commissioner's rules may then provide for disbursements to be made in the following order of priority:

(1) for the support of families and dependent relatives of the respective inmates;:

(2) for the payment of court-ordered restitution;:

(3) for payment of fines, surcharges, or other fees assessment or ordered by a court;

(4) for contribution to any programs established by law to aid victims of crime provided that the contribution shall not be more than 20 percent of an inmate's gross wages;:

(5) for the payment of restitution to the commissioner ordered by prison disciplinary hearing officers for damage to property caused by an inmate's conduct;: and

(6) for the discharge of any legal obligations arising out of litigation under this subdivision.

The commissioner may authorize the payment of court-ordered restitution from an inmate's wages when the restitution was court ordered as a sanction for the conviction of an offense which is not the offense of commitment, including offenses which occurred prior to the offense for which the inmate was committed to the commissioner. An inmate of an adult correctional facility under the control of the commissioner is subject to actions for the enforcement of support obligations and reimbursement of any public assistance rendered the dependent family and relatives. The commissioner may conditionally release an inmate who is a party to an action under this subdivision and provide for the inmate's detention in a local detention facility convenient to the place of the hearing when the inmate is not engaged in preparation and defense.

Sec. 9. Minnesota Statutes 1992, section 244.05, is amended by adding a subdivision to read:

Subd. 8. **CONDITIONAL MEDICAL RELEASE.** The commissioner may order that an offender be placed on conditional medical release before the offender's scheduled supervised release date or target release date if the offender

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suffers from a grave illness or medical condition and the release poses no threat to the public. In making the decision to release an offender on this status, the commissioner must consider the offender's age and medical condition, the health care needs of the offender, the offender's custody classification and level of risk of violence, the appropriate level of community supervision, and alternative placements that may be available for the offender. An inmate may not be released under this provision unless the commissioner has determined that the inmate's health costs are likely to be borne by medical assistance, Medicaid, general assistance medical care, veteran's benefits, or by any other federal or state medical assistance programs or by the inmate. Conditional medical release is governed by provisions relating to supervised release except that it may be rescinded without hearing by the commissioner if the offender's medical condition improves to the extent that the continuation of the conditional medical release presents a more serious risk to the public.

Sec. 10. Minnesota Statutes 1992, section 244.17, subdivision 3, is amended to read:

Subd. 3. **OFFENDERS NOT ELIGIBLE.** The following offenders are not eligible to be placed in the challenge incarceration program:

(1) offenders who are committed to the commissioner's custody following a conviction for murder, manslaughter, criminal sexual conduct, assault, kidnapping, robbery, arson, or any other offense involving death or intentional personal injury; and

(2) offenders who ~~previously~~ were convicted within the preceding ten years of an offense described in clause (1) and were committed to the custody of the commissioner.

Sec. 11. Minnesota Statutes 1992, section 244.172, subdivision 1, is amended to read:

Subdivision 1. **PHASE I.** Phase I of the program lasts at least six months. The offender must be confined in a state correctional facility designated by the commissioner and must successfully participate in all intensive treatment, education and work programs required by the commissioner. The offender must also submit on demand to random drug and alcohol testing at time intervals set by the commissioner. ~~For the first three months of phase I, the offender may not receive visitors or telephone calls, except under emergency circumstances.~~ Throughout phase I, the commissioner must severely restrict the offender's telephone and visitor privileges.

Sec. 12. Minnesota Statutes 1992, 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 commis-

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sioner 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 daily drug and alcohol tests for the first three months; biweekly tests for the next two months; and weekly tests for the remainder of phase II 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 ~~continue~~ to submit to acupuncture treatment throughout phase II, on demand of the supervising agent.

Sec. 13. Minnesota Statutes 1992, section 260.185, subdivision 1, is amended to read:

Subdivision 1. If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

(a) Counsel the child or the parents, guardian, or custodian;

(b) Place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court including reasonable rules for the child's conduct and the conduct of the child's parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child, or with the consent of the commissioner of corrections, in a group foster care facility which is under the management and supervision of said commissioner;

(c) Subject to the supervision of the court, transfer legal custody of the child to one of the following:

(1) a child placing agency; or

(2) the county welfare board; or

(3) a reputable individual of good moral character. No person may receive custody of two or more unrelated children unless licensed as a residential facility pursuant to sections 245A.01 to 245A.16; or

(4) a county home school, if the county maintains a home school or enters into an agreement with a county home school; or

(5) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(d) Transfer legal custody by commitment to the commissioner of corrections;

(e) If the child is found to have violated a state or local law or ordinance

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which has resulted in damage to the person or property of another, the court may order the child to make reasonable restitution for such damage;

(f) Require the child to pay a fine of up to \$700; the court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(g) If the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to provide this treatment or care, the court may order it provided;

(h) If the court believes that it is in the best interests of the child and of public safety that the driver's license of the child be canceled until the child's 18th birthday, the court may recommend to the commissioner of public safety the cancellation of the child's license for any period up to the child's 18th birthday, and the commissioner is hereby authorized to cancel such license without a hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety that the child be authorized to apply for a new license, and the commissioner may so authorize.

If the child is petitioned and found by the court to have committed or attempted to commit an act in violation of section 609.342; 609.343; 609.344; 609.345; 609.3451; 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a delinquency petition based on one or more of those sections, the court shall order an independent professional assessment of the child's need for sex offender treatment. An assessor providing an assessment for the court ~~may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider~~ must be experienced in the evaluation and treatment of juvenile sex offenders. If the assessment indicates that the child is in need of and amenable to sex offender treatment, the court shall include in its disposition order a requirement that the child undergo treatment. Notwithstanding section 13.42, 13.85, 144.335, 260.161, or 626.556, the assessor has access to the following private or confidential data on the child if access is relevant and necessary for the assessment:

- (1) medical data under section 13.42;
- (2) corrections and detention data under section 13.85;
- (3) health records under section 144.335;
- (4) juvenile court records under section 260.161; and
- (5) local welfare agency records under section 626.556.

Data disclosed under this paragraph may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

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If the child is found delinquent due to the commission of an offense that would be a felony if committed by an adult, the court shall make a specific finding on the record regarding the juvenile's mental health and chemical dependency treatment needs.

Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

(a) why the best interests of the child are served by the disposition ordered; and

(b) what alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case.

Sec. 14. Minnesota Statutes 1992, section 541.15, is amended to read:

541.15 PERIODS OF DISABILITY NOT COUNTED.

(a) Except as provided in paragraph (b), any of the following grounds of disability, existing at the time when a cause of action accrued or arising anytime during the period of limitation, shall suspend the running of the period of limitation until the same is removed; provided that such period, except in the case of infancy, shall not be extended for more than five years, nor in any case for more than one year after the disability ceases:

(1) That the plaintiff is within the age of 18 years;

(2) The plaintiff's insanity;

(3) ~~The plaintiff's imprisonment on a criminal charge, or under a sentence of a criminal court for a term less than the plaintiff's natural life;~~

(4) Is an alien and the subject or citizen of a country at war with the United States;

(5) ~~(4)~~ When the beginning of the action is stayed by injunction or by statutory prohibition.

If two or more disabilities shall coexist, the suspension shall continue until all are removed.

(b) In actions alleging malpractice, error, mistake, or failure to cure, whether based on contract or tort, against a health care provider, the ground of disability specified in paragraph (a), clause (1), suspends the period of limitation until the disability is removed. The suspension may not be extended for more than seven years, or for more than one year after the disability ceases.

For purposes of this paragraph, health care provider means a physician, surgeon, dentist, or other health care professional or hospital, including all persons or entities providing health care as defined in section 145.61, subdivisions 2 and

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4, or a certified health care professional employed by or providing services as an independent contractor in a hospital.

Sec. 15. Minnesota Statutes 1992, section 631.41, is amended to read:

631.41 REQUIRING THE COURT ADMINISTRATOR TO DELIVER TRANSCRIPT OF MINUTES OF SENTENCE TO SHERIFF.

When a person convicted of an offense is sentenced to pay a fine or costs, or to be imprisoned in the county jail, or committed to the ~~Minnesota correctional facility—Stillwater~~ commissioner of corrections, the court administrator shall, as soon as possible, make out and deliver to the sheriff or a deputy a transcript from the minutes of the court of the conviction and sentence. A duly certified transcript is sufficient authority for the sheriff to execute the sentence. Upon receiving the transcript, the sheriff shall execute the sentence.

Sec. 16. **TRANSFER.**

Positions classified as sentencing to service crew leader and one sentencing to service supervisor in the department of natural resources are transferred to the Minnesota department of corrections under Minnesota Statutes, section 15.039. Nothing in this section is intended to abrogate or modify any rights now enjoyed by affected employees under terms of an agreement between an exclusive bargaining representative and the state or one of its appointing authorities.

Sec. 17. **REPEALER.**

Minnesota Statutes 1992, sections 241.25; 241.67, subdivision 5; and 241.671, are repealed.

ARTICLE 9

NEW FELONY SENTENCING LAW

Section 1. Minnesota Statutes 1992, section 243.18, subdivision 2, is amended to read:

Subd. 2. **WORK REQUIRED; GOOD TIME.** This subdivision applies only to inmates whose crimes were committed before August 1, 1993. An inmate for whom a work assignment is available may not earn good time under subdivision 1 for any day on which the inmate does not perform the work assignment. The commissioner may excuse an inmate from work only for illness, physical disability, or to participate in an education or treatment program.

Sec. 2. Minnesota Statutes 1992, section 243.18, is amended by adding a subdivision to read:

Subd. 3. WORK REQUIRED; DISCIPLINARY CONFINEMENT. This subdivision applies only to inmates whose crimes were committed on or after August 1, 1993. The commissioner shall impose a disciplinary confinement

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period of two days for each day on which a person for whom a work assignment is available does not perform the work assignment. The commissioner may excuse an inmate from work only for illness, physical disability, or to participate in an education or treatment program.

Sec. 3. Minnesota Statutes 1992, section 244.01, subdivision 8, is amended to read:

Subd. 8. "Term of imprisonment," as applied to inmates whose crimes were committed before August 1, 1993, is the period of time ~~to~~ for which an inmate is committed to the custody of the commissioner of corrections minus earned good time. "Term of imprisonment," as applied to inmates whose crimes were committed on or after August 1, 1993, is the period of time ~~which an inmate is ordered to serve in prison by the sentencing court, plus any disciplinary confinement period imposed by the commissioner under section 244.05, subdivision 1b equal to two-thirds of the inmate's executed sentence.~~

Sec. 4. Minnesota Statutes 1992, section 244.01, is amended by adding a subdivision to read:

Subd. 9. EXECUTED SENTENCE. "Executed sentence" means the total period of time for which an inmate is committed to the custody of the commissioner of corrections.

Sec. 5. Minnesota Statutes 1992, section 244.05, subdivision 1b, is amended to read:

Subd. 1b. **SUPERVISED RELEASE; OFFENDERS WHO COMMIT CRIMES ON OR AFTER AUGUST 1, 1993.** (a) Except as provided in subdivisions 4 and 5, every inmate sentenced to prison for a felony offense committed on or after August 1, 1993, shall serve a supervised release term upon completion of the inmate's term of imprisonment ~~pronounced by the sentencing court under section 244.101~~ and any disciplinary confinement period imposed by the commissioner due to the inmate's violation of any disciplinary offense rule adopted by the commissioner under paragraph (b). The amount of time the inmate serves on supervised release ~~term~~ shall be equal in length to the amount of time remaining in the inmate's ~~imposed~~ executed sentence after the inmate has served the ~~pronounced~~ term of imprisonment and any disciplinary confinement period imposed by the commissioner.

