

HOUSE RESEARCH

Bill Summary

FILE NUMBER: S.F. 802 **DATE:** May 7, 2009
Version: Conference committee report
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Section

Article 1: Appropriations

Overview

Article 1 contains appropriations for the following state government entities: Supreme Court, Court of Appeals, Trial Courts, Tax Court, Uniform Laws Commission, Board on Judicial Standards, Board of Public Defense, Department of Public Safety, Peace Officers Standards and Training Board, Private Detective Board, Department of Human Rights, Department of Corrections, and Sentencing Guidelines Commission.

- 1 **Summary of Appropriations.** Summarizes direct appropriations by fund.
- 2 **Public Safety Appropriations.** Describes, in general terms, the appropriations contained in this article.
- 3 **Supreme Court.**
 - Subd. 1. Total appropriation.** Appropriates \$43,476,000 for FY10 and \$43,475,000 for FY11.
 - Subd. 2. Supreme Court Operations.** Appropriates \$31,376,000 for FY10 and 31,375,000 for FY11.
 - (a) Contingent account.** Authorizes \$5,000 for contingent expenses.
 - (b) Criminal justice forum.** Requests that the supreme court continues its criminal

justice forum and submit a report to the legislature by February 15, 2010, regarding identified criminal justice efficiencies and cost savings.

(c) **Civil justice forum.** Requests that the supreme court convene a civil justice forum and submit a report to the legislature by February 15, 2010, regarding identified civil justice efficiencies and cost savings.

(d) **Federal stimulus funds.** Encourages the supreme court to apply for all available grants for federal stimulus funds to: (1) continue drug court programs and (2) make technological improvements.

(e) **Judicial and referee vacancies.** Provides that the supreme court shall not certify any judicial or referee vacancies until it has examined alternative options.

Subd. 3. Civil legal services. Appropriates \$12,100,000 in both FY10 and FY11 to improve access of low-income clients to legal representation.

4 **Court of Appeals.** Appropriates \$10,285,000 in both FY10 and FY11.

5 **Trial Courts.** Appropriates \$250,116,000 in both FY10 and FY11.

6 **Tax Court.** Appropriates \$818,000 in both FY10 and FY11.

7 **Uniform Laws Commission.** Appropriates \$51,000 in both FY10 and FY11.

8 **Board on Judicial Standards.** Appropriates \$456,000 in both FY10 and FY11

- Dedicates \$125,000 each year for special investigative and hearing costs.

9 **Board of Public Defense.** Appropriates \$66,028,000 in both FY10 and FY11.

10 **Public Safety.**

Subd. 1. Total appropriation. Appropriates \$158,678,000 for FY10 and \$162,441,000 for FY11.

(a) **Car fleet.** Directs the commissioner to reduce the department's non-investigative car fleet by at least 5%. Excludes State Patrol vehicles.

(b) **Prohibition on Use of Appropriation.** Prohibits unnecessary motor vehicle purchases and out-of-state travel.

Subd. 2. Emergency management. Appropriates \$2,583,000 each year to the emergency management division.

- Transfers funding of HAZMAT and CAT teams to the fire safety account.

Subd. 3. Criminal apprehension. Appropriates \$43,368,000 each year to the BCA.

- **DWI analysis.** Transfers funding for DWI lab analysis from the general fund to the trunk highway fund.

Subd. 4. Fire Marshal. Appropriates \$8,125,000 each year to fund the state fire marshal.

Subd. 5. Alcohol and Gambling Enforcement. Appropriates \$2,538,000 each year to the alcohol and gambling enforcement division.

Subd. 6. Office of Justice Programs. Appropriates \$35,594,000 each year to OJP.

(a) **Federal stimulus funds; report.** Directs OJP to give priority to awarding grants for federal stimulus funds to the following initiatives: (i) mentoring grants for children of incarcerated parents; (ii) youth intervention programs; (iii) the Network of Better Futures; (iv) trafficking victim programs; (v) nonprofit organization providing resources to families of persons who have died traumatically; (vi) juvenile detention alternatives; (vii) restorative justice programs; and (viii) judicial branch efficiency programs.

