

House Research Act Summary

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Section**Article 1: Appropriations****Overview**

Article 1 contains appropriations for the following state government entities: supreme court, court of appeals, district courts, board on judicial standards, tax court, public safety, crime victim services center, board of private detective and protective agent services, peace officer standards and training board, board of public defense, corrections, sentencing guidelines commission, human rights, uniform laws commission, and human services.

- 1 Criminal justice appropriations.** Specifies general fund and other fund appropriations for FY 2003 (deficiency), FY 2004 and FY 2005.
- 2 Supreme court.** Specifies FY 2004 and FY 2005 appropriations for the supreme court. Contains the following riders:
 - ▶ requires the supreme court administrator to report on the financial consequences of increased criminal surcharges and public defender co-pays as well as on local governmental units that employ administrative procedures to collect fines for ordinance violations;
 - ▶ specifies \$5,000 for discretionary spending;
 - ▶ specifies an amount for civil legal services for low income clients in family law matters; and
 - ▶ specifies an amount in FY 2005 for the Minnesota child support act.
- 3 Court of appeals.** Specifies FY 2004 and FY 2005 appropriations for the court of appeals.
- 4 District courts.** Specifies FY 2004 and FY 2005 appropriations for the district courts. Contains a rider requiring district court administrators to make a good faith effort to collect public defender co-pays.
- 5 Tax court.** Specifies FY 2004 and FY 2005 appropriations for the tax court.
- 6 Uniform laws commission.** Specifies FY 2004 and FY 2005 appropriations for the uniform laws commission.
- 7 Board on judicial standards.** Specifies FY 2004 and FY 2005 appropriations for the board on judicial standards.
- 8 Board of public defense.** Specifies FY 2004 and FY 2005 appropriations for the board of public defense.
- 9 Public safety.**

Subd. 1. Total appropriation. Provides that the amounts that may be spent for each program are specified in the subdivisions below.

Subd. 2. Emergency management. Contains the following riders:

- ▶ requires chemical assessment equipment assigned to the Duluth, Moorhead, St. Paul, and Rochester areas to remain in the those areas;
- ▶ permits nonprofit and faith-based organizations to apply for and receive grants for anti-terrorism efforts; and
- ▶ cancels funds from terrorism response-related equipment grants.

Subd. 3. Criminal apprehension. Contains the following riders:

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- ▶ specifies an amount for a BCA web site containing public criminal history data;
- ▶ specifies an amount from the special revenue fund for grants to local officials for the cooperative investigation of cross-jurisdictional criminal activity;
- ▶ specifies an amount from the special revenue fund for laboratory activities;
- ▶ specifies an amount from the trunk highway fund for DWI laboratory analysis; and
- ▶ directs the commissioner to establish a plan for using the base funds appropriated for CrimNet to further completion of the CrimNet program.

Subd. 4. Fire marshal. No riders.

Subd. 5. Alcohol and gambling enforcement. No riders.

Subd. 6. Crime victims services center. Contains the following riders:

- ▶ specifies an amount for the abused children program; and
- ▶ requires the office of justice programs to convene a focus group in each judicial district to assess crime victim needs and program effectiveness.

Subd. 7. Law enforcement and community grants. Contains the following riders:

- ▶ specifies base funding in FY 2006 and FY 2007;
- ▶ requires the commissioner to submit a plan to combine the gang and narcotics strike forces;
- ▶ transfers the balance of funds in the juvenile assessment account in the special revenue fund to the general fund;
- ▶ specifies that up to 2.5 percent of grant funds appropriated in this subdivision may be used to administer the grant programs; and
- ▶ directs the office of drug policy and violence prevention to give priority to programs dealing with school truancy and after school activity.

10 Peace officers standards and training board. Specifies FY 2004 and FY 2005 appropriations for the POST board. Contains the following rider:

- ▶ specifies that receipts credited to the peace officer training account in the special revenue funds in excess of the amounts appropriated, are transferred and credited to the general fund.