(b) By August 1, 1993, the commissioner shall modify the commissioner's existing disciplinary rules to specify disciplinary offenses which may result in imposition of a disciplinary confinement period and the length of the disciplinary confinement period for each disciplinary offense. These disciplinary offense rules may cover violation of institution rules, refusal to work, refusal to participate in treatment or other rehabilitative programs, and other matters determined by the commissioner. No inmate who violates a disciplinary rule shall be placed on supervised release until the inmate has served the disciplinary confinement period or until the inmate is discharged or released from punitive seg-

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regation confinement, whichever is later. The imposition of a disciplinary confinement period shall be considered to be a disciplinary sanction imposed upon an inmate, and the procedure for imposing the disciplinary confinement period and the rights of the inmate in the procedure shall be those in effect for the imposition of other disciplinary sanctions at each state correctional institution.

Sec. 6. Minnesota Statutes 1992, section 244.101, is amended to read:

244.101 SENTENCING OF FELONY OFFENDERS WHO COMMIT OFFENSES ON AND AFTER AUGUST 1, 1993.

Subdivision 1. SENTENCING AUTHORITY EXECUTED SENTENCES. When a felony offender is sentenced to a fixed executed ~~prison~~ sentence for an offense committed on or after August 1, 1993, the ~~executed sentence pronounced by the court shall consist~~ consists of two parts: (1) a specified minimum term of imprisonment that is equal to two-thirds of the executed sentence; and (2) a specified maximum supervised release term that is ~~one-half of the minimum term of imprisonment equal to one-third of the executed sentence~~. The lengths of the term of imprisonment and the supervised release term actually served by an inmate are amount of time the inmate actually serves in prison and on supervised release is subject to the provisions of section 244.05, subdivision 1b.

Subd. 2. EXPLANATION OF SENTENCE. When a court pronounces an executed sentence under this section, it shall ~~specify~~ explain: (1) the total length of the executed sentence; (2) the amount of time the defendant will serve in prison; and (3) the amount of time the defendant will serve on supervised release, assuming the defendant commits no disciplinary offense in prison that ~~may result~~ results in the imposition of a disciplinary confinement period. The court shall also explain that the ~~defendant's term of imprisonment amount of time the defendant actually serves in prison~~ may be extended by the commissioner if the defendant commits any disciplinary offenses in prison and that this extension could result in the defendant's serving the entire ~~pronounced executed~~ sentence in prison. The court's explanation shall be included in ~~the sentencing order~~ a written summary of the sentence.

Subd. 3. NO RIGHT TO SUPERVISED RELEASE. Notwithstanding the court's ~~specification~~ explanation of the potential length of a defendant's supervised release term ~~in the sentencing order~~, the court's ~~order~~ explanation creates no right of a defendant to any specific, minimum length of a supervised release term.

Subd. 4. APPLICATION OF STATUTORY MANDATORY MINIMUM SENTENCES. If the defendant is convicted of any offense for which a statute imposes a mandatory minimum sentence ~~or term~~ of imprisonment, the statutory mandatory minimum sentence ~~or term~~ governs the length of the entire executed sentence pronounced by the court under this section.

Sec. 7. Minnesota Statutes 1992, section 244.14, subdivision 2, is amended to read:

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Subd. 2. **GOOD TIME NOT AVAILABLE.** An offender serving a sentence on intensive community supervision for a crime committed before August 1, 1993, does not earn good time, notwithstanding section 244.04.

Sec. 8. Minnesota Statutes 1992, section 244.171, subdivision 3, is amended to read:

Subd. 3. **GOOD TIME NOT AVAILABLE.** An offender in the challenge incarceration program whose crime was committed before August 1, 1993, does not earn good time during phases I and II of the program, notwithstanding section 244.04.

Sec. 9. Minnesota Statutes 1992, section 609.346, subdivision 5, is amended to read:

Subd. 5. ~~**SUPERVISED CONDITIONAL RELEASE OF SEX OFFENDERS.**~~ (a) Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, any person who is sentenced when a court sentences a person to prison for a violation of section 609.342, 609.343, 609.344, or 609.345 must be sentenced to serve a supervised release term as provided in this subdivision. The court shall sentence a person convicted for a violation of section 609.342, 609.343, 609.344, or 609.345 to serve a supervised release term of not less than five years., the court shall sentence a provide that after the person has completed the sentence imposed, the commissioner of corrections shall place the person on conditional release. If the person was convicted for a violation of section 609.342, 609.343, 609.344, or 609.345, the person shall be placed on conditional release for five years, minus the time the person served on supervised release. If the person was convicted for a violation of one of those sections a second or subsequent time, or sentenced under subdivision 4 to a mandatory departure, to serve a supervised release term of not less than the person shall be placed on conditional release for ten years, minus the time the person served on supervised release.

(b) The commissioner of corrections shall set the level of supervision for offenders subject to this section based on the public risk presented by the offender. The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

Conditional release under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

(c) The commissioner shall pay the cost of treatment of a person released

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under this subdivision. This section does not require the commissioner to accept or retain an offender in a treatment program.

ARTICLE 10

PROBATION

Section 1. Minnesota Statutes 1992, section 243.166, subdivision 1, is amended to read:

Subdivision 1. **REGISTRATION REQUIRED.** A person shall ~~comply with~~ register under this section ~~after being released from prison if:~~

(1) the person was sentenced to imprisonment following a conviction for kidnapping under section 609.25, criminal sexual conduct under section 609.342, 609.343, 609.344, or 609.345, solicitation of children to engage in sexual conduct under section 609.352, use of minors in a sexual performance under section 617.246, or solicitation of children to practice prostitution under section 609.322, and the offense was committed against a victim who was a minor;

(2) the person is not now required to register under section 243.165; and

(3) ten years have not yet elapsed since the person was released from imprisonment charged with a felony violation of or attempt to violate any of the following, and convicted of 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, subdivision 1, paragraph (a), (b), (c), (d), (e), or (f); 609.343, subdivision 1, paragraph (a), (b), (c), (d), (e), or (f); 609.344, subdivision 1, paragraph (c), or (d); or 609.345, subdivision 1, paragraph (c), or (d); or

(2) 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.

Sec. 2. Minnesota Statutes 1992, section 243.166, subdivision 2, is amended to read:

Subd. 2. **NOTICE.** When a person who is required to register under this section is ~~released sentenced,~~ released, the ~~commissioner of corrections court~~ shall tell the person of the duty to register under ~~section 243.165 and~~ this section. The ~~commissioner court~~ shall require the person to read and sign a form stating that the

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duty of the person to register under this section has been explained. ~~The commissioner shall obtain the address where the person expects to reside upon release and shall report within three days the address to the bureau of criminal apprehension. The commissioner shall give one copy of the form to the person, and shall send one copy to the bureau of criminal apprehension and one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon release.~~

Sec. 3. Minnesota Statutes 1992, section 243.166, subdivision 3, is amended to read:

Subd. 3. **REGISTRATION PROCEDURE.** (a) The person shall, ~~within 14 days after the end of the term of supervised release,~~ register with the ~~probation officer~~ corrections agent ~~as soon as the agent is assigned to the person at the end of that term.~~

(b) If the person changes residence address, the person shall give the new address to the ~~current or last assigned probation officer~~ corrections agent in writing within ten days. An offender is deemed to change addresses when the offender remains at a new address for longer than two weeks and evinces an intent to take up residence there. The ~~probation officer~~ agent shall, within three business days after receipt of this information, forward it to the bureau of criminal apprehension.

Sec. 4. Minnesota Statutes 1992, section 243.166, subdivision 4, is amended to read:

Subd. 4. **CONTENTS OF REGISTRATION.** The registration provided to the ~~probation officer~~ corrections agent must consist of a statement in writing signed by the person, giving information required by the bureau of criminal apprehension, and a fingerprint card and photograph of the person if these have not already been obtained in connection with the offense that triggers registration. Within three days, the ~~probation officer~~ corrections agent shall forward the statement, fingerprint card, and photograph to the bureau of criminal apprehension. The bureau shall send one copy to the appropriate law enforcement authority that will have jurisdiction where the person will reside on release or discharge.

Sec. 5. Minnesota Statutes 1992, section 243.166, subdivision 6, is amended to read:

Subd. 6. **REGISTRATION PERIOD.** (a) Notwithstanding the provisions of section 609.165, subdivision 1, a person required to register under this section shall continue to comply with this section until ten years have elapsed since the person was ~~released from imprisonment initially assigned to a corrections agent in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs later.~~

(b) If a person required to register under this section fails to register follow-

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ing a change in address, the commissioner of public safety may require the person to continue to register for an additional period of five years.

Sec. 6. Minnesota Statutes 1992, section 243.166, is amended by adding a subdivision to read:

Subd. 8. LAW ENFORCEMENT AUTHORITY. For purposes of this section, a law enforcement authority means, with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the sheriff of the county.

Sec. 7. Minnesota Statutes 1992, section 243.166, is amended by adding a subdivision to read:

Subd. 9. PRISONERS FROM OTHER STATES. When the state accepts a prisoner from another state under a reciprocal agreement under the interstate compact authorized by section 243.16, the acceptance is conditional on the offender agreeing to register under this section when the offender is living in Minnesota following a term of imprisonment if any part of that term was served in this state.

Sec. 8. Minnesota Statutes 1992, section 299C.46, is amended by adding a subdivision to read:

Subd. 5. DIVERSION PROGRAM DATA. Counties operating diversion programs under section 11 shall supply to the bureau of criminal apprehension the names of and other identifying data specified by the bureau concerning diversion program participants. Notwithstanding section 299C.11, the bureau shall maintain the names and data in the computerized criminal history system for 20 years from the date of the offense. Data maintained under this subdivision are private data.

Sec. 9. Minnesota Statutes 1992, section 299C.54, is amended by adding a subdivision to read:

Subd. 3a. COLLECTION OF DATA. Identifying information on missing children entered into the NCIC computer regarding cases that are still active at the time the missing children bulletin is compiled each quarter may be included in the bulletin.

Sec. 10. Minnesota Statutes 1992, section 401.02, subdivision 4, is amended to read:

Subd. 4. **DETAINING PERSON ON CONDITIONAL RELEASE.** (a) Probation officers serving the district and juvenile courts of counties participating in the subsidy program established by this chapter may, without order or warrant, when it appears necessary to prevent escape or enforce discipline, take and detain a probationer, or any person on conditional release and bring that person before the court or the commissioner of corrections or a designee, whichever is appropriate, for disposition. No probationer or other person on condi-

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tional release shall be detained more than 72 hours, exclusive of legal holidays, Saturdays and Sundays, pursuant to this subdivision without being provided with the opportunity for a hearing before the court or the commissioner of corrections or a designee. When providing supervision and other correctional services to persons conditionally released pursuant to sections 241.26, 242.19, 243.05, 243.16, 244.05, and 244.065, including intercounty transfer of persons on conditional release, and the conduct of presentence investigations, participating counties shall comply with the policies and procedures relating thereto as prescribed by the commissioner of corrections.

(b) The written order of the chief executive officer or designee of a community corrections agency established under this chapter 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) escapes from a local correctional facility; or

(4) absconds from court-ordered home detention.

