

CHAPTER 59—H.F.No. 1301

An act relating to public safety; providing for public safety, courts, and corrections, including predatory offenders regarding computer access, electronic solicitation, and training materials on dangers of predatory offenders; sex offenses; crime victims; domestic fatality review teams; courts; driver's license reinstatement diversion pilot program; corrections; study of evidence-based practices for community supervision; emergency response team; controlled substances; employment of persons with criminal records; financial crimes; unsafe recalled toys; peace officer and public safety dispatcher employment; trespass in peace officer cordoned-off areas; peace officer education; and Bureau of Criminal Apprehension Information Services; providing for boards, task forces, and programs; providing for reports; providing for penalties; amending Minnesota Statutes 2008, sections 12.03, by adding a subdivision; 13.87, subdivision 1; 84.027, subdivision 17; 122A.18, subdivision 8; 123B.03, subdivision 1; 152.02, subdivisions 6, 12; 169.71, subdivision 1; 240.08, by adding a subdivision; 243.166, subdivision 4b; 244.05, subdivision 6; 244.052, subdivision 1; 244.10, by adding a subdivision; 244.195, subdivisions 2, 3, 4; 246.13, subdivision 2; 253B.141, subdivision 1; 299A.681; 299C.115; 299C.40, subdivision 1; 299C.46, subdivision 1; 299C.52, subdivisions 1, 3, 4; 299C.53, subdivision 1; 299C.62, subdivision 1; 299C.65, subdivisions 1, 5; 299C.68, subdivision 2; 357.021, subdivision 6; 388.24, subdivision 4; 401.025, subdivision 1; 401.065, subdivision 3a; 403.36, subdivision 2, by adding a subdivision; 471.59, by adding subdivisions; 480.23; 484.91, subdivision 1; 491A.03, subdivision 1; 518.165, subdivision 5; 524.5-118, subdivision 2; 609.341, subdivision 11; 609.352, subdivision 2a; 609.605, subdivision 1; 611.272; 611A.0315, subdivision 1; 626.843, subdivisions 1, 3; 626.845, subdivision 1; 626.863; 628.26; 628.69, subdivision 6; 629.34, subdivision 1; 629.341, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 12; 181; 244; 260B; 325F; 364; 611A; repealing Minnesota Statutes 2008, sections 244.195, subdivision 5; 260B.199, subdivision 2; 260B.201, subdivision 3; 299C.61, subdivision 8; 299C.67, subdivision 3; 383B.65, subdivision 2; 403.36, subdivision 1f.

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

ARTICLE 1

PREDATORY OFFENDERS AND SEX OFFENSES

Section 1. Minnesota Statutes 2008, section 243.166, subdivision 4b, is amended to read:

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

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

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

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

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

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

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

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

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

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

Sec. 2. Minnesota Statutes 2008, section 244.05, subdivision 6, is amended to read:

Subd. 6. **Intensive supervised release.** (a) The commissioner may order that an inmate be placed on intensive supervised release for all or part of the inmate's supervised release or parole term if the commissioner determines that the action will further the goals described in section 244.14, subdivision 1, clauses (2), (3), and (4). In addition, the commissioner may order that an inmate be placed on intensive supervised release for all of the inmate's conditional or supervised release term if the inmate was convicted of a sex offense under section 609.342, 609.343, 609.344, 609.345, or 609.3453 or was sentenced under the provisions of section 609.3455, subdivision 3a. The commissioner shall order that all level III predatory offenders be placed on intensive supervised release for the entire supervised release, conditional release, or parole term.

(b) The commissioner may impose appropriate conditions of release on the inmate including but not limited to unannounced searches of the inmate's person, vehicle, or premises, computer, or other electronic devices capable of accessing the Internet by an intensive supervision agent; compliance with court-ordered restitution, if any; random drug testing; house arrest; daily curfews; frequent face-to-face contacts with an assigned intensive supervision agent; work, education, or treatment requirements; and electronic surveillance. In addition, any sex offender placed on intensive supervised release may be ordered to participate in an appropriate sex offender program as a condition of release.

(c) As a condition of release for an inmate required to register under section 243.166 who is placed on intensive supervised release under this subdivision, the commissioner shall prohibit the inmate from accessing, creating, or maintaining a personal Web page, profile, account, password, or user name for: (1) a social networking Web site, or (2) an instant messaging or chat room program, which permits persons under the age of 18 to become a member or to create or maintain a personal Web page. An intensive supervised release agent may modify the prohibition described in this paragraph if doing so does not jeopardize public safety and the modification is specifically described and agreed to in advance by the agent.

(d) If the inmate violates the conditions of the intensive supervised release, the commissioner shall impose sanctions as provided in subdivision 3 and section 609.3455.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to persons who are on intensive supervised release on or after that date.

Sec. 3. Minnesota Statutes 2008, section 244.052, subdivision 1, is amended to read:

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

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

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

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

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

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

Sec. 4. **[244.0521] TRAINING MATERIALS ON THE DANGERS OF PREDATORY OFFENDERS.**

By October 1, 2010, the commissioner of corrections, in consultation with the commissioner of public safety, shall develop training materials on the dangers of predatory offenders for programs and officials who care for and educate children and vulnerable adults. The training materials must include information on the predatory

offender community notice requirements under section 244.052, the predatory offender registration requirements under section 243.166, and the dangers that predatory offenders pose to children and vulnerable adults. The training materials shall be developed in a format that permits self-study or facilitator-assisted training that can be completed in approximately one hour. Upon development of these training materials, the commissioner of corrections shall provide notice of completion and electronic access to the training to the commissioner of human services and the commissioner of health. Training materials required by this section must be developed by the Department of Corrections.

Sec. 5. Minnesota Statutes 2008, section 609.341, subdivision 11, is amended to read:

Subd. 11. **Sexual contact.** (a) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a) to (e), and (h) to (o), includes any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts, or

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts effected by a person in a position of authority, or by coercion, or by inducement if the complainant is under 13 years of age or mentally impaired, or

(iii) the touching by another of the complainant's intimate parts effected by coercion or by a person in a position of authority, or

(iv) in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts, or

(v) the intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body.