11 Private detectives board. Specifies FY 2004 and FY 2005 appropriations for the private detectives board.

12 Human rights. Specifies FY 2004 and FY 2005 appropriations for the department of human rights.

13 Corrections.

Subd. 1. Total appropriation. Specifies FY 2004 and FY 2005 appropriations for the department of corrections and provides that the amounts that may be spent for each program are specified in the subdivisions below. Contains the following rider:

- ▶ directs the commissioner to determine the feasibility of double-bunking inmates at county and regional jails.

Section**Subd. 2. Correctional institutions.** Contains the following rider:

- ▶ provides that if the commissioner contracts with other jurisdictions to rent beds in the Rush city prison, the commissioner must charge a per diem that is equal to or greater than the per diem cost of housing Minnesota inmates in the facility, calculated on the assumption that the facility is at or near capacity. Permits the commissioner to use per diem monies, up to \$300,000, to fund pre-design of the construction and bed upgrade at the Faribault facility. The remaining funds may be used to operate the state correctional system. Requires the commissioner to report to the legislature on the pre-design.

Subd. 3. Juvenile services. No riders.**Subd. 4. Community services.** Contains the following riders:

- ▶ specifies an amount for an increase in probation services provided to Mille Lacs county;
- ▶ specifies an amount for an increase in probation services provided to Beltrami county; and
- ▶ specifies an amount for grants to counties to offset the cost of housing short-term offenders, as provided for in article 5.

Subd. 5. Operations support. No riders.

14 Sentencing guidelines. Specifies FY 2004 and FY 2005 appropriations for the sentencing guidelines commission. Contains a rider that directs the commission to report to the legislature on a variety of drug sentencing issues.

15 Department of human services. Specifies FY 2004 appropriations for the department of human services. Contains the following riders:

- ▶ specifies an amount to fund the Minnesota child support act; and
- ▶ specifies an amount for alternative placement of offenders with mental illness.

16 Deficiency appropriation. Specifies an amount of a FY 2003 deficiency appropriation to cover the costs of a public hearing to be conducted by the board on judicial standards.

17 Sunset of uncodified language. Sunsets uncodified language in article 1 on June 30, 2005.

Article 2: Court policy

Overview

Increases certain court fees. Requires the department of human rights to collect a \$75 fee for issuing compliance certificates. Makes changes to the deadlines for annual promulgation of the uniform fine schedule.

- 1 **Tax court filing fee.** Increases the Tax Court small claims filing fee from \$25 to \$150. Non-small claims will carry a \$235 filing fee.
- 2 **Court fee amounts.** Increases the civil filing fee for all parties from \$135 to \$235. Increases the fee for issuing a subpoena from \$3 to \$12. Increases the fee for issuing an execution and filing, or other order of the court, from \$10 to \$40. Increases the fee for issuing a transcript of a judgment or for filing and docketing such a transcript from another court from \$7.50 to \$30. Increases the fee for filing trusteeship accounts from \$10 to \$40. Increases the fee for deposit of a will with the court from \$5 to \$20. Increases the fee for recording a notary commission from \$25 to \$100, \$80 of which must go to the general fund. Establishes a new fee of \$55 for filing a motion or response to a motion in civil, family (excluding child support cases), and guardianship cases.
- 3 **Conciliation court fee.** Establishes a flat \$50 filing fee for conciliation court actions.
- 4 **Appellate filing fee.** Increases the fee for filing an appeal from \$250 to \$500.
- 5 **Human rights department; fee for certificate of compliance.** Establishes a \$75 fee for the issuance of a certificate of compliance relating to equal employment opportunity practices. The certificate is needed by private companies in order to bid on certain state contracts.
- 6 **Uniform fine schedule.** Requires the uniform fine schedule to be promulgated no later than September 1 of each year. Makes the schedule effective January 1 of each year. The statute currently requires the schedule to be promulgated by January 1 with an August 1 effective date.