(c) The written order of the chief executive officer or designee of a community corrections agency established under this chapter 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. 11. [401.065] PRETRIAL DIVERSION PROGRAMS.

Subdivision 1. DEFINITION. As used in this section:

(1) "offender" means a person who:

(i) is charged with a felony, gross misdemeanor, or misdemeanor crime, other than a crime against the person, but who has not yet entered a plea in the proceedings;

(ii) has not previously been convicted as an adult in Minnesota or any other state of any crime against the person; and

(iii) has not previously been charged with a crime as an adult in Minnesota and then had charges dismissed as part of a diversion program, including a program that existed before July 1, 1994; and

(2) "pretrial diversion" means the decision of a prosecutor to refer an offender to a diversion program on condition that the criminal charges against

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the offender will be dismissed after a specified period of time if the offender successfully completes the program.

Subd. 2. ESTABLISHMENT OF PROGRAM. By July 1, 1994, every county attorney of a county participating in the community corrections act shall establish a pretrial diversion program for adult offenders. If the county attorney's county participates in the community corrections act as part of a group of counties under section 401.02, the county attorney may establish a pretrial diversion program in conjunction with other county attorneys in that group of counties. The program must be designed and operated to further the following goals:

(1) to provide eligible offenders with an alternative to confinement and a criminal conviction;

(2) to reduce the costs and caseload burdens on district courts and the criminal justice system;

(3) to minimize recidivism among diverted offenders;

(4) to promote the collection of restitution to the victim of the offender's crime; and

(5) to develop responsible alternatives to the criminal justice system for eligible offenders.

Subd. 3. PROGRAM COMPONENTS. A diversion program established under this section may:

(1) provide screening services to the court and the prosecuting authorities to help identify likely candidates for pretrial diversion;

(2) establish goals for diverted offenders and monitor performance of these goals;

(3) perform chemical dependency assessments of diverted offenders where indicated, make appropriate referrals for treatment, and monitor treatment and aftercare;

(4) provide individual, group, and family counseling services;

(5) oversee the payment of victim restitution by diverted offenders;

(6) assist diverted offenders in identifying and contacting appropriate community resources;

(7) provide educational services to diverted offenders to enable them to earn a high school diploma or GED; and

(8) provide accurate information on how diverted offenders perform in the program to the court, prosecutors, defense attorneys, and probation officers.

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Subd. 4. **REPORTS.** By January 1, 1995, and biennially thereafter, each county attorney shall report to the department of corrections and the legislature on the operation of a pretrial diversion program required by this section. The report shall include a description of the program, the number of offenders participating in the program, the number and characteristics of the offenders who successfully complete the program, the number and characteristics of the offenders who fail to complete the program, and an evaluation of the program's effect on the operation of the criminal justice system in the county.

Sec. 12. Minnesota Statutes 1992, section 609.135, subdivision 1a, is amended to read:

Subd. 1a. **FAILURE TO PAY RESTITUTION OR FINE.** If the court orders payment of restitution or a fine as a condition of probation and if the defendant fails to pay the restitution or a fine in accordance with the payment schedule or structure established by the court or the probation officer, the prosecutor or the defendant's probation officer may, on the prosecutor's or the officer's own motion or at the request of the victim, ask the court to hold a hearing to determine whether or not the conditions of probation should be changed or probation should be revoked. The defendant's probation officer shall ask for the hearing if the restitution or fine ordered has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (4) (f), before the defendant's term of probation expires.

Sec. 13. Minnesota Statutes 1992, section 609.135, subdivision 2, is amended to read:

Subd. 2. (a) If the conviction is for a felony the stay shall be for not more than three years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor violation of section 169.121 or 169.129, the stay shall be for not more than three years. The court shall provide for unsupervised probation for the last one year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last one year.

(c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay shall be for not more than two years.

(d) If the conviction is for any misdemeanor under section 169.121; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall be for not more than one year.

(f) The defendant shall be discharged ~~when~~ six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (g), or the defendant has already been discharged.

(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution or a fine in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution or fine the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution or a fine may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution or fine that the defendant owes.

Sec. 14. Minnesota Statutes 1992, section 609.14, subdivision 1, is amended to read:

Subdivision 1. **GROUND.** (a) When it appears that the defendant has violated any of the conditions of probation or intermediate sanction, or has otherwise been guilty of misconduct which warrants the imposing or execution of sentence, the court may without notice revoke the stay ~~thereof and probation~~ and direct that the defendant be taken into immediate custody.

(b) When it appears that the defendant violated any of the conditions of probation during the term of the stay, but the term of the stay has since expired, the defendant's probation officer or the prosecutor may ask the court to initiate probation revocation proceedings under the rules of criminal procedure at any time within six months after the expiration of the stay. The court also may initiate proceedings under these circumstances on its own motion. If proceedings are initiated within this six-month period, the court may conduct a revocation hearing and take any action authorized under rule 27.04 at any time during or after the six-month period.

Sec. 15. Minnesota Statutes 1992, section 609.3461, is amended to read:

609.3461 DNA ANALYSIS OF SEX OFFENDERS REQUIRED.

Subdivision 1. **UPON SENTENCING.** ~~When a~~ The court shall order an offender to provide a biological specimen for the purpose of DNA analysis as defined in section 299C.155 when:

(1) the court sentences a person ~~convicted of~~ charged with violating or

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attempting to violate section 609.342, 609.343, 609.344, or 609.345, ~~or when a who is convicted of violating one of those sections or of any offense arising out of the same set of circumstances;~~

(2) the court sentences a person as a patterned sex offender under section 609.1352; or

(3) the juvenile court adjudicates a person a delinquent child who is the subject of a delinquency petition for violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, it shall order the person to provide a biological specimen for the purpose of DNA analysis as defined in section 299C.155 and the delinquency adjudication is based on a violation of one of those sections or of any offense arising out of the same set of circumstances. The biological specimen or the results of the analysis shall be maintained by the bureau of criminal apprehension as provided in section 299C.155.

Subd. 2. **BEFORE RELEASE.** If a person convicted of violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, or initially charged with violating one of those sections and convicted of another offense arising out of the same set of circumstances, or sentenced as a patterned sex offender under section 609.1352, and committed to the custody of the commissioner of corrections for a term of imprisonment, or serving a term of imprisonment in this state under a reciprocal agreement although convicted in another state of an offense described in this subdivision or a similar law of the United States or any other state, has not provided a biological specimen for the purpose of DNA analysis, the commissioner of corrections or local corrections authority shall order the person to provide a biological specimen for the purpose of DNA analysis before completion of the person's term of imprisonment. The commissioner of corrections or local corrections authority shall forward the sample to the bureau of criminal apprehension.

Subd. 3. **OFFENDERS FROM OTHER STATES.** When the state accepts an offender from another state under the interstate compact authorized by section 243.16, the acceptance is conditional on the offender providing a biological specimen for the purposes of DNA analysis as defined in section 299C.155, if the offender was convicted of an offense described in subdivision 1 or a similar law of the United States or any other state. The specimen must be provided under supervision of staff from the department of corrections or a community corrections act county within 15 business days after the offender reports to the supervising agent. The cost of obtaining the biological specimen is the responsibility of the agency providing supervision.

Sec. 16. PROBATION TASK FORCE.

Subdivision 1. CONTINUATION OF TASK FORCE. The probation standards task force appointed under Laws 1992, chapter 571, article 11, section 15, shall file the report required by this section.

Subd. 2. STAFF. The commissioner of corrections shall make available staff as appropriate to support the work of the task force.

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Subd. 3. REPORT. The task force shall report to the legislature by October 1, 1994, concerning:

- (1) the number of additional probation officers needed;
- (2) the funding required to provide the necessary additional probation officers;
- (3) a recommended method of funding these new positions, including a recommendation concerning the relative county and state obligations;
- (4) recommendations as to appropriate standardized case definitions and reporting procedures to facilitate uniform reporting of the number and type of cases and offenders;
- (5) legislative changes needed to implement objectively defined case classification systems; and
- (6) any other general recommendations to improve the quality and administration of probation services in the state.

Sec. 17. DIVERSION PROGRAM PLANS.

Each county required to establish a diversion program under section 11 shall prepare a plan to implement the diversion program and submit the plan to the state court administrator by January 1, 1994. A county may prepare a joint plan with other counties in the same judicial district.

Sec. 18. REPEALER.

Minnesota Statutes 1992, section 243.165, is repealed.

Sec. 19. EFFECTIVE DATE.

Sections 12, 13, and 14, are effective August 1, 1993, and apply to all defendants placed on probation on or after that date. Section 15, subdivision 1, is effective August 1, 1993, and applies to offenders sentenced or adjudicated on or after that date. Sections 16 and 17 are effective the day following final enactment.

ARTICLE 11

CRIMINAL AND JUVENILE JUSTICE INFORMATION

Section 1. Minnesota Statutes 1992, section 13.87, subdivision 2, is amended to read:

Subd. 2. **CLASSIFICATION.** Criminal history data maintained by agencies, political subdivisions and statewide systems are classified as private, pursuant to section 13.02, subdivision 12-, except that data created, collected, or

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maintained by the bureau of criminal apprehension that identifies an individual who was convicted of a crime and the offense of which the individual was convicted are public data for 15 years following the discharge of the sentence imposed for the offense.

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

Sec. 2. Minnesota Statutes 1992, section 168.345, is amended by adding a subdivision to read:

Subd. 3. REQUESTS FOR INFORMATION; SURCHARGE ON FEE.
The commissioner shall impose a surcharge of 25 cents on each fee charged by the commissioner under section 13.03, subdivision 3, for copies or electronic transmittal of public information concerning motor vehicle registrations. This surcharge only applies to a fee imposed in responding to a request made in person or by mail, or to a request for transmittal through a computer modem. The surcharge does not apply to the request of an individual for information concerning vehicles registered in that individual's name. The commissioner shall forward the surcharges collected under this subdivision to the commissioner of finance on a monthly basis. Upon receipt, the commissioner of finance shall credit the surcharges to the general fund.

Sec. 3. Minnesota Statutes 1992, section 171.12, is amended by adding a subdivision to read:

Subd. 8. REQUESTS FOR INFORMATION; SURCHARGE ON FEE.
The commissioner shall impose a surcharge of 25 cents on each fee charged by the commissioner under section 13.03, subdivision 3, for copies or electronic transmittal of public information concerning driver's license and Minnesota identification card applicants. This surcharge only applies to a fee imposed in responding to a request made in person or by mail, or to a request for transmittal through a computer modem. The surcharge does not apply to the request of an individual for information concerning that individual's driver's license or Minnesota identification card. The commissioner shall forward the surcharges collected under this subdivision to the commissioner of finance on a monthly basis. Upon receipt, the commissioner of finance shall credit the surcharges to the general fund.

Sec. 4. **AMOUNT OF INCREASE; REVISOR INSTRUCTION.**

(a) The surcharges imposed by sections 2 and 3 are intended to increase to 50 cents the 25-cent surcharges imposed by similar language in a bill styled as 1993 H.F. No. 1709.

(b) If sections 2 and 3 and 1993 H.F. No. 1709 become law, the revisor shall change the amount of the surcharges as listed in Minnesota Statutes, sections 168.345 and 171.12, to 50 cents in each case.

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Sec. 5. EFFECTIVE DATE.

Section 1 is effective June 1, 1994.