(b) **Crime victim and youth intervention programs.** Provides that funding for the following programs shall not be reduced by more than three percent from the level of state base funding for FY09: (i) crime victim reparations; (ii) battered women shelters and domestic violence programs; (iii) general crime victim programs; (iv) sexual assault victim programs; and (v) youth intervention programs.

(c) **Administration Costs.** Permits OJP to use up to 2.5% of the funds to administer the grant program.

Subd. 7. Emergency communications networks. Appropriates \$66,470,000 the first year and \$70,233,000 the second year from the 911 emergency telecommunications service fee account for emergency communications.

- Funds public safety answering points, medical resource communication centers, ARMER debt service, MET Council debt service, ARMER state backbone operating costs, ARMER improvements, next generation 911, and grants to local units of government.

11 Peace Officers Standards and Training Board. Appropriates \$4,012,000 each year to the POST Board, of which amount \$2,859,000 is for reimbursements to local governments for peace officer training costs.

- Prohibits unnecessary motor vehicle purchases and out-of-state travel.

12 Private Detective Board. Appropriates \$123,000 each year to the private detective board.

- Prohibits unnecessary motor vehicle purchases and out-of-state travel.

13 Human Rights. Appropriates \$3,524,000 each year for the department of human rights.

- Prohibits unnecessary motor vehicle purchases and out-of-state travel.

14 Department of Corrections.

Subd. 1. Total appropriation. Appropriates \$469,844,000 the first year and \$472,095,000 the second year to the department of corrections.

- Directs the commissioner to reduce the department's car fleet by 20%.

- Prohibits unnecessary motor vehicle purchases and out-of-state travel.

Subd. 2. Correctional institutions. Appropriates \$334,341,000 the first year and \$338,199,000 the second year to correctional institutions.

- Appropriates \$38,000,000 from the American Recovery and Reinvestment Act of 2009.

(a) Treatment alternatives report. Requires the commissioner to submit a report to the legislature on treatment alternatives.

(b) Challenge incarceration program. Directs the commissioner to fill all challenge incarceration beds and, if the commissioner fails to do so, to submit a report to the legislature.

(c & d) Institutional efficiencies; per diem reduction. Directs the commissioner to strive for institutional efficiencies and suggests options for reducing the cost of operating the department. Directs the commissioner to cut the adult facility per diem by one percent and cut funding to the department in that amount. If the commissioner reduces the per diem by more than one percent, the additional savings are to be put toward treatment beds. If the commissioner fails to cut the per diem by one percent, she must find the unrealized savings in the operations support division and submit a report to the legislature.

(e) Reductions to certain programming prohibited. Prohibits the commissioner from cutting inmate educational programs, chemical dependency programs, or re-entry programs.

(f) Drug court bed savings. Directs the commissioner to consider the bed impact savings of drug courts in formulating prison bed projections.

(g) Transfer. Transfers \$1,000,000 each year from the MINNCOR revolving fund to the general fund.

Subd. 3. Community services. Appropriates \$114,144,000 in the first year and \$112,537,000 in the second year for community services.

- **Short-term offenders.** Appropriates \$1,607,000 to fund the cost of housing short-term offenders who are sentenced prior to July 1, 2009, in local jails. Stipulates that this population of offenders shall serve their entire sentence in local jails unless the commissioner decides otherwise.

Subd. 4. Operations support. Appropriates \$21,359,000 each year for the department's operations support group.

15 Sentencing Guidelines. Appropriates \$604,000 each year to the sentencing guidelines commission.

- Prohibits unnecessary motor vehicle purchases and out-of-state travel.

Article 2: Courts and Public Defenders

Overview

Article 2 makes the following changes to statutory provisions relating to the courts and public defenders: amends provisions on judicial vacancies, clarifies and amends provisions on disbursements of fines and fees, restructures controlled substance and DWI laws to allow tracking of specific penalties, deletes obsolete language relating to the state takeover of court costs, clarifies that law library fees and criminal surcharges may only be applied once during a case, clarifies court collection processes, increases the interest rate for judgments over \$50,000, and makes various changes in an effort to maximize efficiency of judicial administration. In addition, article 2 contains increases in court filing fees, the public defender co-pay, parking surcharges, and attorney registration fees.