(b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g) and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts;

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts;

(iii) the touching by another of the complainant's intimate parts; ~~or~~

(iv) in any of the cases listed above, touching of the clothing covering the immediate area of the intimate parts; or

(v) the intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body.

(c) "Sexual contact with a person under 13" means the intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

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

Sec. 6. Minnesota Statutes 2008, section 609.352, subdivision 2a, is amended to read:

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

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

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

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

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

ARTICLE 2

CRIME VICTIMS

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

Subdivision 1. **Notice of decision not to prosecute.** (a) A prosecutor shall make every reasonable effort to notify a victim of domestic assault, a criminal sexual conduct offense, 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, a criminal sexual conduct offense, 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, criminal sexual conduct, 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.

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

Sec. 2. **[611A.203] DOMESTIC FATALITY REVIEW TEAMS.**

Subdivision 1. **Domestic fatality review teams; purpose.** A judicial district may establish a domestic fatality review team to review domestic violence deaths that have occurred in the district. The team may review cases in which prosecution has been completed or the prosecutorial authority has decided not to pursue the case. The purpose of the review team is to assess domestic violence deaths in order to develop recommendations for policies and protocols for community prevention and intervention initiatives to reduce and eliminate the incidence of domestic violence and resulting fatalities.

Subd. 2. **Definition of domestic violence death.** "Domestic violence death" means a homicide or suicide under any of the following circumstances:

- (1) the alleged perpetrator and victim resided together at any time;
- (2) the alleged perpetrator and victim have a child in common, regardless of whether they were married or lived together at any time;
- (3) the alleged perpetrator and victim were married, separated, or divorced;
- (4) the alleged perpetrator and victim had a sexual relationship or a significant romantic relationship;
- (5) the alleged perpetrator had been stalking the victim;
- (6) the homicide victim lived in the same household, was present in the workplace of, was in proximity of, or was related by blood or affinity to a victim who experienced or was threatened with domestic abuse by the alleged perpetrator;
- (7) the victim or the perpetrator was a child of a person in a relationship that is described within this definition; or
- (8) any other circumstances that the domestic fatality review team decides fall within the parameters of its mission.

"Domestic violence death" must be interpreted broadly to give the domestic fatality review team discretion to review fatalities that have occurred both directly and peripherally to domestic relationships.

Subd. 3. **Membership.** (a) The chief judge, in consultation with the family violence coordinating council, shall appoint the members of the domestic fatality review team. Membership must reflect a commitment to diversity and relevant professional experience. The review team members must include:

- (1) the medical examiner;
- (2) a judicial court officer (judge or referee);
- (3) a county and city attorney and a public defender;
- (4) the county sheriff and a peace officer;
- (5) a representative from family court services and the Department of Corrections;
- (6) a physician familiar with domestic violence issues;
- (7) a representative from district court administration and the domestic abuse service center;
- (8) a public citizen representative or a representative from a civic organization;
- (9) a mental health professional; and

(10) domestic violence advocates or shelter workers.

(b) There must be at least three domestic violence advocates or shelter workers on the domestic fatality review team. No two members may represent the same agency. Members representing advocates or shelters must be selected by the advocacy community. At least one position must be designated for a minority representative and one position must rotate in order to include an advocate from the community in which the fatality under review took place.

(c) The domestic fatality review team may also invite other relevant persons to serve on an ad hoc basis and participate as full members of the review team for a particular review. These persons may include, but are not limited to:

(1) individuals with particular expertise that would be helpful to the review panel; or

(2) representatives of organizations or agencies that had contact with or provided services to the homicide victim, or to the alleged perpetrator, a victim who experienced or was threatened with domestic abuse by the alleged perpetrator, or a family member of one of those individuals.

Subd. 4. **Duties; access to data.** (a) The domestic fatality review team shall collect, review, and analyze death certificates and death data, including investigative reports, medical and counseling records, victim service records, employment records, child abuse reports, or other information concerning domestic violence deaths, survivor interviews and surveys, and other information deemed by the team as necessary and appropriate concerning the causes and manner of domestic violence deaths.

(b) The review team has access to the following not public data, as defined in section 13.02, subdivision 8a, relating to a case being reviewed by the team: inactive law enforcement investigative data under section 13.82; autopsy records and coroner or medical examiner investigative data under section 13.83; hospital, public health, or other medical records of the victim under section 13.384; records under section 13.46, created by social service agencies that provided services to the victim, the alleged perpetrator, or another victim who experienced or was threatened with domestic abuse by the perpetrator; and child maltreatment records under section 626.556, relating to the victim or a family or household member of the victim. Access to medical records under this paragraph also includes records governed by sections 144.291 to 144.298.

(c) As part of any review, the domestic fatality review team may compel the production of other records by applying to the district court for a subpoena, which will be effective throughout the state according to the Rules of Civil Procedure.

Subd. 5. **Confidentiality; data privacy.** A person attending a domestic fatality review team meeting may not disclose what transpired at the meeting, except to carry out the purposes of the review team or as otherwise provided in this subdivision. The review team may disclose the names of the victims in the cases it reviewed. The proceedings and records of the review team are confidential data as defined in section 13.02, subdivision 3, or protected nonpublic data as defined in section 13.02, subdivision 13, regardless of their classification in the hands of the person who provided the data, and are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state or a county agency, arising out of the matters the team is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of the review team. This section does not limit a person who presented

information before the review team or who is a member of the panel from testifying about matters within the person's knowledge. However, in a civil or criminal proceeding, a person may not be questioned about the person's good faith presentation of information to the review team or opinions formed by the person as a result of the review team meetings.

Subd. 6. **Immunity.** Members of the domestic fatality advisory board, members of the domestic fatality review team, and members of each review panel, as well as their agents or employees, are immune from claims and are not subject to any suits, liability, damages, or any other recourse, civil or criminal, arising from any act, proceeding, decision, or determination undertaken or performed or recommendation made by the domestic fatality review team, provided they acted in good faith and without malice in carrying out their responsibilities. Good faith is presumed until proven otherwise and the complainant has the burden of proving malice or a lack of good faith. No organization, institution, or person furnishing information, data, testimony, reports, or records to the domestic fatality review team as part of an investigation is civilly or criminally liable or subject to any other recourse for providing the information.