ARTICLE 12**CRIME PREVENTION PROGRAMS****Section 1. [242.39] JUVENILE RESTITUTION GRANT PROGRAM.**

Subdivision 1. GRANT PROGRAM. A juvenile restitution grant program is established under the commissioner of corrections to provide and finance work for eligible juveniles. Juveniles eligible to participate in the program are juveniles who have monetary restitution obligations to victims.

Subd. 2. ADMINISTERING PROGRAM. The department of corrections shall administer the grant program. The commissioner shall award grants to community correction agencies, other state and local agencies, and nonprofit agencies that meet the criteria developed by the commissioner relating to juvenile restitution grant programs. The criteria developed by the commissioner may include a requirement that the agency provide a match to the grant amount consisting of in-kind services, money, or both.

Subd. 3. COOPERATION; TYPES OF PROGRAMS. The commissioner of corrections shall work with the commissioner of natural resources, the commissioner of jobs and training, local government and nonprofit agencies, educational institutions, and the courts to design and develop suitable juvenile restitution grant programs. Programs must provide services to communities, including but not necessarily limited to, park maintenance, recycling, and other related work. Eligible juveniles may earn monetary restitution on behalf of a victim or perform a service for the victim. Work performed by eligible juveniles must not result in the displacement of currently employed full- or part-time workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of nonover-time work, wages, or other employment benefits. Any monetary restitution earned by an eligible juvenile must either be forwarded to the victim or held in an account for the benefit of the victim.

Subd. 4. REFERRAL TO PROGRAM. The grant program must provide that eligible juveniles may be referred to the program by a community diversion agency, a correctional or human service agency, or by a court order of monetary restitution.

Sec. 2. [254A.18] STATE CHEMICAL HEALTH INDEX MODEL.

The commissioner of human services, in consultation with the chemical abuse prevention resource council, shall develop and test a chemical health

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index model to help assess the state's chemical health and coordinate state policy and programs relating to chemical abuse prevention and treatment. The chemical health index model shall assess a variety of factors known to affect the use and abuse of chemicals in different parts of the state including, but not limited to, demographic factors, risk factors, health care utilization, drug-related crime, productivity, resource availability, and overall health.

Sec. 3. Minnesota Statutes 1992, section 256.486, is amended to read:

256.486 ASIAN ASIAN-AMERICAN JUVENILE CRIME INTERVENTION AND PREVENTION GRANT PROGRAM.

Subdivision 1. **GRANT PROGRAM.** The commissioner of human services shall establish a grant program for coordinated, family-based crime intervention and prevention services for Asian Asian-American youth. The commissioners of human services, education, and public safety shall work together to coordinate grant activities.

Subd. 2. **GRANT RECIPIENTS.** The commissioner shall award grants in amounts up to \$150,000 to agencies based in the Asian Asian-American community that have experience providing coordinated, family-based community services to Asian Asian-American youth and families.

Subd. 3. **PROJECT DESIGN.** Projects eligible for grants under this section must provide coordinated crime intervention, prevention, and educational services that include:

(1) education for Asian Asian-American parents, including parenting methods in the United States and information about the United States legal and educational systems;

(2) crime intervention and prevention programs for Asian Asian-American youth, including employment and career-related programs and guidance and counseling services;

(3) family-based services, including support networks, language classes, programs to promote parent-child communication, access to education and career resources, and conferences for Asian Asian-American children and parents;

(4) coordination with public and private agencies to improve communication between the Asian Asian-American community and the community at large; and

(5) hiring staff to implement the services in clauses (1) to (4).

Subd. 4. **USE OF GRANT MONEY TO MATCH FEDERAL FUNDS.** Grant money awarded under this section may be used to satisfy any state or local match requirement that must be satisfied in order to receive federal funds.

Subd. 5. **ANNUAL REPORT.** Grant recipients must report to the commis-

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sioner by June 30 of each year on the services and programs provided, expenditures of grant money, and an evaluation of the program's success in reducing crime among ~~Asian~~ Asian-American youth.

Sec. 4. Minnesota Statutes 1992, section 299A.35, subdivision 1, is amended to read:

Subdivision 1. **PROGRAMS.** The commissioner shall, in consultation with the chemical abuse prevention resource 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 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;

(2) community-based programs designed to discourage young people from involvement in unlawful drug or street gang activities;

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

(4) community-based 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 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; and

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

Sec. 5. Minnesota Statutes 1992, section 299A.35, subdivision 2, is amended to read:

Subd. 2. **GRANT PROCEDURE.** A local unit of government or a non-profit 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;

(3) the geographical area to be served by the program; ~~and~~

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(4) 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 term of imprisonment greater than ten years; and

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

The commissioner shall give priority to funding programs ~~in~~ that demonstrate substantial involvement by members of the community served by the program and either serve the geographical areas that have the highest crime rates, as measured by the data supplied under clause (4), ~~and that demonstrate substantial involvement by members of the community served by the program 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.

Sec. 6. Minnesota Statutes 1992, section 299C.065, subdivision 1, is amended to read:

Subdivision 1. **GRANTS.** The commissioner of public safety shall make grants to local officials for the following purposes:

- (1) the cooperative investigation of cross jurisdictional criminal activity relating to the possession and sale of controlled substances;
- (2) receiving or selling stolen goods;
- (3) participating in gambling activities in violation of section 609.76;
- (4) violations of section 609.322, 609.323, or any other state or federal law prohibiting the recruitment, transportation, or use of juveniles for purposes of prostitution; ~~and~~
- (5) witness assistance services in cases involving criminal gang activity in violation of section 609.229, or domestic assault, as defined in section 611A.0315; and

(6) for partial reimbursement of local costs associated with unanticipated, intensive, long-term, multijurisdictional criminal investigations that exhaust available local resources.

Sec. 7. Minnesota Statutes 1992, section 357.021, subdivision 2, is amended to read:

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Subd. 2. **FEE AMOUNTS.** The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of \$110.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of \$110.

The party requesting a trial by jury shall pay \$30.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under chapter 103E, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding, \$5, plus 25 cents per page after the first page, and \$3.50, plus 25 cents per page after the first page for an uncertified copy.

(3) Issuing a subpoena, \$3 for each name.

(4) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, \$10.

(5) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, \$7.50.

(6) Filing and entering a satisfaction of judgment, partial satisfaction, or assignment of judgment, \$5.

(7) Certificate as to existence or nonexistence of judgments docketed, \$5 for each name certified to.

(8) Filing and indexing trade name; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians, or optometrists, \$5.

(9) For the filing of each partial, final, or annual account in all trusteeships, \$10.

(10) For the deposit of a will, \$5.

(11) For recording notary commission, \$25, of which, notwithstanding subdivision 1a, paragraph (b), \$20 must be forwarded to the state treasurer to be deposited in the state treasury and credited to the general fund.

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(12) When a defendant pleads guilty to or is sentenced for a petty misdemeanor other than a parking violation, the defendant shall pay a fee of ~~\$5~~ \$11.

(13) Filing a motion or response to a motion for modification of child support, a fee fixed by rule or order of the supreme court.

(14) All other services required by law for which no fee is provided, such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

The fees in clauses (3) and (4) need not be paid by a public authority or the party the public authority represents.

Sec. 8. Minnesota Statutes 1992, section 609.101, subdivision 1, is amended to read:

Subdivision 1. **SURCHARGES AND ASSESSMENTS.** (a) When a court sentences a person convicted of a felony, gross misdemeanor, or misdemeanor, other than a petty misdemeanor such as a traffic or parking violation, and if the sentence does not include payment of a fine, the court shall impose an assessment of not less than \$25 nor more than \$50. If the sentence for the felony, gross misdemeanor, or misdemeanor includes payment of a fine of any amount, including a fine of less than \$100, the court shall impose a surcharge on the fine of 20 percent of the fine. This section applies whether or not the person is sentenced to imprisonment and when the sentence is suspended.

(b) In addition to the assessments in paragraph (a), the court shall assess the following surcharges after a person is convicted:

(1) for a person charged with a felony, \$25;

(2) for a person charged with a gross misdemeanor, \$15;

(3) for a person charged with a misdemeanor other than a traffic, parking, or local ordinance violation, \$10; and

(4) for a person charged with a local ordinance violation other than a parking or traffic violation, \$5.

The surcharge must be assessed for the original charge, whether or not it is subsequently reduced. A person charged on more than one count may be assessed only one surcharge under this paragraph, but must be assessed for the most serious offense. This paragraph applies whether or not the person is sentenced to imprisonment and when the sentence is suspended.

~~(c) The court may not waive payment or authorize payment of the assessment or surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment or surcharge would create undue hardship for the convicted person or that person's immediate family.~~

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~~(d)~~ If the court fails to ~~waive or~~ impose an assessment required by paragraph (a), the court administrator shall correct the record to show imposition of an assessment of \$25 if the sentence does not include payment of a fine, or if the sentence includes a fine, to show an imposition of a surcharge of ten percent of the fine. If the court fails to ~~waive or~~ impose an assessment required by paragraph (b), the court administrator shall correct the record to show imposition of the assessment described in paragraph (b).

~~(e)~~ (d) Except for assessments and surcharges imposed on persons convicted of violations described in section 97A.065, subdivision 2, the court shall collect and forward to the commissioner of finance the total amount of the assessments or surcharges and the commissioner shall credit all money so forwarded to the general fund.

~~(f)~~ (e) If the convicted person is sentenced to imprisonment, the chief executive officer of the correctional facility in which the convicted person is incarcerated may collect the assessment or surcharge from any earnings the inmate accrues for work performed in the correctional facility and forward the amount to the commissioner of finance, indicating the part that was imposed for violations described in section 97A.065, subdivision 2, which must be credited to the game and fish fund.

Sec. 9. Minnesota Statutes 1992, section 609.101, subdivision 2, is amended to read:

Subd. 2. **MINIMUM FINES.** Notwithstanding any other law:

(1) when a court sentences a person convicted of violating section 609.221, 609.267, or 609.342, it must impose a fine of not less than \$500 nor more than the maximum fine authorized by law;

(2) when a court sentences a person convicted of violating section 609.222, 609.223, 609.2671, 609.343, 609.344, or 609.345, it must impose a fine of not less than \$300 nor more than the maximum fine authorized by law; and

(3) when a court sentences a person convicted of violating section 609.2231, 609.224, or 609.2672, it must impose a fine of not less than \$100 nor more than the maximum fine authorized by law.

~~The court may not waive payment of the fine or authorize payment of it in installments unless the court makes written findings on the record that the convicted person is indigent or that the fine would create undue hardship for the convicted person or that person's immediate family.~~

The court shall collect the portion of the fine mandated by this subdivision and forward 70 percent of it to a local victim assistance program that provides services locally in the county in which the crime was committed. The court shall forward the remaining 30 percent to the commissioner of finance to be credited to the general fund. If more than one victim assistance program serves the

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county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the nature of the crime committed, the types of victims served by the program, and the funding needs of the program. If no victim assistance program serves that county, the court shall forward 100 percent of the fine proceeds to the commissioner of finance to be credited to the general fund. Fine proceeds received by a local victim assistance program must be used to provide direct services to crime victims.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any term of imprisonment or restitution imposed or ordered by the court.

As used in this subdivision, "victim assistance program" means victim witness programs within county attorney offices or any of the following programs: crime victim crisis centers, victim-witness programs, battered women shelters and nonshelter programs, and sexual assault programs.