- 1 – 2 **Judicial and referee vacancies.** Deletes the 90-day deadline in which the supreme court must certify a judicial or referee vacancy to the governor.
- 3 **Procedure.** Removes outdated language pertaining to the pay rate for retired justices assigned to hear cases.
- 4 **Retired justices and judges.** Clarifies that the chief justice of the Supreme Court shall determine the pay and expenses to be received by a retired justice or judge acting as a judge on any court.
- 5 **Fines and bail money.** Provides that all fines, installment payments, and forfeited bail money collected from persons for violations of water safety and water craft laws shall be disbursed as follows: one-half to the state general fund and one-half to the DNR water recreation account.
- 6 – 7 **Law library fees.** Provides that the law library fee shall be applied only once per case. (section 6: Hennepin and Ramsey counties, section 7: all other counties)
- 8 **Possession of precursors.** Restructures the crime of possession of meth precursors to allow tracking of first and subsequent offense penalties. There are no changes to the current penalties. (See also section 50 – repealing section 152.0262, subd. 2.)
- 9 – 12 **DWI; different vehicles; penalties.** Restructures DWI law to allow tracking of offenses based on the type of vehicle involved (motor vehicle, motorboat, snowmobile, all-terrain vehicles, and off-road vehicles). There are no substantive changes to the current elements or penalties.
- 13 – 16,
18 – 19 **DWI; cross references.** Conforming changes made to reflect the newly restructured subdivisions created in sections 9-12.
- 17 **Chemical dependency assessment.** Clarifies how the assessment charge and surcharge are to be distributed when the assessment is not conducted by the county. Directs the court administrator to collect and forward the \$25 charge and \$5 surcharge, if any, to the commissioner of finance for deposit in the state general fund. Directs the court to order the offender to pay the assessment costs directly to the service provider. Authorizes the court to

waive the \$25 assessment charge but not the direct assessment costs. Adds conforming cross references.

20 Traffic fines and forfeited bail money; State Patrol. Deletes obsolete references to the state takeover of court costs. Deletes a reference to “traffic and motor vehicle violations” so that the statute’s distribution provisions apply to any citation issued by the State Patrol.

– 25 Fee amounts. Increases the following court filing fees by the following amounts (*current amount/proposed amount*) (total increase):

- Initial filing fee in a district court civil action (*\$240 to \$310*) (\$70)
- Initial filing fee in a marriage dissolution action (*\$270 to \$340*) (\$70)
- Jury demand fee (*\$75 to \$100*) (\$25)
- Motion fees (*\$55 to \$100*) (\$45)
- Certified and uncertified copies (*\$10/5 to \$14/8*) (\$4/\$3)
- Issuing a subpoena (*\$12 to \$16*) (\$4)
- Issuing an execution or writ (*\$40 to \$55*) (\$15)
- Issuing or docketing a judgment (*\$30 to \$40*) (\$10)
- Filing an account in a trusteeship (*\$40 to \$55*) (\$15)
- Depositing a will (*\$20 to \$27*) (\$7)
- Filing fee in conciliation court (*\$50 to \$65*) (\$15)
- Filing fee for an appeal (*\$500 to \$550*) (\$50)

Increases the parking surcharge (*\$4 to \$12*) by \$8 and makes conforming changes.

Court filing fees and the parking surcharge are credited to the state general fund.

22 Surcharges on criminal and traffic offenders. Clarifies that the criminal and traffic surcharge shall only be imposed once per case, even if the defendant is convicted of more than one offense in a case. (Currently, counties are doing this differently across the state.) Also, permits the chief executive officer of a correctional facility to forward surcharges collected from inmates to the court administrator or other entity collecting the surcharge imposed by the court. Provides that the criminal and traffic offender surcharge must be assessed on a person who completes a diversion or similar program for a traffic offense.

26 Practice of law; exception. Exempts the Judicial Branch from the requirements of chapter 364, relating to prior criminal convictions and public employment.

Offices and supplies; county officers. Deletes language that predates the state takeover.