Subd. 7. **Evaluation and report.** (a) Each domestic fatality review team shall develop a system for evaluating the effectiveness of its program and shall focus on identifiable goals and outcomes. An evaluation must include data components as well as input from individuals involved in the review process.

(b) Each fatality review team shall issue an annual report to the chairs and ranking minority members of the senate and house committees with jurisdiction over public safety issues. The report must consist of the written aggregate recommendations of the domestic fatality review team without reference to specific cases. The report must be available upon request and distributed to the governor, attorney general, supreme court, county board, and district court.

Sec. 3. Minnesota Statutes 2008, 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 within the preceding ~~12~~ 24 hours the person has committed domestic abuse, as defined in section 518B.01, subdivision 2. The arrest may be made even though the assault did not take place in the presence of the peace officer.

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

ARTICLE 3 COURTS

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

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

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

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

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

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

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

Sec. 4. **LICENSE REINSTATEMENT DIVERSION PILOT PROGRAM.**

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

Subd. 2. **Eligible cities.** Each of the cities of Duluth, St. Paul, South St. Paul, West St. Paul, and Inver Grove Heights is eligible to establish the license reinstatement diversion pilot program within its city. The commissioner of public safety may permit other cities to establish license reinstatement diversion pilot programs within their cities.

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

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

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

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

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

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

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

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

(3) the reinstatement fee under Minnesota Statutes, section 171.29, subdivision 2, paragraph (a), by a participant whose driver's license has been revoked under Minnesota Statutes, section 169A.52 or 169A.54. The reinstatement fee and surcharge, both of which are provided under Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), also must be paid during the course of, and as a condition of, the diversion program.

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

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

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

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

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

(3) comply with all traffic laws; and

(4) demonstrate compliance with vehicle insurance requirements.

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

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

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

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

(3) the third-party administrator informs the court, the prosecutor, and the commissioner of public safety that the individual has met all conditions of the diversion program, including, at a minimum, satisfactory fulfillment of the components in

subdivision 6, whereupon the court shall dismiss the charge or the prosecutor shall decline to prosecute.

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

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

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

Subd. 8. **Report.** (a) By February 1, 2011, the commissioner of public safety and each eligible city that participates in the diversion program shall report to the legislative committees with jurisdiction over transportation and the judiciary concerning the results of the program. The report must be made electronically and available in print only upon request. The report must include, without limitation, the effect of the program on:

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

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

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

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

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

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

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

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

Sec. 5. **REPEALER.**

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

ARTICLE 4 CORRECTIONS

Section 1. Minnesota Statutes 2008, section 244.195, subdivision 2, is amended to read:

Subd. 2. **Detention pending hearing.** When it appears necessary to enforce discipline or to prevent a person on conditional release from escaping or absconding from supervision, a court services director has the authority to issue a written order directing any peace officer ~~in the county~~ or any ~~county~~ probation officer in the state serving the district and juvenile courts ~~of the county~~ to detain and bring the person before the court or the commissioner, whichever is appropriate, for disposition. This written order is sufficient authority for the peace officer or probation officer to detain the person for not

more than 72 hours, excluding Saturdays, Sundays, and holidays, pending a hearing before the court or the commissioner.

Sec. 2. Minnesota Statutes 2008, section 244.195, subdivision 3, is amended to read:

Subd. 3. **Release before hearing.** A court services director has the authority to issue a written order directing ~~a county~~ any peace officer or probation officer serving the district and juvenile courts ~~of the county in the state~~ to release a person detained under subdivision 2 within 72 hours, excluding Saturdays, Sundays, and holidays, without an appearance before the court or the commissioner. This written order is sufficient authority for the ~~county~~ peace officer or probation officer to release the detained person.

Sec. 3. Minnesota Statutes 2008, section 244.195, subdivision 4, is amended to read:

Subd. 4. **Detention of pretrial releasee.** A court services director has the authority to issue a written order directing any peace officer ~~in the county~~ or any probation officer serving the district and juvenile courts ~~of the county in the state~~ to detain any person on court-ordered pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release. A written order issued under this subdivision is sufficient authority for the peace officer or probation officer to detain the person.

Sec. 4. Minnesota Statutes 2008, section 357.021, subdivision 6, is amended to read:

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

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

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

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

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

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

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

Sec. 5. Minnesota Statutes 2008, section 401.025, subdivision 1, is amended to read:

Subdivision 1. **Peace officers and probation officers serving CCA counties.** (a) When it appears necessary to enforce discipline or to prevent a person on conditional release from escaping or absconding from supervision, the chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing any peace officer ~~in the county~~ or any probation officer in the state serving the district and juvenile courts ~~of the county~~ to detain and bring the person before the court or the commissioner, whichever is appropriate, for disposition. This written order is sufficient authority for the peace officer or probation officer to detain the person for not more than 72 hours, excluding Saturdays, Sundays, and holidays, pending a hearing before the court or the commissioner.

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

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

Sec. 6. Minnesota Statutes 2008, section 471.59, is amended by adding a subdivision to read:

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

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

Sec. 7. Minnesota Statutes 2008, section 629.34, subdivision 1, is amended to read:

Subdivision 1. **Peace officers.** (a) A peace officer, as defined in section 626.84, subdivision 1, clause (c), 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 (d), 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 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 presence;

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

(3) when a felony has in fact been committed, and the officer 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;

(5) under the circumstances described in clause (2), (3), or (4), when the 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 nonfelony violation of a restraining order or no contact order previously issued by a court; ~~or~~

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

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

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

Sec. 8. **STUDY OF EVIDENCE-BASED PRACTICES IN MINNESOTA; REPORT TO THE LEGISLATURE.**

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

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

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

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

(3) establishment of an earned compliance credit program;
(4) performance measures for community supervision agencies;
(5) potential performance incentives for community supervision agencies; and
(6) any other topic related to evidence-based practices that the committee deems appropriate for inclusion.

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

(1) the extent to which evidence-based practices are currently used in Minnesota;
(2) fiscal barriers to further implementation of evidence-based practices;
(3) structural barriers to further implementation of evidence-based practices;
(4) statutory barriers to further implementation of evidence-based practices;
(5) potential solutions that address the identified barriers; and
(6) any other factor that the committee deems necessary to fully assess the state of evidence-based practices in Minnesota.