Sec. 10. Minnesota Statutes 1992, section 609.101, subdivision 3, is amended to read:

Subd. 3. **CONTROLLED SUBSTANCE OFFENSES; MINIMUM FINES.** (a) Notwithstanding any other law, when a court sentences a person convicted of:

~~(1) a first degree controlled substance crime under section 152.021 to 152.025, it must impose a fine of not less than \$2,500 nor more than the maximum fine authorized by law;~~ 20 percent of the maximum fine authorized by law;

~~(2) a second degree controlled substance crime under section 152.022, it must impose a fine of not less than \$1,000 nor more than the maximum fine authorized by law;~~

~~(3) a third degree controlled substance crime under section 152.023, it must impose a fine of not less than \$750 nor more than the maximum fine authorized by law;~~

~~(4) a fourth degree controlled substance crime under section 152.024, it must impose a fine of not less than \$500 nor more than the maximum fine authorized by law; and~~

~~(5) a fifth degree controlled substance violation under section 152.025, it must impose a fine of not less than \$300 nor more than the maximum fine authorized by law.~~

(b) The court may not waive payment of the fine or authorize payment of it in installments unless the court makes written findings on the record that the convicted person is indigent or that the fine would create undue hardship for the convicted person or that person's immediate family.

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(e) The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any term of imprisonment or restitution imposed or ordered by the court.

~~(e)~~ (c) The court shall collect the fine mandated by this subdivision and forward 70 percent of it to a local drug abuse prevention program existing or being implemented in the county in which the crime was committed. The court shall forward the remaining 30 percent to the state treasurer to be credited to the general fund. If more than one drug abuse prevention program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the community in which the crime was committed, the funding needs of the program, the number of peace officers in each community certified to teach the program, and the number of children served by the program in each community. If no drug abuse prevention program serves communities in that county, the court shall forward 100 percent of the fine proceeds to the state treasurer to be credited to the general fund.

~~(e)~~ (d) The minimum fines required by this subdivision shall be collected as are other fines. Fine proceeds received by a local drug abuse prevention program must be used to support that program, and may be used for salaries of peace officers certified to teach the program. The drug abuse resistance education program must report receipt and use of money generated under this subdivision as prescribed by the drug abuse resistance education advisory council.

~~(f)~~ (e) As used in this subdivision, "drug abuse prevention program" and "program" include:

(1) the drug abuse resistance education program described in sections 299A.33 and 299A.331; and

(2) any similar drug abuse education and prevention program that includes the following components:

(A) instruction for students enrolled in kindergarten through grade six that is designed to teach students to recognize and resist pressures to experiment with controlled substances and alcohol;

(B) provisions for parental involvement;

(C) classroom instruction by uniformed law enforcement personnel;

(D) the use of positive student leaders to influence younger students not to use drugs; and

(E) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations.

Sec. 11. Minnesota Statutes 1992, section 609.101, subdivision 4, is amended to read:

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Subd. 4. **MINIMUM FINES; OTHER CRIMES.** Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3, it must impose a fine of not less than ~~20~~ 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than ~~20~~ 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law.

~~The court may not waive payment of the minimum fine or authorize payment of it in installments unless the court makes written findings on the record that the convicted person is indigent or that the fine would create undue hardship for the convicted person or that person's immediate family.~~

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any term of imprisonment or restitution imposed or ordered by the court.

The court shall collect the fines mandated in this subdivision and, except for fines for traffic and motor vehicle violations governed by section 169.871 and section 299D.03 and fish and game violations governed by section 97A.065, forward 20 percent of the revenues to the state treasurer for deposit in the general fund.

Sec. 12. Minnesota Statutes 1992, section 609.101, is amended by adding a subdivision to read:

Subd. 5. WAIVER PROHIBITED; INSTALLMENT PAYMENTS. The court may not waive payment of the minimum fine, surcharge, or assessment required by this section. The court may reduce the amount of the minimum fine, surcharge, or assessment if the court makes written findings on the record that the convicted person is indigent or that immediate payment of the fine, surcharge, or assessment would create undue hardship for the convicted person or that person's immediate family. The court may authorize payment of the fine, surcharge, or assessment in installments.

Sec. 13. Laws 1992, chapter 571, article 16, section 4, is amended to read:

Sec. 4. MULTIDISCIPLINARY PROGRAM GRANTS FOR PROFESSIONAL EDUCATION ABOUT VIOLENCE AND ABUSE.

(a) The higher education coordinating board may award grants to "eligible institutions" as defined in Minnesota Statutes, section 136A.101, subdivision 4, to provide multidisciplinary ~~training~~ programs that provide training about:

(1) the extent and causes of violence and the identification of violence,

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which includes physical or sexual abuse or neglect, and racial or cultural violence; and

(2) culturally and historically sensitive approaches to dealing with victims and perpetrators of violence.

(b) The programs shall be multidisciplinary and include must be designed to prepare students to be teachers, child protection workers school administrators, law enforcement officers, probation officers, parole officers, lawyers, physicians, nurses, mental health professionals, social workers, guidance counselors, and all or other education, human services, mental health, and health care professionals who work with adult and child victims and perpetrators of violence and abuse.

Sec. 14. HIGHER EDUCATION GRANTS FOR COLLABORATION AMONG HUMAN SERVICES PROFESSIONALS.

Subdivision 1. GRANTS. The higher education coordinating board shall award grants to public post-secondary institutions to develop professional skills for interdisciplinary collaboration in providing health care, human services, and education.

Subd. 2. PROGRAMS AND ACTIVITIES. Grants shall support the following programs and activities:

(1) on-campus, off-campus, and multicampus collaboration in training professionals who work with adults and children to enable higher education students to be knowledgeable about the roles and expertise of different professions serving the same clients;

(2) programs to teach professional education students how health and other human services and education can be restructured to coordinate programs for efficiency and better results;

(3) faculty discussion and assessment of methods to provide professionals with the skills needed to collaborate with staff from other disciplines; and

(4) community outreach and leadership activities to reduce fragmentation among public agencies and private organizations serving individuals and families.

Sec. 15. HIGHER EDUCATION CENTER ON VIOLENCE AND ABUSE.

Subdivision 1. CREATION AND DESIGNATION. The higher education center on violence and abuse is created. The higher education center on violence and abuse shall be located at and managed by a public or private post-secondary institution in Minnesota. The higher education coordinating board shall designate the location of the center following review of proposals from potential higher education sponsors.

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Subd. 2. ADVISORY COMMITTEE. The higher education coordinating board shall convene an advisory committee to develop specifications for the higher education center and review proposals from higher education institutions. The advisory committee shall include representatives who are students in professional programs, other students, student affairs professionals, professional education faculty, and practicing professionals in the community who are involved with problems of violence and abuse.

Subd. 3. DUTIES. The higher education center on violence and abuse shall:

(1) serve as a clearinghouse of information on curriculum models and other resources for professional education and for education of faculty, students, and staff about violence and harassment required under Laws 1992, chapter 571, article 16, section 1;

(2) sponsor conferences and research to assist higher education institutions in developing curricula about violence and abuse;

(3) fund pilot projects to stimulate multidisciplinary curricula about violence and abuse; and

(4) coordinate policies to ensure that professions and occupations with responsibilities toward victims and offenders have the knowledge and skills needed to prevent and respond appropriately to the problems of violence and abuse.

Subd. 4. PROFESSIONAL EDUCATION AND LICENSURE. By March 15, 1994, the center shall convene task forces for professions that work with victims and perpetrators of violence. Task forces must be formed for the following professions: teachers, school administrators, guidance counselors, law enforcement officers, lawyers, physicians, nurses, psychologists, and social workers. Each task force must include representatives of the licensing agency, higher education systems offering programs in the profession, appropriate professional associations, students or recent graduates, representatives of communities served by the profession, and employers or experienced professionals. The center must establish guidelines for the work of the task forces. Each task force must review current programs, licensing regulations and examinations, and accreditation standards to identify specific needs and plans for ensuring that professionals are adequately prepared and updated on violence and abuse issues.

Subd. 5. PROGRESS REPORT. The center shall provide a progress report to the legislature by March 15, 1994.

Sec. 16. INSTITUTE FOR CHILD AND ADOLESCENT SEXUAL HEALTH.

Subdivision 1. PLANNING. The interdisciplinary committee established in Laws 1992, chapter 571, article 1, section 28, shall continue planning for an institute for child and adolescent sexual health.

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Subd. 2. SPECIFIC RECOMMENDATIONS. (a) The committee shall develop specific recommendations regarding the structure, funding, staffing and staff qualifications, siting, and affiliations of the institute, and a detailed plan for long-term funding of the institute which shall not be a state program.

(b) The committee shall also clearly document and describe the following:

(1) the problems to be addressed by the institute, including statistical data on the extent of these problems;

(2) strategies already available in the professional literature to address these problems;

(3) information on which of these strategies have been implemented in Minnesota, including data on the availability and effectiveness of these strategies and gaps in the availability of these strategies;

(4) the rationale for the recommended design of the institute; and

(5) the mission of the institute, including a code of ethics for conducting research.

Subd. 3. REPORT. The commissioner of health shall submit a report to the legislature by January 1, 1994, based on the recommendations of the committee.

Sec. 17. SURVEY OF INMATES.

Subdivision 1. SURVEY REQUIRED. The commissioner of corrections shall conduct a survey of inmates in the state correctional system who have been committed to the custody of the commissioner for a period of more than one year's incarceration. The survey may be conducted by an outside party. In surveying the inmates, the commissioner shall take steps to ensure that the confidentiality of responses is strictly maintained. The survey shall compile information about each inmate concerning, but not limited to, the following:

(1) offense for which currently incarcerated;

(2) sex of inmate, place of birth, date of birth, and age of mother at birth;

(3) major caretaker during preschool years, marital status of family, and presence of male in household during childhood;

(4) number of siblings;

(5) attitude toward school, truancy history, and school suspension history;

(6) involvement of sibling or parent in criminal justice system;

(7) age of inmate's first involvement in criminal justice system, the type of offense or charge, the response of criminal justice system, and the type of treatment or punishment, if any;

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- (8) nature of discipline used in home;
- (9) placement in foster care or adoption;
- (10) childhood traumas;
- (11) most influential adult in life;
- (12) chemical abuse problems among adults in household while a child;
- (13) inmate's chemical history, and if a problem of chemical abuse exists, the age of its onset;
- (14) city, suburb, small town, or rural environment during childhood and state or states of residence before the age of 18;
- (15) number of times family moved during school years;
- (16) involvement with school or community activities;
- (17) greatest problem as a child;
- (18) greatest success as a child; and
- (19) physical or sexual abuse as a child.

Subd. 2. REPORT. By January 1, 1994, the commissioner shall compile the results of the survey and report them to the chairs of the senate committee on crime prevention and the house committee on judiciary. Information concerning the identity of individual inmates shall not be reported.

Sec. 18. Laws 1991, chapter 279, section 41, is amended to read:

Sec. 41. **REPEALERS.**

(a) Minnesota Statutes 1990, sections 244.095; and 299A.29, subdivisions 2 and 4, are repealed.

(b) ~~Minnesota Statutes 1990, section 609.101, subdivision 3, is repealed effective July 1, 1993.~~

Sec. 19. **REPEALER.**

Minnesota Statutes 1992, section 299A.325, is repealed.