Article 3: Public Defense

Overview

Increases the client co-payment for public defender services. Permits collection of public defender co-payments through the Revenue Recapture Act. Limits public defender appellate representation in certain cases. Specifies standards for public defender representation. Prohibits judges from appointing public defenders as advisory counsel. Clarifies that public defenders are not obligated to pay a fee for Internet access to the criminal justice data network.

- 1 **Debt.** Adds the co-payment for the appointment of a district public defender to the definition of “debt” under the Revenue Recapture Act. This change permits the government to use the RRA to recapture the co-payment if the defendant does not voluntarily transfer funds in a timely manner to the court administrator.
- 2 **Indigent petitioners.** Denies public defender appellate representation to defendants who file a guilty plea and whose appeal the public defender determines to be non-meritorious.
- 3 **Right to representation by public defender.** Denies public defender appellate representation to defendants who file a guilty plea and whose appeal the public defender determines to be non-meritorious.

Section**4 Public defender; financial inquiry; co-pay.**

Subd. 1. Standards for district public defense eligibility. Specifies two grounds for receiving the assistance of the public defender: (1) the defendant or a dependant of the defendant receives means-tested governmental benefits, or (2) the defendant does not have enough liquid assets and income to afford private counsel. Directs the court to undertake a financial eligibility inquiry prior to appointing a public defender, when at all possible. Lists the assets and transactions of the defendant that the court should examine in its financial inquiry. The list includes liquid real estate assets, including the defendant's home, the liquidity of other assets, fraudulent asset transfers, and the value of all asset transfers that occur after the date of the alleged offense.

Requires conspicuous notice to persons seeking public defenders that public defender clients are responsible for co-payments. Increases the co-payment from a flat fee of \$28 to: \$200 for felonies; \$100 for gross misdemeanors; and \$50 for misdemeanors. In juvenile matters, the parents must pay \$100 if their child receives a public defender. If the parent of a child subject to a juvenile proceeding receives a public defender, the parent must pay \$200. Permits collection of the co-payment to be made through the Revenue Recapture Act. Dictates revenue stream for co-payment receipts.

- 5 Appointment of public defender.** Conforming cross-reference to reflect changes made in sections 2 and 6.
- 6 Representation.** Denies public defender appellate representation to defendants who file a guilty plea and whose appeal the public defender determines to be non-meritorious.
- 7 Persons defended.** Prohibits courts from appointing the public defender as advisory counsel.
- 8 Access to government data.** Clarifies that public defenders are not obligated to pay a fee for Internet access to the criminal justice data communication network.

Section**Article 4: Public Safety****Overview**

Requires the BCA to establish and maintain an Internet web site containing public criminal history data. Amends the law regarding public safety officer health and death benefits. Requires the BCA to use a nationally recognized system to collect and preserve crime data to the extent possible. Establishes certain fees relating to criminal background checks and access to criminal justice data. Establishes certain fees and policies relating to fire safety inspections for hotels and schools. Regulates persons who sell or install potable water piping systems intended to serve both domestic and fire protection needs in one- and two-family dwelling unites. Extends the policy for collecting DNA from all felons for two more years. Codifies a rule requiring persons in the alcohol industry to obtain permits and identification and increases the fee. Clarifies vehicle forfeiture procedure in prostitution and fleeing peace officer cases. Creates a new felony for interfering with emergency communications. Establishes a permit system for indoor fireworks. Establishes the Minnesota Alternative Policing Strategies (MAPS) program. Establishes the hotel and resort fire safety inspection fee task force. Appropriates money to cover a deficiency in the public safety officers benefits account.