Uniform collection policies and procedures. Provides statutory authority for the Judicial branch to establish uniform collection policies and procedures. Defines court debt and collection costs. Requires the court to pay for collection services and allows the court to add collection costs to the debts.

Disposition of fines, fees, and other money: Ramsey County. Updates language relating to the disposition of fines and fees for Ramsey County. Eliminates fees taxed to a governmental subdivision outside of Ramsey County for prosecution of out-of-county offenses. Retains the current distribution (offenses in St. Paul: two-thirds to St. Paul, one-third to state general fund; offenses in other cities: one-half to the governmental subdivision, one-half to state general fund).

Allocation. Updates language relating to the disposition of fines and fees for counties other than Hennepin and Ramsey. Maintains the current distribution of two-thirds to the governmental subdivision and one-third to the state general fund.

Establishment. Strikes language identifying specific locations for misdemeanor violations bureaus in Hennepin County.

Judgment debtor disclosure. Permits a judgment creditor's attorney to order disclosure of assets for judgment enforcement in conciliation court matters, rather than applying to the court.

Judges; referees. Provides that referees may preside over conciliation courts throughout the state. Under current law, judges are required to preside except in Hennepin and Ramsey Counties.

Original documents. Eliminates the statutory requirement that original documents in probate proceedings be retained for five years. (Note: many courts are using document imaging to store documents.)

When owed; rate. Increases the interest rate to 10 percent for a judgment or award over \$10,000.

Judgment debtor disclosure. Permits a judgment creditor's attorney to order disclosure of assets for judgment enforcement in district court matters, rather than applying to the court.

DWI; cross reference. See sections 13-16; 18-19.

Juvenile petty offenders; restorative justice. Provides for a restorative justice alternative disposition option for certain juvenile petty offenders. The prosecutor is required to determine whether a restorative justice outcome is appropriate under the circumstances. An eligible offender is then referred to a restorative justice program or provider who will arrange an appropriate restorative justice outcome for the matter. This applies only to offenders who agree to participate in the process and only in jurisdictions where suitable restorative justice programs and providers, and space, are available. Provides that if an offender successfully completes the agreed upon restorative justice outcome, the charges will be dismissed. If the person fails to comply with the restorative justice outcome, the person must be referred back to the court for further proceedings. This section does not apply to domestic violence or domestic assault cases.

Sentences available. Deletes the court's authority to order imprisonment for nonpayment of fines. Provides that a fine or restitution order is due on the date it is imposed unless the court authorizes a payment plan.

Controlled substance offenders; minimum fines. Amends the criminal code provision on fine distributions. Under current law, the court must impose a fine of not less than 30 percent of the maximum fine authorized by law on persons convicted of controlled substance offenses. The court must forward 70 percent of the fine to local drug abuse prevention programs and deposit the remainder in the general fund. This section authorizes the court to disburse minimum fine receipts to juvenile court drug intervention programs as well as drug prevention programs.

Minimum fines. Deletes pre-state takeover language regarding the state's 20 percent share

of minimum fines for felony and gross misdemeanor offenses.

Fine and surcharge collection. Establishes authority for a court to refer unpaid fines to a collection process. Provides that a defendant may contest the collection referral based on inability to pay. Requires the defendant to be notified in writing of the right to contest the collection referral. Provides that a defendant's obligation to pay court-ordered fines, surcharges, court costs, restitution, and fees shall survive for a period set by the Judicial Council.

Sentences available. Deletes the court's authority to order imprisonment for nonpayment of fines. Provides that a fine or restitution order is due on the date it is imposed unless the court authorizes a payment plan.

Terms and conditions. Provides that fines, day-fines, or restitution ordered as an intermediate sanction is due on the date it is imposed unless the court authorizes a payment plan.

Failure to pay restitution. Removes the option for probation to request a hearing if a fine has not been paid before the offender's probation term expires.

Stay of sentence maximum periods. Removes the court's authority to extend probation if a fine is unpaid.

Financial inquiry; statements; co-payment; standards for district public defense eligibility. Increases the public defender co-pay from \$28 to \$75 (may be waived by the court).