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ARTICLE 13

TECHNICAL CORRECTIONS

Section 1. Minnesota Statutes 1992, section 144A.04, subdivision 4, is amended to read:

Subd. 4. **CONTROLLING PERSON RESTRICTIONS.** (a) The controlling persons of a nursing home may not include any person who was a controlling person of another nursing home during any period of time in the previous two-year period:

(1) during which time of control that other nursing home incurred the following number of uncorrected or repeated violations:

(i) two or more uncorrected violations or one or more repeated violations which created an imminent risk to direct resident care or safety; or

(ii) four or more uncorrected violations or two or more repeated violations of any nature for which the fines are in the four highest daily fine categories prescribed in rule; or

(2) who was convicted of a felony or gross misdemeanor ~~punishable by a term of imprisonment of more than 90 days~~ that relates to operation of the nursing home or directly affects resident safety or care, during that period.

(b) The provisions of this subdivision shall not apply to any controlling person who had no legal authority to affect or change decisions related to the operation of the nursing home which incurred the uncorrected violations.

Sec. 2. Minnesota Statutes 1992, section 144A.04, subdivision 6, is amended to read:

Subd. 6. **MANAGERIAL EMPLOYEE OR LICENSED ADMINISTRATOR; EMPLOYMENT PROHIBITIONS.** A nursing home may not employ as a managerial employee or as its licensed administrator any person who was a managerial employee or the licensed administrator of another facility during any period of time in the previous two-year period:

(a) During which time of employment that other nursing home incurred the following number of uncorrected violations which were in the jurisdiction and control of the managerial employee or the administrator:

(1) two or more uncorrected violations or one or more repeated violations which created an imminent risk to direct resident care or safety; or

(2) four or more uncorrected violations or two or more repeated violations of any nature for which the fines are in the four highest daily fine categories prescribed in rule; or

New language is indicated by underline, deletions by ~~strikeout~~.

(b) who was convicted of a felony or gross misdemeanor ~~punishable by a term of imprisonment of more than 90 days~~ that relates to operation of the nursing home or directly affects resident safety or care, during that period.

Sec. 3. Minnesota Statutes 1992, section 144A.11, subdivision 3a, is amended to read:

Subd. 3a. **MANDATORY REVOCATION.** Notwithstanding the provisions of subdivision 3, the commissioner shall revoke a nursing home license if a controlling person is convicted of a felony or gross misdemeanor ~~punishable by a term of imprisonment of more than 90 days~~ that relates to operation of the nursing home or directly affects resident safety or care. The commissioner shall notify the nursing home 30 days in advance of the date of revocation.

Sec. 4. Minnesota Statutes 1992, section 144B.08, subdivision 3, is amended to read:

Subd. 3. **MANDATORY REVOCATION OR REFUSAL TO ISSUE A LICENSE.** Notwithstanding subdivision 2, the commissioner shall revoke or refuse to issue a residential care home license if the applicant, licensee, or manager of the licensed home is convicted of a felony or gross misdemeanor ~~that is punishable by a term of imprisonment of not more than 90 days and~~ that relates to operation of the residential care home or directly affects resident safety or care. The commissioner shall notify the residential care home 30 days before the date of revocation.

Sec. 5. Minnesota Statutes 1992, section 152.021, subdivision 3, is amended to read:

Subd. 3. **PENALTY.** (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 30 years or to payment of a fine of not more than \$1,000,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be ~~sentenced to imprisonment~~ committed to the commissioner of corrections for not less than four years nor more than 40 years or to payment of a fine of not more than \$1,000,000, or both.

(c) In a prosecution under subdivision 1 involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

Sec. 6. Minnesota Statutes 1992, section 152.022, subdivision 3, is amended to read:

Subd. 3. **PENALTY.** (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than \$500,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a per-

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son convicted under subdivision 1 or 2 shall be ~~sentenced to imprisonment committed to the commissioner of corrections~~ for not less than three years nor more than 40 years or to payment of a fine of not more than \$500,000, or both.

(c) In a prosecution under subdivision 1 involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

Sec. 7. Minnesota Statutes 1992, section 152.023, subdivision 3, is amended to read:

Subd. 3. **PENALTY.** (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$250,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be ~~sentenced to imprisonment committed to the commissioner of corrections~~ for not less than two years nor more than 30 years or to payment of a fine of not more than \$250,000, or both.

Sec. 8. Minnesota Statutes 1992, section 152.024, subdivision 3, is amended to read:

Subd. 3. **PENALTY.** (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$100,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be ~~sentenced to imprisonment committed to the commissioner of corrections~~ or to a local correctional authority for not less than one year nor more than 30 years or to payment of a fine of not more than \$100,000, or both.

Sec. 9. Minnesota Statutes 1992, section 152.025, subdivision 3, is amended to read:

Subd. 3. **PENALTY.** (a) A person convicted under subdivision 1 or 2 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.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be ~~sentenced to imprisonment committed to the commissioner of corrections~~ or to a local correctional authority for not less than six months nor more than ten years or to payment of a fine of not more than \$20,000, or both.

Sec. 10. Minnesota Statutes 1992, section 152.026, is amended to read:

152.026 **MANDATORY SENTENCES.**

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A defendant convicted and sentenced to a mandatory sentence under sections 152.021 to 152.025 is not eligible for probation, parole, discharge, or supervised release until that person has served the full ~~mandatory minimum~~ term of imprisonment as provided by law, notwithstanding sections 242.19, 243.05, 609.12, and 609.135. “Term of imprisonment” has the meaning given in section 244.01, subdivision 8.

Sec. 11. Minnesota Statutes 1992, section 152.18, subdivision 1, is amended to read:

Subdivision 1. If any person is found guilty of a violation of section 152.024, 152.025, or 152.027 for possession of a controlled substance, after trial or upon a plea of guilty, 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 ~~term of imprisonment 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 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 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 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. 12. Minnesota Statutes 1992, section 169.121, subdivision 3a, is amended to read:

Subd. 3a. **HABITUAL OFFENDER PENALTIES.** (a) If a person has been convicted under this section, section 169.129, an ordinance in conformity with

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either of them, or a statute or ordinance from another state in conformity with either of them, and if the person is then convicted of a gross misdemeanor violation of this section, a violation of section 169.129, or an ordinance in conformity with either of them (1) once within five years after the first conviction or (2) two or more times within ten years after the first conviction, the person must be sentenced to a minimum of 30 days imprisonment or to eight hours of community work service for each day less than 30 days that the person is ordered to serve in jail. Provided, that if a person is convicted of violating this section, section 169.129, or an ordinance in conformity with either of them two or more times within five years after the first conviction, or within five years after the first of two or more license revocations, as defined in subdivision 3, paragraph (a), clause (2), the person must be sentenced to a minimum of 30 days imprisonment and the sentence may not be waived under paragraph (b) or (c). Notwithstanding section 609.135, the above sentence must be executed, unless the court departs from the mandatory minimum sentence under paragraph (b) or (c).

(b) Prior to sentencing the prosecutor may file a motion to have the defendant sentenced without regard to the mandatory minimum sentence established by this subdivision. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the prosecutor's motion and if it finds that substantial mitigating factors exist, the court shall sentence the defendant without regard to the mandatory minimum ~~term of imprisonment~~ sentence established by this subdivision.

(c) The court may, on its own motion, sentence the defendant without regard to the mandatory minimum ~~term of imprisonment~~ sentence established by this subdivision if it finds that substantial mitigating factors exist and if its sentencing departure is accompanied by a statement on the record of the reasons for it.

(d) The court may sentence the defendant without regard to the mandatory minimum ~~term of imprisonment~~ sentence established by this subdivision if the defendant is sentenced to probation and ordered to participate in a program established under section 169.1265.

(e) When any portion of the sentence required by this subdivision is not executed, the court should impose a sentence that is proportional to the extent of the offender's prior criminal and moving traffic violation record.

Sec. 13. Minnesota Statutes 1992, section 238.16, subdivision 2, is amended to read:

Subd. 2. **GROSS MISDEMEANOR.** Any person violating the provisions of this chapter is guilty of a gross misdemeanor. Any ~~term of imprisonment~~ sentence imposed for any violation by a corporation shall be served by the senior resident officer of the corporation.

Sec. 14. Minnesota Statutes 1992, section 244.065, is amended to read:

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244.065 PRIVATE EMPLOYMENT OF INMATES OF STATE CORRECTIONAL INSTITUTIONS IN COMMUNITY.

When consistent with the public interest and the public safety, the commissioner of corrections may conditionally release an inmate to work at paid employment, seek employment, or participate in a vocational training or educational program, as provided in section 241.26, if the inmate has served at least one half of the term of imprisonment ~~as reduced by good time earned by the inmate.~~

Sec. 15. Minnesota Statutes 1992, section 244.14, subdivision 3, is amended to read:

Subd. 3. **SANCTIONS.** The commissioner shall impose severe and meaningful sanctions for violating the conditions of an intensive community supervision program. The commissioner shall provide for revocation of intensive community supervision of an offender who:

(1) commits a material violation of or repeatedly fails to follow the rules of the program;

(2) commits any misdemeanor, gross misdemeanor, or felony offense; or

(3) presents a risk to the public, based on the offender's behavior, attitude, or abuse of alcohol or controlled substances. The revocation of intensive community supervision is governed by the procedures in the commissioner's rules adopted under section 244.05, subdivision 2.

An offender whose intensive community supervision is revoked shall be imprisoned for a time period equal to the offender's ~~original~~ term of imprisonment, but in no case for longer than the time remaining in the offender's sentence. "~~Original~~ Term of imprisonment" means a time period equal to two-thirds of the sentence originally executed by the sentencing court, minus jail credit, if any.

Sec. 16. Minnesota Statutes 1992, section 244.15, subdivision 1, is amended to read:

Subdivision 1. **DURATION.** Phase I of an intensive community supervision program is six months, or one-half the time remaining in the offender's ~~original~~ term of imprisonment, whichever is less. Phase II lasts for at least one-third of the time remaining in the offender's ~~original~~ term of imprisonment at the beginning of Phase II. Phase III lasts for at least one-third of the time remaining in the offender's ~~original~~ term of imprisonment at the beginning of Phase III. Phase IV continues until the commissioner determines that the offender has successfully completed the program or until the offender's sentence, minus jail credit, expires, whichever occurs first. If an offender successfully completes the intensive community supervision program before the offender's sentence expires, the offender shall be placed on supervised release for the remainder of the sentence.

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Sec. 17. Minnesota Statutes 1992, section 244.171, subdivision 4, is amended to read:

Subd. 4. **SANCTIONS.** The commissioner shall impose severe and meaningful sanctions for violating the conditions of the challenge incarceration program. The commissioner shall remove an offender from the challenge incarceration program if the offender:

(1) commits a material violation of or repeatedly fails to follow the rules of the program;

(2) commits any misdemeanor, gross misdemeanor, or felony offense; or

(3) presents a risk to the public, based on the offender's behavior, attitude, or abuse of alcohol or controlled substances. The removal of an offender from the challenge incarceration program is governed by the procedures in the commissioner's rules adopted under section 244.05, subdivision 2.

An offender who is removed from the challenge incarceration program shall be imprisoned for a time period equal to the offender's ~~original~~ term of imprisonment, minus earned good time if any, but in no case for longer than the time remaining in the offender's sentence. "~~Original~~ Term of imprisonment" means a time period equal to two-thirds of the sentence originally executed by the sentencing court, minus jail credit, if any.