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

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

Sec. 9. **REPEALER.**

Minnesota Statutes 2008, sections 244.195, subdivision 5; 260B.199, subdivision 2; and 260B.201, subdivision 3, are repealed.

ARTICLE 5
PUBLIC SAFETY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 12. **Coordination of controlled substance regulation with federal law and state statute.** If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the state Board of Pharmacy, the state Board of Pharmacy shall similarly control the substance under this chapter, after the expiration of 30 days from publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance. Such order shall be filed with the secretary of state. If within that 30-day period, the state Board of Pharmacy objects to inclusion, rescheduling, or deletion, it shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the state Board of Pharmacy shall publish its decision, which shall be subject to the provisions of chapter 14.

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

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

Sec. 5. Minnesota Statutes 2008, section 169.71, subdivision 1, is amended to read:

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

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

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

(i) sun visors and;

(ii) rearview mirrors;

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

(iv) electronic toll collection devices; or

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

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

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

Sec. 6. **[181.981] EMPLOYMENT OF INDIVIDUAL WITH CRIMINAL HISTORY; LIMITATION ON ADMISSIBILITY OF EVIDENCE.**

Subdivision 1. Limitation on admissibility of criminal history. Information regarding a criminal history record of an employee or former employee may not be introduced as evidence in a civil action against a private employer or its employees or agents that is based on the conduct of the employee or former employee, if:

(1) the duties of the position of employment did not expose others to a greater degree of risk than that created by the employee or former employee interacting with the public outside of the duties of the position or that might be created by being employed in general;

(2) before the occurrence of the act giving rise to the civil action, a court order sealed any record of the criminal case or the employee or former employee received a pardon; or

(3) the record is of an arrest or charge that did not result in a criminal conviction.

Subd. 2. Relation to other law. This section does not supersede a statutory requirement to conduct a criminal history background investigation or consider criminal history records in hiring for particular types of employment.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to actions commenced on or after that date.

Sec. 7. Minnesota Statutes 2008, section 240.08, is amended by adding a subdivision to read:

Subd. 2a. Certain occupational licenses. The commission may issue a license to an applicant otherwise disqualified pursuant to subdivision 2, clause (b), for an occupation that does not involve gaming operations, security, surveillance, or the handling of pari-mutuel or card club revenues provided that the applicant has not been convicted of a felony or a crime involving fraud or misrepresentation within ten years of application, has never been convicted of a gambling-related offense, does not have a felony charge pending, has been discharged from any supervision related to the disqualifying offense for a period of at least five years, and is not required to register pursuant to section 243.166.

Sec. 8. Minnesota Statutes 2008, section 244.10, is amended by adding a subdivision to read:

Subd. 5a. Aggravating factors. (a) As used in this section, "aggravating factors" include, but are not limited to, situations where:

(1) the victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity, which was known or should have been known to the offender;

(2) the victim was treated with particular cruelty for which the offender should be held responsible;

(3) the current conviction is for a criminal sexual conduct offense or an offense in which the victim was otherwise injured and there is a prior felony conviction for a criminal sexual conduct offense or an offense in which the victim was otherwise injured;

(4) the offense was a major economic offense, identified as an illegal act or series of illegal acts committed by other than physical means and by concealment or guile to obtain money or property, to avoid payment or loss of money or property, or to obtain business or professional advantage. The presence of two or more of the circumstances listed below are aggravating factors with respect to the offense:

(i) the offense involved multiple victims or multiple incidents per victim;

(ii) the offense involved an attempted or actual monetary loss substantially greater than the usual offense or substantially greater than the minimum loss specified in the statutes;

(iii) the offense involved a high degree of sophistication or planning or occurred over a lengthy period of time;

(iv) the offender used the offender's position or status to facilitate the commission of the offense, including positions of trust, confidence, or fiduciary relationships; or

(v) the offender had been involved in other conduct similar to the current offense as evidenced by the findings of civil or administrative law proceedings or the imposition of professional sanctions;

(5) the offense was a major controlled substance offense, identified as an offense or series of offenses related to trafficking in controlled substances under circumstances more onerous than the usual offense. The presence of two or more of the circumstances listed below are aggravating factors with respect to the offense:

(i) the offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) the offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) the offense involved the manufacture of controlled substances for use by other parties;

(iv) the offender knowingly possessed a firearm during the commission of the offense;

(v) the circumstances of the offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(vi) the offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or

(vii) the offender used the offender's position or status to facilitate the commission of the offense, including positions of trust, confidence, or fiduciary relationships;

(6) the offender committed, for hire, a crime against the person;

(7) the offender is sentenced according to section 609.3455, subdivision 3a;

(8) the offender is a dangerous offender who committed a third violent crime, as described in section 609.1095, subdivision 2;

(9) the offender is a career offender as described in section 609.1095, subdivision 4;

(10) the offender committed the crime as part of a group of three or more persons who all actively participated in the crime;

(11) the offender intentionally selected the victim or the property against which the offense was committed, in whole or in part, because of the victim's, the property owner's, or another's actual or perceived race, color, religion, sex, sexual orientation, disability, age, or national origin;

(12) the offender used another's identity without authorization to commit a crime. This aggravating factor may not be used when the use of another's identity is an element of the offense;

(13) the offense was committed in the presence of a child; and

(14) the offense was committed in a location in which the victim had an expectation of privacy.

(b) Notwithstanding section 609.04 or 609.035, or other law to the contrary, when a court sentences an offender for a felony conviction, the court may order an aggravated sentence beyond the range specified in the sentencing guidelines grid based on any aggravating factor arising from the same course of conduct.

(c) Nothing in this section limits a court from ordering an aggravated sentence based on an aggravating factor not described in paragraph (a).