Sentence; cost of prosecution. Provides that prosecution costs shall be paid to the municipality or governmental subdivision which employed the prosecutor or otherwise provided for prosecution of the case. (Currently, the statute references payment to the county treasurer and makes no provision for city prosecutions.)

Public defender fee; public defender fee account. Authorizes the Supreme Court to assess a public defender fee on all licensed attorneys who are actively engaged in the practice of law. The fee must not be more than \$75 or less than the civil legal services fee that the Supreme Court currently collects from attorneys.

Moneys collected must be deposited in a public defender fee special revenue account and used to fund the public defender.

By way of comparison, Minnesota's \$217 registration fee ranks as 15th lowest among the 50 states.

Repealer. Repeals the following sections:

Section 152.0262, subd. 2 – conforming changes to section 8 (restructuring statutory penalties for meth precursor crimes).

Section 383B.65, subd. 2 – repealing a reference in statute to the Bloomington Municipal Court, which no longer exists.

Section 484.90, subds. 1-3 – repealing language regarding fees taxed for out-of-county

prosecutions.

Section 487.08, subds. 1-3, 5 – repealing language relating to former judicial officers.

Section 609.135, subd. 8 – repealing six-year period relating to a defendant’s obligation to pay court-ordered fines, surcharges, court costs, restitution, and fees. (See section 42 – time period to be set by Judicial Council.)

Article 3: Public Safety and Corrections

Overview

Article 3 contains various changes relating to public safety and corrections. The article amends the mandatory minimum sentencing provision of the fifth-degree controlled substance crime to allow waiver of the mandatory sentence in certain circumstances; requires the Commissioner of Corrections to annually report information to the Legislature on the felony DWI crime; expands the challenge incarceration program; imposes a 90-day incarceration cap for certain first-time supervised release violators; repeals the short-term offender law that requires those offenders to be incarcerated in local correctional facilities; addresses the Legislative Auditor’s recommendations relating to MINNCOR; establishes a task force to address corrections strategic management and operation; and requires electronic reporting to the Legislature by criminal justice agencies and makes other changes relating to reports to the Legislature by criminal justice agencies.

- 1** **Distribution of reports.** Makes a technical change related to section 2.
- 2** **Electronic reports; criminal justice agencies.** Requires that when a criminal justice agency submits a report to the Legislature, it do so electronically. Also addresses how copies of the report are to be submitted to other entities.
- 3 - 4** **Fifth degree controlled substance crime.** Amend the fifth-degree controlled substance crime to make technical and substantive changes. These amendments add the penalty provisions that are currently codified in a separate subdivision of the statute to the subdivisions containing the substantive crimes of fifth-degree controlled substance possession and sale. (The current penalty subdivision is being repealed in section 24, paragraph (b).) The intent of these changes is to have unique statutory numbers for fifth-degree controlled substance crimes that contain both the substantive elements of the offense and the penalties in one provision. The substantive changes being made are to convert the current mandatory minimum sentence for repeat offenders (six months in a local correctional facility) from an unwaivable to a waivable one. Permits waiver if the court on its own motion or that of the prosecutor finds substantial and compelling reasons to sentence the offender without regard to the mandatory minimum sentence. Such a sentence is considered a departure from the sentencing guidelines.
- 5** **Reinstatement fees and surcharges.** Statutorily appropriates to the commissioner of public safety the eight percent of the driver license DWI reinstatement fee that, under current law, is credited to the Bureau of Criminal Apprehension account in the special revenue fund.

