

# HOUSE RESEARCH

## Bill Summary

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### Overview

This bill contains the Governor's immigration, identity theft, and computer crime policy initiatives. Article 1 creates a human trafficking task force and enhances penalties for human trafficking offenses. Article 2 increases penalties and creates new crimes related to fraudulent documents. Article 3 offers immigrants tax credits for qualified citizenship expenses. Article 4 creates the Special Crimes Unit, permits the Commissioner of Public Safety to enter into memorandums of understanding with federal immigration and justice officials, and requires collection and maintenance of citizenship and immigration status data for arrestees. Article 5 creates new computer crimes and enhances penalties for existing computer crimes. Article 6 authorizes state agencies to impose fines on employers that violate federal immigration laws. Article 7 creates a state immigration task force. Article 8 appropriates funds.

**Section**

**Article 1: Human Trafficking Task Force and Penalty Enhancements**

**Overview**

This article creates a Human Trafficking Task Force to analyze trafficking data and develop a plan to address and prevent trafficking in Minnesota. In addition, the article enhances penalties for trafficking crimes involving minors.

- 1 1**     **Definitions.** Applies the human trafficking definitions enacted last year to new sections added in this bill.
- 2 2**     **General duties.** Expands the general duties of the Commissioner of the Department of Public Safety with respect to this article. The commissioner's duties include (1) cooperating with authorities to collect, share, and compile trafficking data; and (2) analyzing the data and developing a statewide strategy on human trafficking.
- 3 3**     **Outside services.** Authorizes the commissioner to contract for outside services.
- 4 4**     **Human Trafficking Task Force.**
  - Subd. 1. Establishment.** Establishes the human trafficking task force to review the trafficking study due September 1, 2006 and develop a statewide strategy on human trafficking.
  - Subd. 2. Membership.** Creates a seven-member task force.
  - Subd. 3. Duties.** Directs the task force to develop an overall strategy to identify, track, and prosecute individuals and organizations involved in human trafficking. The strategy must include training for law enforcement, prosecutors, social services, and other relevant officials.
  - Subd. 4. Report.** Directs the commissioner to prepare a report containing a summary of the task force's overall strategy by February 1, 2007.
  - Subd. 5. Expires.** The task force expires 30 days after submitting its report required under subdivision 4.
- 5 5**     **Labor trafficking.** Creates a 20-year felony for the crime of engaging in the labor trafficking of an individual who is under the age of 18. Other labor trafficking offenses carry a 15-year felony.
- 6 6**     **Unlawful conduct with respect to documents in furtherance of labor or sex trafficking.** Creates a new 10-year felony for the crime of unlawful conduct with respect to documents in furtherance of labor or sex trafficking. The 10-year felony applies if the crime involved a victim under the age of 18. Other offenses carry a 5-year felony.

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### Article 2: Fraudulent Identity Documents

#### Overview

This article addresses penalties for possessing, manufacturing, and selling fraudulent identification documents. The article increases current penalties and expands the penalties to include identification documents other than driver's licenses and state identification cards, such as passports, visas, birth certificates, and military identification cards. In addition, the article adds the crime of possessing or displaying a fraudulent or false identification document under the identity theft law.

- 1 1 **Definitions.** Defines "identification document" under the identity theft law to include any document or card issued to an individual by the authority of a government agency containing the person's name and a description of the person or the person's photograph, or both, including a passport, visa, birth certificate, military identification card, Social Security card, driver's license, or identification card.
- 2 2 **Fraudulent identification cards; crime.** Creates a misdemeanor penalty for (1) knowingly possessing, displaying, or using any false, fictitious, fraudulent or altered identification document, or (2) displaying or representing as one's own an identification document not issued to that person. A second or subsequent offense is a gross misdemeanor.
- 3 3 **Definitions.** Deletes the definition of "driver's license or identification card" under section 609.652 (fraudulent driver's license or identification card; penalty). Incorporates the definition of "identification document" in section 1.
- 4 4 **Criminal acts.** Replaces "driver's license or identification card" with "identification document."
- 5 5 **Penalties.** Increases the penalties for manufacturing or possessing more than one fraudulent "identification document" with intent to commit a crime. A first time offense is raised from a gross misdemeanor to a two-year felony subject to a \$10,000 fine. A second or subsequent offense remains a five-year felony but the fine is increased from \$10,000 to \$20,000. If the crime committed involves more than three identities, the statutory maximum is increased by five years.