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

Sec. 9. Minnesota Statutes 2008, section 299A.681, is amended to read:

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

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

Subd. 2. **Membership.** The ~~Oversight Council~~ advisory board consists of the following individuals, or their designees:

(1) the commissioner of public safety;

(2) the attorney general;

(3) two chiefs of police, selected by the Minnesota Chiefs of Police Association ~~from police departments that participate in the Minnesota Financial Crimes Task Force;~~

(4) two sheriffs, selected by the Minnesota Sheriffs Association ~~from sheriff departments that participate in the task force;~~

(5) the United States attorney for the district of Minnesota;

- (6) a county attorney, selected by the Minnesota County Attorneys Association;
- ~~(7) a representative from the United States Postal Inspector's Office, selected by the oversight council;~~
- ~~(8) a representative from a not-for-profit retail merchants industry, selected by the oversight council;~~
- ~~(9) a representative from a not-for-profit banking and credit union industry, selected by the oversight council;~~
- ~~(10) a representative from a not-for-profit association representing senior citizens, selected by the oversight council;~~
- ~~(11) (7) a representative from the Board of Public Defense, selected by that board;~~
- (8) a representative from a federal law enforcement agency, selected by the advisory board;
- (9) a representative from the retail merchants industry, selected by the advisory board;
- (10) a representative from the banking and credit union industry, selected by the advisory board;
- (11) a representative on behalf of senior citizens, selected by the advisory board;
- (12) the statewide commander of the task force;
- ~~(12) a representative from the Board of Public Defense, selected by the board;~~
- (13) two additional members selected by the ~~oversight council~~ advisory board;
- (14) a senator who serves on the committee having jurisdiction over criminal justice policy, chosen by the Subcommittee on Committees of the senate Committee on Rules and Administration; and
- (15) a representative who serves on the committee having jurisdiction over criminal justice policy, chosen by the speaker of the house.

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

Subd. 3. **Duties.** The ~~oversight council shall develop~~ advisory board shall offer advice to the commissioner on the development of an overall strategy to ameliorate the harm caused to the public by identity theft and financial crime within Minnesota. The strategy may include the development of protocols and procedures to investigate financial crimes and a structure for best addressing these issues on a statewide basis and in a multijurisdictional manner. ~~Additionally, the oversight council~~ The commissioner shall:

- (1) establish a multijurisdictional statewide Minnesota Financial Crimes Task Force to investigate major financial crimes;
- (2) with advice from the advisory board, select a statewide commander of the task force who serves at the pleasure of the ~~oversight council~~ commissioner;
- (3) ~~assist the Department of Public Safety in developing~~ develop an objective grant review application process that is free from conflicts of interest;

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

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

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

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

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

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

(b) The commander shall:

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

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

(3) facilitate training for law enforcement and other personnel;

(4) monitor compliance with investigative protocols;

(5) implement an outcome evaluation and data quality control process;

(6) be responsible for the selection and for cause removal of assigned task force investigators who are designated participants under a memorandum of understanding or who receive grant funding;

(7) provide supervision of assigned task force investigators;

(8) submit a task force operational budget to the ~~oversight council~~ commissioner of public safety for approval; and

(9) submit quarterly task force activity reports to the ~~oversight council~~ advisory board.

Subd. 5. **Participating officers; employment status.** All law enforcement officers selected to participate in the task force must be licensed peace officers as defined in section 626.84, subdivision 1, or qualified federal law enforcement officers as defined in section 626.8453. Participating officers remain employees of the same entity that employed them

before joining any multijurisdictional entity established under this section. Participating officers are not employees of the state.

Subd. 6. **Jurisdiction and powers.** Law enforcement officers participating in any multijurisdictional entity established under this section have statewide jurisdiction to conduct criminal investigations and have the same powers of arrest as those possessed by a sheriff. ~~The task force shall retain from its predecessor the assigned originating reporting number for case reporting purposes.~~

Subd. 7. **Grants authorized.** The commissioner of public safety, ~~upon recommendation of the oversight council with advice from the advisory board,~~ shall make grants to state and local units of government to combat identity theft and financial crime. The commander, as funding permits, may prepare a budget to establish four regional districts and funding grant allocations programs outside the counties of Hennepin, Ramsey, Anoka, Washington, and Dakota. The budget must be reviewed and approved by ~~the oversight council and recommended to the~~ commissioner to support these efforts.

Subd. 8. **Victims assistance program.** (a) ~~The oversight council commissioner~~ may establish a victims' assistance program to assist victims of economic crimes and provide prevention and awareness programs. ~~The oversight council commissioner~~ may retain the services of not-for-profit organizations to assist in the development and delivery systems in aiding victims of financial crime. The program may not provide any financial assistance to victims, but may assist victims in obtaining police assistance and advise victims in how to protect personal accounts and identities. Services may include a victim toll-free telephone number, fax number, Web site, Monday through Friday telephone service, e-mail response, and interfaces to other helpful Web sites. Victims' information compiled are governed under chapter 13.

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

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

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

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

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

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

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

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

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

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

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

Sec. 10. **[325F.135] UNSAFE RECALLED TOYS; PROHIBITION ON SALE.**

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

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

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

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

Sec. 11. **[364.021] PUBLIC EMPLOYMENT; CONSIDERATION OF CRIMINAL RECORDS.**

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

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

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

Sec. 12. Minnesota Statutes 2008, section 403.36, is amended by adding a subdivision to read:

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

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

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

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

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

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

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

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

Sec. 13. Minnesota Statutes 2008, section 403.36, subdivision 2, is amended to read:

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

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

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

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

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

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

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

- (1) clear sponsorship;
- (2) scope management;
- (3) project planning, control, and execution;
- (4) continuous risk assessment and mitigation;
- (5) cost management;
- (6) quality management reviews;
- (7) communications management; and
- (8) proven methodology.

Sec. 14. Minnesota Statutes 2008, section 471.59, is amended by adding a subdivision to read:

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

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

Sec. 15. Minnesota Statutes 2008, 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.

- (1) "Premises" means real property and any appurtenant building or structure.
- (2) "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 168.002, subdivision 16.
- (3) "Construction site" means the site of the construction, alteration, painting, or repair of a building or structure.

(4) "Owner or lawful possessor," as used in paragraph (b), clause (9), 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.