- 1 **BCA web site.** Requires the Bureau of Criminal Apprehension (BCA) to establish and maintain an Internet Web site containing public criminal history data.
- 2 **Public safety officers benefit account.** Provides that money in the account does not revert until claims are paid or denied.
- 3 **Payment to public safety officer's estate.** Requires that the death benefit under Minnesota Statutes, section 299A.44, for a public safety officer killed in the line of duty who has no surviving spouse or dependents be paid to the officer's estate. A public safety officer is defined as a peace officer, firefighter, corrections officer, ambulance driver, arson investigator, paramedic or hazardous material responder. Provides for a retroactive July 1, 2002, effective date.
- 4 **Public employer reimbursement.** Prorates reimbursement to locals if funds are inadequate.
- 5 **Division of criminal statistics.** Requires the BCA to utilize a nationally recognized system or standard for collecting crime data to the extent possible.
- 6 **Local cooperation.** Requires local agencies to utilize a nationally recognized system or standard for reporting crime statistics to the BCA.
- 7 **Fee for background check; account; appropriation.** Requires the BCA to collect a \$7 fee for fingerprint-based background checks that are not for criminal justice purposes.
- 8 **Fee for taking fingerprints; account; appropriation.** Authorizes the BCA to charge \$10 to take fingerprints for employment or licensing purposes. Waives the charge when the fingerprints are needed to determine whether or not a particular criminal history file is linked to an individual (such as when a name-based criminal history check reveals a "hit" and the person needs to show the record belongs to some other individual with the same name). The money is put in a special revenue account and used for criminal record system purposes.
- 9 **Criminal justice data network; connection by authorized agency; standing appropriation.** Requires DPS to impose a \$35 monthly fee for Internet or dial-up access to the criminal justice data network. The fee is \$15 for a criminal justice agency accessing the

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network via the Internet.

- 10 Hotel inspection.** Requires hotels to meet the standards of the Minnesota State Fire Code, as opposed to the Uniform Fire Code.
- 11 Hotel inspection fees.** Authorizes DPS to charge hotels and resorts certain fees for fire safety inspections. Provides that designated agents may continue to charge inspection fees. There is an exception for certain homesteaded resort properties and hotels and motels with fewer than 35 rooms.
- 12 Hotel inspection fee special revenue account.** Provides that hotel inspection fees collected go to a special revenue account and are to be used for hotel inspection purposes.
- 13 Public school inspections.**
- Subd. 1. Inspection required.** Requires the state fire marshal to develop a plan to inspect public schools every three years. Fees for the inspections are based on a school's square footage.
- Subd. 2. Charter schools.** Requires a \$100 fee for charter schools.
- Subd. 3. Special account.** Specifies that fees collected are deposited in a special revenue account and used for school inspection purposes.
- Subd. 4. Local inspections.** Provides that schools inspected by local units of government during a certain period in the late 1980s may continue to use those local units to inspect.
- Subd. 5. Variances.** Provides that variances from the fire code must be approved by the state fire marshal.
- 14 Piping system contractor.** Defines "multipurpose potable water piping system contractor" for purposes of licensing laws.
- 15 Piping system.** Defines "multipurpose potable water piping system" as a system that is intended to serve both domestic and fire protection needs in a one- or two-family dwelling unit. Provides that a person cannot install such a system unless the person is a licensed plumber and a certified multipurpose potable water piping system installer.
- 16 Piping system installer.** Defines "multipurpose potable water piping system installer" for purposes of licensing laws.
- 17 Contractor license.** Provides that a person may not sell, design, install, modify or inspect a multipurpose potable water piping system without being licensed as a multipurpose potable water piping system contractor. However, a license is not required for residential installations by the owner-occupant of a one- or two-family dwelling, or for a person licensed as a professional engineer who is competent in fire protection system design.
- 18 Installer certificate.** Provides that a person may not install, connect, alter, repair or add to a multipurpose potable water piping system without being certified as a multipurpose potable water piping system installer. This certificate allows a person to work only on one- and two-family residential units. Certification is not required for residential installations by the owner-occupant of a one- or two-family dwelling.
- 19 Journeyman sprinkler fitter certification fee; annual appropriation.** Establishes a \$55 fee for journeyman sprinkler fitter certification. The money is put into a special revenue account and used for the program.
- 20 Rules.** Expands existing Department of Public Safety rulemaking authority to cover licensing of multipurpose potable water piping system contractors and certification of multipurpose potable water piping system installers.