- 6** **Biennial report.** Directs the commissioner of corrections to submit a report to the Legislature that specifies the performance measures that the commissioner will include in its biennial report to the legislature.
- 7 – 10** **MINNCOR.** Address the recommendations of the Legislative Auditor regarding MINNCOR.
- 7** **Marketing plan.** Requires that MINNCOR’s marketing plan address attracting business from state and local government agencies. Strikes the requirement that the commissioner of corrections develop the marketing plan in consultation with the commissioner of employment and economic development.
- 8** **Reports and financial statements.** Requires MINNCOR to include its full costs for inmate wages and the money it receives from the Department of Corrections for inmate confinement costs in its annual financial statements. Also requires MINNCOR to disclose how the money it receives for inmate confinement costs affects its profitability.
- 9** **Interactions with private businesses.** Requires MINNCOR to use revenue contracts or purchase orders on forms approved by the Department of Administration when dealing with private businesses. Provides that MINNCOR shall determine whether to use a revenue contract or purchase order according to criteria developed by the Department of Corrections after taking into account the Legislative Auditor’s recommendations. Also requires MINNCOR to develop a uniform method to report sales and expenditure data related to its dealings with private businesses.
- 10** **Contracts or purchase orders.** Prohibits MINNCOR from working on projects until a contract or purchase order has been signed and from continuing work after a contract or purchase order has expired.
- 11** **Sunset.** Extends the sunset provision in the conditional release for nonviolent drug offender law by two years (from July 1, 2009 to July 1, 2011).
- 12** **Felony DWI report.** Requires the commissioner of corrections to annually report specified information relating to the felony DWI crime to the Legislature.
- 13** **Challenge Incarceration Program.** Is intended to increase participation in the program. Requires (rather than permits) the commissioner of corrections to select offenders to participate. Requires the commissioner to offer a place in the program to all persons who are not ineligible. Requires the commissioner to place an eligible offender’s name on a waiting list and to offer the person the chance to participate when space becomes available if there was insufficient space when the person originally became eligible. Expands the list of offenders who are ineligible to participate in the program.
- 14** **Challenge Incarceration Program.** Specifies that program offenders must be confined at either Minnesota Correctional Facility (MCF) - Willow River/Moose Lake or MCF- Togo.
- 15** **Cap on incarceration for first-time supervised release violations.** Places a 90-day cap on the amount of time the commissioner of corrections may incarcerate a first-time supervised release violator following a revocation of supervised release. This cap does not apply to sex offenders. Allows the commissioner to order incarceration beyond the 90-day cap in certain circumstances.

- 16 Mission; efficiency.** Removes the discretionary language regarding the department of public safety's submission of a performance report to the legislature.
- 17 Performance report.** Requires the commissioner of public safety to submit a biennial performance report to the legislature. Requires the commissioner to submit a report to the legislature that identifies the performance measures that the department will include in its performance report.
- 18 Report.** Changes the criminal and juvenile justice information policy group's annual legislative report to a biennial report due in the budget years.
- 19 Short-term offenders.** Eliminates the short term offender program under which offenders who are sentenced to prison with less than six months left in their sentence serve the remainder of their sentence in local jails. These changes restore the law to its pre-2003 state. (See also section 24, para. (c).)
- 20 MINNCOR report.** Requires the commissioner of corrections to report to the Legislature on MINNCOR's statutorily required marketing plan.
- 21 Review of Reports.** Requires the Sentencing Guidelines Commission and the Departments of Corrections and Public Safety to review its reports for consolidation. Prohibits the elimination of a legislatively mandated reporting requirement without prior legislative approval.
- 22 Revocation center pilot project.** Authorizes counties to develop a pilot project for a secure residential center and supervision of persons facing revocation of their probation. Requires a report to the legislature on the pilot project proposal.
- 23 Corrections strategic management and operations advisory task force.** Establishes a task force to advise the Governor and the Legislature on management and operations strategies to improve efficiency for the Department of Corrections and reduce inmate per diems. Specifies the issues that the task force must address and its membership. Requires the task force to submit a report to the Legislature.
- 24 Repealer.**

Paragraph (a) repeals reports required under Minnesota Statutes, sections 260B.199, subdivision 2, and 260B.201, subdivision 3, relating to out-of-state placements of juvenile offenders. Also repeals a gross misdemeanor penalty provision relating to scrap metal violations. Currently, the scrap metal law (unintentionally) has two penalty provisions. One is an internal one within the law, the other (this one) is codified separately. This repeal clarifies that a violation of the scrap metal law is a misdemeanor.

Paragraph (b) repeals the current penalty provision for the fifth-degree controlled substance crime (this provision is being amended and reenacted in sections 3 and 4).

Paragraph (c) repeals language related to the short-term offender law (see section 19).