(5) "Posted," as used:

(i) in paragraph (b), clause (9), 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; and

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

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

(B) display letters at least two inches high;

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

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

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

(7) "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;

(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;

(7) returns to the property of another with the intent to 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;

(8) returns to the property of another within one year 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;

(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; or

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

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

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

Sec. 16. Minnesota Statutes 2008, section 626.843, subdivision 1, is amended to read:

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

(1) the certification of ~~peace officer training schools, programs, or courses including training schools for the Minnesota State Patrol. Such schools, programs and courses shall include those administered by the state, county, school district, municipality, or joint or contractual combinations thereof, and shall include preparatory instruction in law enforcement and minimum basic training courses~~ postsecondary schools to provide programs of professional peace officer education;

(2) minimum courses of study, ~~attendance requirements,~~ and equipment and facilities to be required at each certified ~~peace officers training school located~~ within the state;

(3) minimum qualifications for coordinators and instructors at certified ~~peace officer training schools offering a program of professional peace officer education~~ located within this state;

(4) minimum standards of physical, mental, and educational fitness which shall govern the ~~recruitment~~ admission to professional peace officer education programs and the licensing of peace officers within the state, by any state, county, municipality, or joint or contractual combination thereof, including members of the Minnesota State Patrol;

(5) board-approved continuing education courses that ensure professional competence of peace officers and part-time peace officers;

(6) minimum standards of conduct which would affect the individual's performance of duties as a peace officer. These standards shall be established and published. The board shall review the minimum standards of conduct described in this clause for possible modification in 1998 and every three years after that time;

(6) ~~minimum basic training which peace officers appointed to temporary or probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following any such appointment to a temporary or probationary term;~~

(7) ~~minimum specialized training which part-time peace officers shall complete in order to be eligible for continued employment as a part-time peace officer or permanent~~

~~employment as a peace officer, and the time within which the specialized training must be completed;~~

~~(8) content of minimum basic training courses required of graduates of certified law enforcement training schools or programs. Such courses shall not duplicate the content of certified academic or general background courses completed by a student but shall concentrate on practical skills deemed essential for a peace officer. Successful completion of such a course~~ (7) a set of educational learning objectives that must be met within a certified school's professional peace officer education program. These learning objectives must concentrate on the knowledge, skills, and abilities deemed essential for a peace officer. Education in these learning objectives shall be deemed ~~satisfaction~~ satisfactory for the completion of the minimum basic training requirement;

~~(9) grading, reporting, attendance and other records, and certificates of attendance or accomplishment;~~

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

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

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

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

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

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

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

Sec. 17. Minnesota Statutes 2008, section 626.843, subdivision 3, is amended to read:

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

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

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

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

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

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

Sec. 18. Minnesota Statutes 2008, section 626.845, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 19. Minnesota Statutes 2008, section 626.863, is amended to read:

626.863 UNAUTHORIZED PRACTICE.

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

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

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

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

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

Sec. 20. Minnesota Statutes 2008, section 628.26, is amended to read:

628.26 LIMITATIONS.

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

(b) Indictments or complaints for a violation of section 609.25 may be found or made at any time after the commission of the offense.

(c) Indictments or complaints for violation of section 609.282 may be found or made at any time after the commission of the offense if the victim was under the age of 18 at the time of the offense.

(d) Indictments or complaints for violation of section 609.282 where the victim was 18 years of age or older at the time of the offense, or 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.

(e) 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 the later of nine 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.~~

(f) Notwithstanding the limitations in paragraph (e), indictments or complaints for violation of sections 609.342 to 609.344 may be found or made and filed in the proper court at any time after commission of the offense, if physical evidence is collected and preserved that is capable of being tested for its DNA characteristics. If this evidence is not collected and preserved and the victim was 18 years old or older at the time of the offense, the prosecution must be commenced within nine years after the commission of the offense.

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

(h) Indictments or complaints for violation of section 609.52, subdivision 2, clause (3), items (i) and (ii), (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.

(i) 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.

(j) 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.

(k) 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.

(l) 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.

(m) The limitations periods contained in this section for an offense shall not include any period during which the alleged offender participated under a written agreement in a pretrial diversion program relating to that offense.

(n) The limitations periods contained in this section shall not include any period of time during which physical evidence relating to the offense was undergoing DNA

analysis, as defined in section 299C.155, unless the defendant demonstrates that the prosecuting or law enforcement agency purposefully delayed the DNA analysis process in order to gain an unfair advantage.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date, and to crimes committed before that date if the limitations period for the crime did not expire before August 1, 2009.

Sec. 21. **FINANCIAL CRIMES TASK FORCE TRANSITION.**

(a) The appointing authorities under Minnesota Statutes, section 299A.681, subdivision 2, shall complete the new appointments required under that section by August 1, 2009.

(b) The members of the Minnesota Financial Crimes Task Force appointed to the task force by the Financial Crimes Oversight Council as provided in 2008 Minnesota Statutes, section 299A.681, subdivision 3, shall continue to serve on the task force until their successors have been appointed by the commissioner of public safety.

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

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

Sec. 23. **WORKING GROUP ON IMPAIRED DRIVING OFFENDERS.**

The chairs of the house Public Safety Policy Committee and the senate Judiciary Committee shall consider jointly appointing a working group to review and potentially propose changes to the state's policies and laws regarding impaired driving offenders.

Sec. 24. **[135A.1459] POLICIES ON HIRING PRACTICES.**

The commissioner of administration, the Board of the Minnesota State Colleges and Universities, the Regents of the University of Minnesota, and statutory and home rule charter cities may adopt policies that address the goal of improving employment for local residents or former criminal offenders.

Sec. 25. **REPEALER.**

Minnesota Statutes 2008, section 403.36, subdivision 1f, is repealed.

ARTICLE 6

BCA INFORMATION SERVICE DIVISION MODIFICATIONS

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

Subdivision 1. **Criminal history data.** (a) **Definition.** For purposes of this subdivision, "criminal history data" means all data maintained in criminal history records compiled by the Bureau of Criminal Apprehension ~~and disseminated through the criminal justice information system,~~ including, but not limited to fingerprints,

photographs, identification data, arrest data, prosecution data, criminal court data, custody and supervision data.

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

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.

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

Sec. 2. Minnesota Statutes 2008, section 84.027, subdivision 17, is amended to read:

Subd. 17. **Background checks for volunteer instructors.** (a) The commissioner may conduct background checks for volunteer instructor applicants for department safety training and education programs, including the programs established under sections 84.791 (youth off-highway motorcycle safety education and training), 84.86 and 84.862 (youth and adult snowmobile safety training), 84.925 (youth all-terrain vehicle safety education and training), 97B.015 (youth firearms safety training), and 97B.025 (hunter and trapper education and training).