### Article 3: Citizen Tax Credit

#### Overview

This article implements the citizenship tax credit to offset the costs of qualified citizenship expenses, including filing fees and English language course fees. The maximum credit is \$300 per year.

- 1 1 **Citizenship Credit.**

**Subd. 1. Credit.** Authorizes a tax credit in the amount of qualified citizenship

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expenses incurred for a qualified individual.

**Subd. 2. Limitations on credit.** Caps the maximum credit at \$300. The credit is not allowed if the taxpayer and spouse's income exceeds \$30,000. If a taxpayer is not a Minnesota resident for the entire year, the credit is pro-rated.

**Subd. 3. Qualified individual.** Defines the time period for eligibility as being from the time the individual submits an I-485 application to register permanent residence or at the time the individual enters the U.S. on an immigrant visa, to the time the individual becomes a naturalized U.S. citizen.

**Subd. 4. Qualified citizenship expenses.** Limits "qualified citizenship expenses" to: (1) filing fees paid to the U.S. Citizenship and Immigration Services in connection with an N-400 naturalization application; and (2) amounts paid for enrollment by an individual over the age of 18 for an English language class.

**Subd. 5. Credit to be refundable.** Allows the credit to be refunded to the taxpayer if the amount of the credit exceeds the taxpayer's liability.

**Subd. 6. Appropriation.** Appropriates an amount sufficient to pay the refunds to be appropriated to the commissioner of revenue from the general fund.

[ **Effective date:** Tax years beginning after December 31, 2005.]

## Article 4: Law Enforcement

### Overview

This article creates the Special Crimes Unit in the Department of Public Safety, authorizes the Commissioner of Public Safety to enter into memorandums of understanding with federal authorities regarding immigration law enforcement, and requires law enforcement officers to collect, and the BCA to maintain, immigration data on arrestees.

#### 1 1 **Illegal Immigration Enforcement.**

**Subd. 1. Memorandums of Understanding.** Authorizes the Commissioner of Public Safety to enter into memorandums of understanding with federal immigration and justice officials regarding the enforcement of immigration laws in Minnesota by state and local peace officers.

**Subd. 2. Immigration Enforcement Training.** Requires the Commissioner to develop an immigration law enforcement-training program, in consultation with federal authorities, designed to train state and local peace officers to enforce federal

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immigration laws.

**Subd. 3. Special Crimes Unit.** Establishes the Special Crimes Unit. The team serves at the direction of the Commissioner of Public Safety and is comprised of at least 10 members. The team is tasked to help local officials with immigration related criminal problems and to identify and apprehend illegal immigrants who are involved in felony level activity.

- 1 2 **Arrestee Immigration Data.** Requires the law enforcement officer who books an arrestee to collect citizenship and immigration status information from the person.
- 2 3 **Citizenship Data Maintenance Requirements.** Specifies what type of information a booking officer must collect from an arrestee regarding citizenship and immigration status and identifies the terms the booking officer must use to describe a non-citizen's immigration status (*i.e.*, legal immigrant, legal visa-holder, status uncertain, and illegal alien). Requires the booking officer to contact federal immigration authorities if the officer is unable to determine the person's citizenship or immigration status.
- 3 4 **Identification Data Other than DNA.** Requires law enforcement agencies to forward the citizenship and immigration status information collected pursuant to sections 2 and 3 to the BCA.
- 4 5 **Citizenship and Immigration Data.**

**Paragraph (a):** Requires the BCA to maintain both citizenship and immigration data in the bureau's criminal history database.

**Paragraph (b):** Directs the BCA to maintain, update, and correct citizenship and immigration status information and facilitate appropriate law enforcement access to the data.

**Paragraph (c):** Requires the BCA to provide the special crimes unit with data statistics concerning the number of crimes committed by persons with uncertain or illegal alien status.

**Paragraph (d) :** Grants immunity to the BCA for the agency's maintenance of the information collected under this section.

**Paragraph (e):** Requires the data collected under this section to have the same privacy protections that other criminal justice data receive.

Section

**Article 5: Computer Crimes**

**Overview**

This article relates to computer crimes. It creates the crimes of criminal use of encryption and facilitating access to a computer security system. It increases penalties for unauthorized computer access to personal data. Finally, it deletes the requirement that a hacker must receive notice of entry into a computer security system to be found guilty of unauthorized computer access.