Sec. 18. Minnesota Statutes 1992, section 299A.35, subdivision 2, is amended to read:

Subd. 2. **GRANT PROCEDURE.** A local unit of government or a non-profit 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;

(3) the geographical area to be served by the program; and

(4) 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 ~~term of imprisonment~~ sentence greater than ten years.

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The commissioner shall give priority to funding programs in the geographical areas that have the highest crime rates, as measured by the data supplied under clause (4), and that demonstrate substantial involvement by members of the community served by the program. The maximum amount that may be awarded to an applicant is \$50,000.

Sec. 19. Minnesota Statutes 1992, section 609.0341, subdivision 1, is amended to read:

Subdivision 1. **GROSS MISDEMEANORS.** Any law of this state which provides for a maximum fine of \$1,000 or for a maximum ~~term~~ sentence of imprisonment of one year or which is defined as a gross misdemeanor shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$3,000 and for a maximum ~~term~~ sentence of imprisonment of one year.

Sec. 20. Minnesota Statutes 1992, section 609.101, subdivision 2, is amended to read:

Subd. 2. **MINIMUM FINES.** Notwithstanding any other law:

(1) when a court sentences a person convicted of violating section 609.221, 609.267, or 609.342, it must impose a fine of not less than \$500 nor more than the maximum fine authorized by law;

(2) when a court sentences a person convicted of violating section 609.222, 609.223, 609.2671, 609.343, 609.344, or 609.345, it must impose a fine of not less than \$300 nor more than the maximum fine authorized by law; and

(3) when a court sentences a person convicted of violating section 609.2231, 609.224, or 609.2672, it must impose a fine of not less than \$100 nor more than the maximum fine authorized by law.

The court may not waive payment of the fine or authorize payment of it in installments unless the court makes written findings on the record that the convicted person is indigent or that the fine would create undue hardship for the convicted person or that person's immediate family.

The court shall collect the portion of the fine mandated by this subdivision and forward 70 percent of it to a local victim assistance program that provides services locally in the county in which the crime was committed. The court shall forward the remaining 30 percent to the commissioner of finance to be credited to the general fund. If more than one victim assistance program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the nature of the crime committed, the types of victims served by the program, and the funding needs of the program. If no victim assistance program serves that county, the court shall forward 100 percent of the fine proceeds to the commissioner of finance to be credited to the general fund. Fine proceeds received by a local victim assistance program must be used to provide direct services to crime victims.

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The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any ~~term~~ sentence of imprisonment or restitution imposed or ordered by the court.

As used in this subdivision, "victim assistance program" means victim witness programs within county attorney offices or any of the following programs: crime victim crisis centers, victim-witness programs, battered women shelters and nonshelter programs, and sexual assault programs.

Sec. 21. Minnesota Statutes 1992, section 609.101, subdivision 3, is amended to read:

Subd. 3. **CONTROLLED SUBSTANCE OFFENSES; MINIMUM FINES.** (a) Notwithstanding any other law, when a court sentences a person convicted of:

(1) a first degree controlled substance crime under section 152.021, it must impose a fine of not less than \$2,500 nor more than the maximum fine authorized by law;

(2) a second degree controlled substance crime under section 152.022, it must impose a fine of not less than \$1,000 nor more than the maximum fine authorized by law;

(3) a third degree controlled substance crime under section 152.023, it must impose a fine of not less than \$750 nor more than the maximum fine authorized by law;

(4) a fourth degree controlled substance crime under section 152.024, it must impose a fine of not less than \$500 nor more than the maximum fine authorized by law; and

(5) a fifth degree controlled substance violation under section 152.025, it must impose a fine of not less than \$300 nor more than the maximum fine authorized by law.

(b) The court may not waive payment of the fine or authorize payment of it in installments unless the court makes written findings on the record that the convicted person is indigent or that the fine would create undue hardship for the convicted person or that person's immediate family.

(c) The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any ~~term~~ sentence of imprisonment or restitution imposed or ordered by the court.

(d) The court shall collect the fine mandated by this subdivision and forward 70 percent of it to a local drug abuse prevention program existing or being implemented in the county in which the crime was committed. The court shall forward the remaining 30 percent to the state treasurer to be credited to the general fund. If more than one drug abuse prevention program serves the county in

New language is indicated by underline, deletions by ~~strikeout~~.

which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the community in which the crime was committed, the funding needs of the program, the number of peace officers in each community certified to teach the program, and the number of children served by the program in each community. If no drug abuse prevention program serves communities in that county, the court shall forward 100 percent of the fine proceeds to the state treasurer to be credited to the general fund.

(e) The minimum fines required by this subdivision shall be collected as are other fines. Fine proceeds received by a local drug abuse prevention program must be used to support that program, and may be used for salaries of peace officers certified to teach the program. The drug abuse resistance education program must report receipt and use of money generated under this subdivision as prescribed by the drug abuse resistance education advisory council.

(f) As used in this subdivision, "drug abuse prevention program" and "program" include:

(1) the drug abuse resistance education program described in sections 299A.33 and 299A.331; and

(2) any similar drug abuse education and prevention program that includes the following components:

(A) instruction for students enrolled in kindergarten through grade six that is designed to teach students to recognize and resist pressures to experiment with controlled substances and alcohol;

(B) provisions for parental involvement;

(C) classroom instruction by uniformed law enforcement personnel;

(D) the use of positive student leaders to influence younger students not to use drugs; and

(E) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations.

Sec. 22. Minnesota Statutes 1992, section 609.101, subdivision 4, is amended to read:

Subd. 4. **MINIMUM FINES; OTHER CRIMES.** Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3, it must impose a fine of not less than 20 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

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(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than 20 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law.

The court may not waive payment of the minimum fine or authorize payment of it in installments unless the court makes written findings on the record that the convicted person is indigent or that the fine would create undue hardship for the convicted person or that person's immediate family.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any term sentence of imprisonment or restitution imposed or ordered by the court.

Sec. 23. Minnesota Statutes 1992, section 609.11, is amended to read:

609.11 MINIMUM ~~TERMS~~ SENTENCES OF IMPRISONMENT.

Subdivision 1. **COMMITMENTS WITHOUT MINIMUMS.** All commitments to the commissioner of corrections for imprisonment of the defendant are without minimum terms except when the sentence is to life imprisonment as required by law and except as otherwise provided in this chapter.

Subd. 4. **DANGEROUS WEAPON.** Any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, used, whether by brandishing, displaying, threatening with, or otherwise employing, a dangerous weapon other than a firearm, or had in possession a firearm, shall be committed to the commissioner of corrections for a ~~mandatory minimum term of imprisonment~~ of not less than one year plus one day, 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, used a dangerous weapon other than a firearm, or had in possession a firearm, shall be committed to the commissioner of corrections for a ~~mandatory minimum term of imprisonment~~ of not less than three years nor more than the maximum sentence provided by law.

Subd. 5. **FIREARM.** Any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm, shall be committed to the commissioner of corrections for a ~~mandatory minimum term of imprisonment~~ of 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, used a firearm shall be committed to the commissioner of corrections for a ~~mandatory minimum term of imprisonment~~ of not less than five years, nor more than the maximum sentence provided by law.

Subd. 5a. **DRUG OFFENSES.** Notwithstanding section 609.035, whenever a defendant is subject to a mandatory minimum ~~term of imprisonment~~ sen-

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tence for a felony violation of chapter 152 and is also subject to this section, the minimum term of imprisonment sentence imposed under this section shall be consecutive to that imposed under chapter 152.

Subd. 6. **NO EARLY RELEASE.** Any defendant convicted and sentenced as required by this section is not eligible for probation, parole, discharge, or supervised release until that person has served the full ~~mandatory minimum~~ term of imprisonment as provided by law, notwithstanding the provisions of sections 242.19, 243.05, 244.04, 609.12 and 609.135.

Subd. 7. **PROSECUTOR SHALL ESTABLISH.** Whenever reasonable grounds exist to believe that the defendant or an accomplice used a firearm or other dangerous weapon or had in possession a firearm, at the time of commission of an offense listed in subdivision 9, the prosecutor shall, at the time of trial or at the plea of guilty, present on the record all evidence tending to establish that fact unless it is otherwise admitted on the record. The question of whether the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm shall be determined by the court on the record at the time of a verdict or finding of guilt at trial or the entry of a plea of guilty based upon the record of the trial or the plea of guilty. The court shall determine on the record at the time of sentencing whether the defendant has been convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm.

Subd. 8. **MOTION BY PROSECUTOR.** Prior to the time of sentencing, the prosecutor may file a motion to have the defendant sentenced without regard to the mandatory minimum ~~terms of imprisonment~~ sentences established by this section. The motion shall be accompanied by a statement on the record of the reasons for it. When presented with the motion and if it finds substantial mitigating factors exist, the court shall sentence the defendant without regard to the mandatory minimum ~~terms of imprisonment~~ sentences established by this section.

Subd. 9. **APPLICABLE OFFENSES.** The crimes for which mandatory minimum sentences shall be served ~~before eligibility for probation, parole, or supervised release~~ 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; a felony violation of chapter 152; or any attempt to commit any of these offenses.

Sec. 24. Minnesota Statutes 1992, section 609.135, subdivision 1, is amended to read:

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Subdivision 1. **TERMS AND CONDITIONS.** Except when a sentence of life imprisonment is required by law, or when a mandatory minimum ~~term of imprisonment 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.

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. 25. Minnesota Statutes 1992, section 609.1352, subdivision 1, is amended to read:

Subdivision 1. **SENTENCING AUTHORITY.** A court shall ~~sentence~~ commit a person to a ~~term of imprisonment of the commissioner of corrections for a period of time that is~~ not less than double the presumptive sentence under the sentencing guidelines and not more than the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, ~~to a term of imprisonment for a period of time that is~~ equal to the statutory maximum, if:

(1) the court is imposing an executed sentence, based on a sentencing guidelines presumptive imprisonment sentence or a dispositional departure for aggravating circumstances or a mandatory minimum sentence, on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, or 609.345, or on a person convicted of committing or attempting to commit any other crime listed in subdivision 2 if it reasonably appears to the court that the crime was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal;

(2) the court finds that the offender is a danger to public safety; and

(3) the court finds that the offender needs long-term treatment or supervision beyond the presumptive term of imprisonment and supervised release. The finding must be based on a professional assessment by an examiner experienced in evaluating sex offenders that concludes that the offender is a patterned sex offender. The assessment must contain the facts upon which the conclusion is based, with reference to the offense history of the offender or the severity of the

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current offense, the social history of the offender, and the results of an examination of the offender's mental status unless the offender refuses to be examined. The conclusion may not be based on testing alone. A patterned sex offender is one whose criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term controls.

Sec. 26. Minnesota Statutes 1992, section 609.15, subdivision 2, is amended to read:

Subd. 2. **LIMIT ON ~~TERMS~~ SENTENCES; MISDEMEANOR AND GROSS MISDEMEANOR.** If the court specifies that the sentence shall run consecutively and all of the sentences are for misdemeanors, the total of the ~~terms of imprisonment~~ sentences shall not exceed one year. If all of the sentences are for gross misdemeanors, the total of the ~~terms~~ sentences shall not exceed three years.

Sec. 27. Minnesota Statutes 1992, 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 609.185; 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 ~~term of imprisonment~~ sentence of 15 years or more.