(b) The commissioner shall perform the background check by retrieving criminal history data as defined in section 13.87 maintained in the criminal justice information system (CJIS) by the Bureau of Criminal Apprehension in the Department of Public Safety and other data sources.

(c) The commissioner shall develop a standardized form to be used for requesting a background check, which must include:

(1) a notification to the applicant that the commissioner will conduct a background check under this section;

(2) a notification to the applicant of the applicant's rights under paragraph (d); and

(3) a signed consent by the applicant to conduct the background check expiring one year from the date of signature.

(d) The volunteer instructor applicant who is the subject of a background check has the right to:

(1) be informed that the commissioner will request a background check on the applicant;

(2) be informed by the commissioner of the results of the background check and obtain a copy of the background check;

(3) obtain any record that forms the basis for the background check and report;

(4) challenge the accuracy and completeness of the information contained in the report or a record; and

(5) be informed by the commissioner if the applicant is rejected because of the result of the background check.

Sec. 3. Minnesota Statutes 2008, section 122A.18, subdivision 8, is amended to read:

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

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

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

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

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

Sec. 4. Minnesota Statutes 2008, section 123B.03, subdivision 1, is amended to read:

Subdivision 1. **Background check required.** (a) A school hiring authority shall request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on all individuals who are offered employment in a school and on all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services to a school, regardless of whether any compensation is paid. In order for an individual to be eligible for employment or to provide the services, the individual must provide an executed criminal history consent form and a money order or check payable to either the Bureau of Criminal Apprehension or the school hiring authority, at the discretion of the school hiring authority, in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school district of conducting the criminal history background check. A school hiring authority deciding to receive payment may, at its discretion, accept payment in the form of a negotiable instrument other than a money order or check and shall pay the superintendent of the Bureau of Criminal Apprehension directly to conduct the background check. The superintendent of the Bureau of Criminal Apprehension shall conduct the background check by retrieving criminal history data ~~maintained in the criminal justice~~

~~information system computers as defined in section 13.87.~~ A school hiring authority, at its discretion, may decide not to request a criminal history background check on an individual who holds an initial entrance license issued by the State Board of Teaching or the commissioner of education within the 12 months preceding an offer of employment.

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

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

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

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

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

(c) A school hiring authority may, at its discretion, request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on any individual who seeks to enter a school or its grounds for the purpose of serving as a school volunteer or working as an independent contractor or student employee. In order for an individual to enter a school or its grounds under this paragraph when the school hiring authority decides to request a criminal history background check on the individual, the individual first must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school district in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school district of conducting the criminal history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

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

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

Sec. 5. Minnesota Statutes 2008, section 246.13, subdivision 2, is amended to read:

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

(1) "appropriate and necessary medical and other records" includes patient medical records and other protected health information as defined by Code of Federal Regulations, title 45, section 164.501, relating to a patient in a state-operated services facility including, but not limited to, the patient's treatment plan and abuse prevention plan that is pertinent to the patient's ongoing care, treatment, or placement in a community-based treatment facility or a health care facility that is not operated by state-operated services, and includes information describing the level of risk posed by a patient when the patient enters the facility;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. Minnesota Statutes 2008, section 253B.141, subdivision 1, is amended to read:

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

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

Sec. 7. Minnesota Statutes 2008, section 299C.115, is amended to read:

299C.115 WARRANT INFORMATION PROVIDED TO STATE.

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

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

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

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

Sec. 8. Minnesota Statutes 2008, section 299C.40, subdivision 1, is amended to read:

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

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

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

Sec. 9. Minnesota Statutes 2008, section 299C.46, subdivision 1, is amended to read:

Subdivision 1. **Establishment; interconnection.** The commissioner of public safety shall establish a criminal justice data communications network which will enable the interconnection of the criminal justice agencies within the state ~~into a unified criminal justice information system~~. The commissioner of public safety is authorized to lease or purchase facilities and equipment as may be necessary to establish and maintain the data communications network.

Sec. 10. Minnesota Statutes 2008, section 299C.52, subdivision 1, is amended to read:

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

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

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

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

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

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

Sec. 11. Minnesota Statutes 2008, section 299C.52, subdivision 3, is amended to read:

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

nationwide broadcasts, by the Bureau of Criminal Apprehension upon request of the local law enforcement agency.

Sec. 12. Minnesota Statutes 2008, section 299C.52, subdivision 4, is amended to read:

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

Sec. 13. Minnesota Statutes 2008, section 299C.53, subdivision 1, is amended to read:

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

Sec. 14. Minnesota Statutes 2008, section 299C.62, subdivision 1, is amended to read:

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

Sec. 15. Minnesota Statutes 2008, section 299C.65, subdivision 1, is amended to read:

Subdivision 1. **Membership, duties.** (a) The Criminal and Juvenile Justice Information Policy Group consists of the commissioner of corrections, the commissioner of public safety, the state chief information officer, the commissioner of finance, four members of the judicial branch appointed by the chief justice of the Supreme Court, and the chair and first vice-chair of the Criminal and Juvenile Justice Information Task Force. The policy group may appoint additional, nonvoting members as necessary from time to time.

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

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

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

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

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

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

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

(3) actions necessary to ensure that information maintained in the criminal justice information systems is accurate and up-to-date;

(4) the development of an information system containing criminal justice information on gross misdemeanor-level and felony-level juvenile offenders that is part of the integrated criminal justice information system framework;

(5) the development of an information system containing criminal justice information on misdemeanor arrests, prosecutions, and convictions that is part of the integrated criminal justice information system framework;

(6) comprehensive training programs and requirements for all individuals in criminal justice agencies to ensure the quality and accuracy of information in those systems;

(7) continuing education requirements for individuals in criminal justice agencies who are responsible for the collection, maintenance, dissemination, and sharing of criminal justice data;

(8) a periodic audit process to ensure the quality and accuracy of information contained in the criminal justice information systems;

(9) the equipment, training, and funding needs of the state and local agencies that participate in the criminal justice information systems;

(10) the impact of integrated criminal justice information systems on individual privacy rights;

(11) the impact of proposed legislation on the criminal justice system, including any fiscal impact, need for training, changes in information systems, and changes in processes;

(12) the collection of data on race and ethnicity in criminal justice information systems;

(13) the development of a tracking system for domestic abuse orders for protection;

(14) processes for expungement, correction of inaccurate records, destruction of records, and other matters relating to the privacy interests of individuals; and

(15) the development of a database for extended jurisdiction juvenile records and whether the records should be public or private and how long they should be retained.