- 1 **1 Applicability.** Technical, conforming change.
- 2 **Computer security system.** Amends the definition of "computer security system" by eliminating the requirement that the security system display a conspicuous warning to a user that the user is entering a secure system.
- 3 **Encryption.** Defines "encryption" as "any protective or disruptive measure, including but not limited to, cryptography, enciphering, or encoding that: (1) causes or makes any data, information, image, program, signal, or sound unintelligible or unusable; or (2) prevents, impedes, delays, or disrupts access to any data, information, image, program, signal, or sound."
- 4 **Personal data.** Defines "personal data" as any computer property or computer program which contains records of the employment, salary, credit, or other financial or personal information relating to another person.
- 5 **Crime.** Technical, conforming change.
- 6 **Gross misdemeanor.** Creates a gross misdemeanor penalty for unauthorized computer access if a person intentionally and without authorization penetrates a computer security system and gains access to personal data as defined in section 4.
- 7 **Criminal use of encryption.**
  - Subd. 1. Crime.** Criminalizes intentionally using or attempting to use encryption to (1) commit, further, or facilitate conduct constituting a crime; (2) conceal the commission of a crime; (3) conceal or protect the identity of another who has committed a crime; or (4) to prevent, impede, delay, or disrupt the normal operation of a computer.
  - Subd. 2. Penalties.** If the crime involved in subdivision 1 is a felony or the person has two or more prior convictions for a computer crime, the person is guilty of a felony and may be imprisoned for five years and/or fined \$10,000. Any other violation of subdivision 1 is a gross misdemeanor.
- 8 **Facilitating access to a computer security system.** Imposes a gross misdemeanor penalty if a person knows or has reason to know that by facilitating access to a computer system the person is aiding another who intends to and does commit a crime. "Facilitating access" includes the intentional disclosure of a computer password or other confidential information which provides a person with a means to commit a crime.

## Article 6: Employment Violations

### Overview

This article authorizes a state agency to impose a fine on an employer for violating a federal immigration law governing hiring, retention, recruiting, or referral of employees in Minnesota.

#### 1 1 Employer violation of federal immigration law.

**Subd. 1. Crime.** Authorizes a state agency to impose a fine ranging from \$250 to \$5,000 if an employer licensed by the state violates a federal immigration law governing the hiring, retention, recruiting, or referral of employees in Minnesota. Existing laws and procedures that govern the agency's authority to take action against an employer apply.

**Subd. 2. Violations established.** Violations of federal immigration laws include: (1) a final order or fine issued by the US Immigration and Customs Enforcement Office; (2) a final order following a hearing conducted by the Office of the Chief Administrative Hearing Officer, Executive Office for Immigration Review, United State Department of Justice; or (3) a criminal conviction or settlement.

#### **Subd. 3. Definitions.**

"Employer" means any person having one or more employees in Minnesota.

"License" includes a certification, registration, permit, or other authorization required for a business or employer to operate in Minnesota.

"Person" includes an individual, company, corporation, or other legal or commercial entity.

"State agency" means the state, and any office, officer, department, division, bureau, board, commissioner, authority, district, or agency of the state, including the University of Minnesota and the MnSCU system.

**Subd. 4. Exception.** Prohibits assessment of fines against employers that are actively cooperating with federal immigration authorities to screen workers.

## Article 7: Immigration Task Force

#### 1 1 Immigration Task Force.

**Subd. 1. Establishment.** Directs the commissioner of administration to convene a task force to study immigration issues.

**Subd. 2. Membership.** Establishes the membership of the task force.

**Subd. 3. Recommendations.** Directs the task force to convene no later than September 1,

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2006. Lists the topics that the task force shall focus and offer recommendations on.

**Subd. 4. Report.** Requires the task force to submit a report and recommendations to the legislature and the Governor by February 1, 2007.

**Article 8: Appropriations**

- 2 2 Department of Public Safety.** Appropriates an unspecified amount in FY07 from the general fund to the commissioner of public safety to implement article 4.
- 3 3 Department of Health.** Appropriates an unspecified amount in FY07 from the health care access fund to the commissioner of health for improving health care for immigrant families, preventing and treating perinatal hepatitis B, and treating and managing cases of tuberculosis for immigrants in Minnesota.