Sec. 28. Minnesota Statutes 1992, section 609.196, is amended to read:

609.196 MANDATORY PENALTY FOR CERTAIN MURDERERS.

When a person is convicted of violating section 609.19 or 609.195, the court shall sentence the person to the statutory maximum ~~term of imprisonment~~ sentence for the offense if the person was previously convicted of a heinous crime as defined in section 609.184 and 15 years have not elapsed since the per-

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son was discharged from the sentence imposed for that conviction. The court may not stay the imposition or execution of the sentence, notwithstanding section 609.135.

Sec. 29. Minnesota Statutes 1992, section 609.229, subdivision 3, is amended to read:

Subd. 3. **PENALTY.** (a) If the crime committed in violation of subdivision 2 is a felony, the statutory maximum for the crime is three years longer than the statutory maximum for the underlying crime.

(b) If the crime committed in violation of subdivision 2 is a misdemeanor, the person is guilty of a gross misdemeanor.

(c) If the crime committed in violation of subdivision 2 is a gross misdemeanor, the person is guilty of a felony and may be sentenced to a term of imprisonment of ~~for~~ not more than one year and a day or to payment of a fine of not more than \$5,000, or both.

Sec. 30. Minnesota Statutes 1992, section 609.346, subdivision 2, is amended to read:

Subd. 2. **SUBSEQUENT SEX OFFENSE; PENALTY.** Except as provided in subdivision 2a or 2b, if a person is convicted under sections 609.342 to 609.345, within 15 years of a previous sex offense conviction, the court shall commit the defendant to the commissioner of corrections for ~~imprisonment for a term of~~ not less than three years, nor more than the maximum sentence provided by law for the offense for which convicted, notwithstanding the provisions of sections 242.19, 243.05, 609.11, 609.12 and 609.135. The court may stay the execution of the sentence imposed under this subdivision only if it finds that a professional assessment indicates the offender is accepted by and can respond to treatment at a long-term inpatient program exclusively treating sex offenders and approved by the commissioner of corrections. If the court stays the execution of a sentence, it shall include the following as conditions of probation: (1) incarceration in a local jail or workhouse; and (2) a requirement that the offender successfully complete the treatment program and aftercare as directed by the court.

Sec. 31. Minnesota Statutes 1992, section 609.346, subdivision 2b, is amended to read:

Subd. 2b. **MANDATORY 30-YEAR SENTENCE.** (a) The court shall ~~sentence~~ commit a person to a ~~term of~~ the commissioner of corrections for not less than 30 years, notwithstanding the statutory maximum sentence under section 609.343, if:

(1) the person is convicted under section 609.342, subdivision 1, clause (c), (d), (e), or (f); or 609.343, subdivision 1, clause (c), (d), (e), or (f); and

(2) the court determines on the record at the time of sentencing that:

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(i) the crime involved an aggravating factor that would provide grounds for an upward departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions; and

(ii) the person has a previous sex offense conviction under section 609.342, 609.343, or 609.344.

(b) Notwithstanding sections 609.342, subdivision 3; and 609.343, subdivision 3; and subdivision 2, the court may not stay imposition or execution of the sentence required by this subdivision.

Sec. 32. Minnesota Statutes 1992, section 609.3461, subdivision 2, is amended to read:

Subd. 2. **BEFORE RELEASE.** If a person convicted of violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, or sentenced as a patterned sex offender under section 609.1352, and committed to the custody of the commissioner of corrections ~~for a term of imprisonment~~, has not provided a biological specimen for the purpose of DNA analysis, the commissioner of corrections or local corrections authority shall order the person to provide a biological specimen for the purpose of DNA analysis before completion of the person's term of imprisonment. The commissioner of corrections or local corrections authority shall forward the sample to the bureau of criminal apprehension.

Sec. 33. Minnesota Statutes 1992, section 609.582, subdivision 1a, is amended 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. 34. Minnesota Statutes 1992, section 609.891, subdivision 2, is amended to read:

Subd. 2. **FELONY.** (a) A person who violates subdivision 1 in a manner that creates a grave risk of causing the death of a person is guilty of a felony and may be sentenced to ~~a term of imprisonment of~~ for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) A person who is convicted of a second or subsequent gross misdemeanor violation of subdivision 1 is guilty of a felony and may be sentenced under paragraph (a).

Sec. 35. Minnesota Statutes 1992, section 611A.06, subdivision 1, is amended to read:

Subdivision 1. **NOTICE OF RELEASE REQUIRED.** The commissioner of

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corrections or other custodial authority shall make a good faith effort to notify the victim that the offender is to be released from imprisonment or incarceration, including release on extended furlough and for work release; released from a juvenile correctional facility; released from a facility in which the offender was confined due to incompetency, mental illness, or mental deficiency, or commitment under section 253B.18; or transferred from one correctional facility to another when the correctional program involves less security, if the victim has mailed to the commissioner of corrections or to the head of the facility in which the offender is confined a written request for this notice. The good faith effort to notify the victim must occur prior to the release, transfer, or change in security status. For a victim of a felony crime against the person for which the offender was sentenced to a ~~term of imprisonment of for~~ more than 18 months, the good faith effort to notify the victim must occur 60 days before the offender's release, transfer, or change in security status.

Sec. 36. Minnesota Statutes 1992, section 629.291, subdivision 1, is amended to read:

Subdivision 1. **PETITION FOR TRANSFER.** The attorney general of the United States, or any of the attorney general's assistants, or the United States attorney for the district of Minnesota, or any of the United States attorney's assistants, may file a petition with the governor requesting the state of Minnesota to consent to transfer an inmate, serving a ~~term of imprisonment sentence~~ in a Minnesota correctional facility for violation of a Minnesota criminal law, to the United States district court for the purpose of being tried for violation of a federal criminal law. In order for a petition to be filed under this section, the inmate must at the time of the filing of the petition be under indictment in the United States district court for Minnesota for violation of a federal criminal law. The petition must name the inmate for whom transfer is requested and the Minnesota correctional facility in which the inmate is imprisoned. The petition must be verified and have a certified copy of the federal indictment attached to it. The petitioner must agree in the petition to pay all expenses incurred by the state in transferring the inmate to the United States court for trial.

Sec. 37. **EFFECTIVE DATE.**

Sections 1 to 36 are effective August 1, 1993, and apply to crimes committed on or after that date.

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ARTICLE 14
APPROPRIATIONS

Section 1. APPROPRIATION.

\$9,345,000 is appropriated from the general fund to the agencies and for the purposes indicated in this article, to be available for the fiscal year ending June 30 in the years indicated.

| | 1994 | 1995 |
|--|-----------|-----------|
| Sec. 2. DEPARTMENT OF EDUCATION. | | |
| 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 \$50,000 of this appropriation may be used for administration of the programs funded in this section. | 1,500,000 | 1,500,000 |
| Sec. 3. HIGHER EDUCATION COORDINATING BOARD | | |
| For purposes of article 12, sections 13, 14, and 15. | 200,000 | 200,000 |
| Sec. 4. DARE ADVISORY COUNCIL | | |
| For drug abuse resistance education programs under Minnesota Statutes, section 299A.331. | 190,000 | 190,000 |
| Sec. 5. DEPARTMENT OF PUBLIC SAFETY | 950,000 | 950,000 |
| (a) For community crime reduction grants under Minnesota Statutes, section 299A.35. Of this appropriation, \$500,000 each year is for programs qualifying under Minnesota Statutes, section 299A.35, subdivision 1, clauses (2) and (4); \$100,000 each year is for programs qualifying under section 299A.35, subdivision 1, clause (3); and \$100,000 each year is for programs qualifying under section 299A.35, subdivision 1, clause (5). | 700,000 | 700,000 |

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| | | |
|--|-----------|-----------|
| (b) For the costs of providing training on and auditing of the BCA's criminal justice information systems reporting requirements. | 100,000 | 100,000 |
| (c) For the costs of providing training on and auditing of the criminal justice data communications network criminal justice information systems reporting requirements. | 100,000 | 100,000 |
| (d) For the costs of implementing the sex offender registration provisions. | 50,000 | 50,000 |
| Sec. 6. DEPARTMENT OF HUMAN SERVICES | | |
| For the Asian-American juvenile crime prevention grant program authorized by Minnesota Statutes, section 256.486. | 100,000 | 100,000 |
| Sec. 7. DEPARTMENT OF HEALTH | | |
| For the planning process for an institute for child and adolescent sexual health. | 65,000 | -0- |
| Sec. 8. DEPARTMENT OF CORRECTIONS | | |
| (a) For the survey of inmates required by article 12, section 17. | 25,000 | -0- |
| (b) For the sex offender programming project required by article 8, section 7, to be available until June 30, 1995. | 1,175,000 | 1,300,000 |
| (c) For the costs of providing training on and auditing of criminal justice information systems reporting requirements. | 50,000 | 50,000 |
| (d) For the costs of the juvenile restitution grant program. The commissioner may use up to five percent of this appropriation for administrative expenses. | 250,000 | 250,000 |
| Sec. 9. SUPREME COURT | | |
| For the costs of providing training on and auditing of criminal justice information systems reporting requirements. | 100,000 | 100,000 |

Sec. 10. SENTENCING GUIDELINES
COMMISSION

| | | |
|---|--------|--------|
| For the costs of providing training on and auditing of criminal justice information systems reporting requirements. | 50,000 | 50,000 |
|---|--------|--------|

Presented to the governor May 17, 1993

Signed by the governor May 20, 1993, 2:17 p.m.

CHAPTER 327—S.F.No. 1437

An act relating to utilities; setting requirements for exit sign illumination for new buildings; eliminating advance forecast requirements for public electric utilities submitting advance forecasts in an integrated resource plan; requiring cooperative electric associations and municipal utilities to comply with standards set by public utilities commission relating to electrical current or voltage; allowing extension of utility rate hearings in certain cases; eliminating district heating loan program; setting conditions for certain utility contracts; regulating the provision of water service to communities near Duluth; making technical changes; amending Minnesota Statutes 1992, sections 16B.61, subdivision 3; 116C.54; 216B.09; 216B.16, subdivisions 1, 1a, 2, and 3; 216B.2421, subdivision 2 and by adding a subdivision; 216B.43; 216B.48, subdivisions 1, 3, and 4; 216C.17, subdivision 3; 216C.37, subdivision 1; 299F.011, subdivision 4c; 446A.03, subdivision 1; 446A.10, subdivision 2; and 465.74, subdivisions 1, 4, and 6; Laws 1981, chapter 354, section 4; repealing Minnesota Statutes 1992, section 216C.36; Minnesota Rules, parts 7665.0200; 7665.0210; 7665.0220; 7665.0230; 7665.0240; 7665.0250; 7665.0300; 7665.0310; 7665.0320; 7665.0330; 7665.0340; 7665.0350; 7665.0360; 7665.0370; and 7665.0380.

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

Section 1. Minnesota Statutes 1992, section 16B.61, subdivision 3, is amended to read:

Subd. 3. **SPECIAL REQUIREMENTS.** (a) **SPACE FOR COMMUTER VANS.** The code must require that any parking ramp or other parking facility constructed in accordance with the code include an appropriate number of spaces suitable for the parking of motor vehicles having a capacity of seven to 16 persons and which are principally used to provide prearranged commuter transportation of employees to or from their place of employment or to or from a transit stop authorized by a local transit authority.

(b) **SMOKE DETECTION DEVICES.** The code must require that all dwellings, lodging houses, apartment houses, and hotels as defined in section 299F.362 comply with the provisions of section 299F.362.

(c) **DOORS IN NURSING HOMES AND HOSPITALS.** The state build-

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