Sec. 16. Minnesota Statutes 2008, section 299C.65, subdivision 5, is amended to read:

Subd. 5. **Review of funding and grant requests.** (a) The Criminal and Juvenile Justice Information Policy Group shall review the funding requests for criminal justice information systems from state, county, and municipal government agencies. The policy group shall review the requests for compatibility to statewide criminal justice information system standards. The review shall be forwarded to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over criminal justice funding and policy.

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

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

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

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

Sec. 17. Minnesota Statutes 2008, section 299C.68, subdivision 2, is amended to read:

Subd. 2. **Procedures.** The superintendent shall develop procedures to enable an owner to request a background check to determine whether a manager is the subject of a reported conviction for a background check crime. The superintendent shall perform the background check by retrieving and reviewing data on background check crimes ~~maintained in the CJS computers.~~ The superintendent shall notify the owner in writing of the results of the background check. If the manager has resided in Minnesota for less than ten years or upon request of the owner, the superintendent shall also either: (1) conduct a search of the national criminal records repository, including the criminal justice data communications network; or (2) conduct a search of the criminal justice data communications network records in the state or states where the manager has resided for the preceding ten years. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. The superintendent shall recover the cost of a background check through a fee charged to the owner.

Sec. 18. Minnesota Statutes 2008, section 388.24, subdivision 4, is amended to read:

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

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

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

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

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

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

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

Sec. 19. Minnesota Statutes 2008, section 401.065, subdivision 3a, is amended to read:

Subd. 3a. **Reporting of data to ~~criminal justice information system (CJIS)~~ Bureau of Criminal Apprehension.** (a) Every county attorney who establishes a diversion program under this section shall report the following information to the Bureau of Criminal Apprehension:

- (1) the name and date of birth of each diversion program participant and any other identifying information the superintendent considers necessary;
- (2) the date on which the individual began to participate in the diversion program;
- (3) the date on which the individual is expected to complete the diversion program;
- (4) the date on which the individual successfully completed the diversion program, where applicable; and
- (5) the date on which the individual was removed from the diversion program for failure to successfully complete the individual's goals, where applicable.

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

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

Sec. 20. Minnesota Statutes 2008, section 480.23, is amended to read:

480.23 COMPUTER ACQUISITION BY COURTS.

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

Sec. 21. Minnesota Statutes 2008, section 518.165, subdivision 5, is amended to read:

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

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

(c) The commissioner of human services shall provide the court with ~~information~~ criminal history data as defined in section 13.87 from the Bureau of Criminal Apprehension in the Department of Public Safety, other criminal history data held by the commissioner of human services, and data regarding substantiated maltreatment of a minor under section 626.556, and substantiated maltreatment of a vulnerable adult under section 626.557, within 15 working days of receipt of a request. If the subject of the study has been determined by the Department of Human Services or the Department of Health to be the perpetrator of substantiated maltreatment of a minor or vulnerable adult in a licensed facility, the response must include a copy of the public portion of the investigation memorandum under section 626.556, subdivision 10f, or the public portion of the investigation

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

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

Sec. 22. Minnesota Statutes 2008, section 524.5-118, subdivision 2, is amended to read:

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

(b) The commissioner of human services shall provide the court with ~~information~~ criminal history data as defined in section 13.87 from the Bureau of Criminal Apprehension's criminal justice information system Apprehension in the Department of Public Safety, other criminal history data held by the commissioner of human services, and data regarding substantiated maltreatment of vulnerable adults under section 626.557 and substantiated maltreatment of minors under section 626.556 within 15 working days of receipt of a request. If the subject of the study has been the perpetrator of substantiated maltreatment of a vulnerable adult or minor, the response must include a copy of the public portion of the investigation memorandum under section 626.557, subdivision 12b, or the public portion of the investigation memorandum under section 626.556, subdivision 10f. If the court did not request a search of the National Criminal Records Repository and information from the Bureau of Criminal Apprehension indicates that the subject is a multistate offender or that multistate offender status is undetermined, the response must include this information. The commissioner shall provide the court with information from the National Criminal Records Repository within three working days of the commissioner's receipt of the data.

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

Sec. 23. Minnesota Statutes 2008, section 611.272, is amended to read:

611.272 ACCESS TO GOVERNMENT DATA.

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

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

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

The public defender has access to data under this section, whether accessed via ~~CrimNet~~ the integrated search service as defined in section 13.873 or other methods. The public defender does not have access to law enforcement active investigative data under section 13.82, subdivision 7; data protected under section 13.82, subdivision 17; confidential arrest warrant indices data under section 13.82, subdivision 19; or data systems maintained by a prosecuting attorney. The public defender has access to the data at no charge, except for the monthly network access charge under section 299C.46, subdivision 3, paragraph (b), and a reasonable installation charge for a terminal. Notwithstanding section 13.87, subdivision 3; 299C.46, subdivision 3, paragraph (b); 299C.48, or any other law to the contrary, there shall be no charge to public defenders for Internet access to the criminal justice data communications network.

Sec. 24. Minnesota Statutes 2008, section 628.69, subdivision 6, is amended to read:

Subd. 6. **Reporting of data to ~~criminal justice information system (CJIS) Bureau of Criminal Apprehension.~~** Every county attorney who has established a pretrial diversion program under this section shall report the following information to the Bureau of Criminal Apprehension:

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

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

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

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

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

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

Sec. 25. **REPEALER.**

Minnesota Statutes 2008, sections 299C.61, subdivision 8; and 299C.67, subdivision 3, are repealed.

Presented to the governor May 7, 2009

Signed by the governor May 11, 2009, 3:00 p.m.