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- 21 Licensing Fee.** Requires payment of a multipurpose potable water piping system licensing fee.
- 22 Certification Fee.** Requires payment of a multipurpose potable water piping system certification fee.
- 23 Alcohol industry employee permits and ID's.** Codifies a rule requiring persons in the alcohol industry to obtain permits and identification cards, and increases the fee from \$15 to \$35.
- 24 DNA testing of felons.** Extends the policy of collecting DNA samples from all felons for two more years. Prior to the last fiscal year, DNA samples were only collected from certain categories of felons. In FY 2003, the state began mandating the collection of DNA samples from all felons. Due to budgetary considerations, that policy is set to expire on June 30, 2003. The collection required by this policy does not necessarily mean that the samples will be analyzed – but they will be saved for possible future analysis.
- 25 Vehicle forfeiture for prostitution offenses.** Procedural clarification to allow paperwork to be served later and still effectuate forfeiture.
- 26 Vehicle forfeiture for fleeing a peace officer.** Same as section 25.
- 27 Interference with emergency communications.** Creates a new felony for interfering with emergency communications and imposes a three-year felony for violation.
- 28 Indoor fireworks permits.** Establishes a permit system for indoor fireworks displays and creates an indoor firework display fee of \$150.
- 29 Minnesota alternative policing.** Establishes the Minnesota alternative policing strategies (MAPS) program as a pilot project for enhanced community policing.
- 30 Hotel and resort fire safety inspection fee task force.** Creates a task force to look at alternative fees and payment options related to the assessment and administration of hotel and resort inspection fees. Specifies that task force membership and requires a report to the legislature.
- 31 Deficiency appropriation for public safety officer benefits.** Makes a fiscal year 2003 appropriation to the commissioner of public safety for purposes of this article.
- 32 Repealer.** Deletes a section of law relating to fire safety inspections at schools – those policies are modified by other sections in this article.

Article 5: Corrections

Overview

Modifies certain policies related to corrections. Modifies policies related to double bunking inmates in prisons. Permits certain short-term offenders to be incarcerated at local correctional facilities. Repeals a law requiring the commissioner to issue a request for proposals for incarcerating felony DWI offenders in a private prison(s). Permits county and regional jails to double-bunk cells in the event that there is insufficient space to house inmates in local jails. Abolishes the office of the ombudsman for corrections. Establishes policies for dealing with offenders who suffer from serious and persistent mental illness. Requires probation officers to determine offender jail credit and provide it to the court prior to the sentencing hearing.

- 1 **Corrections ombudsman repeal.** Conforming amendment for repeal of corrections ombudsman. (See section 18.)
- 2 **Biennial report.** Requires the commissioner of corrections to submit a performance report biennially, instead of annually.
- 3 **Corrections ombudsman repeal.** Conforming amendment for repeal of corrections ombudsman.
- 4 **Separate cells.** Requires correctional institutions to permit multiple occupancy, except in level six institutions, within the limits of an institution's infrastructure and programming space.
- 5 **Inmate food.** Requires DOC to serve inmates two meals a day on weekends and holidays.
- 6 **Mental health case management.** Requires counties to contact with eligible providers to provide mental health case management services if the provider is willing to provide the case management services and has a minimum of at least one contact with the client per week. This provision is part of the offenders with serious and persistent mental illness initiative (see also sections 10, 14, 15, and 16).
- 7 **Sentence of imprisonment.** Requires offenders who receive a felony conviction and have less than 180 days to serve to be placed in a workhouse, work farm, county jail, or other place authorized by law.
- 8 **Remaining term of imprisonment.** Defines "remaining term of imprisonment" for inmates whose crimes were committed before August 1, 1993, as the period of time for which an inmate is committed to the custody of the commissioner of corrections minus good time earned and jail credit. For those whose crimes were committed after August 1, 1993, the remaining term of imprisonment is the period of time equal to two-thirds of the inmate's executed sentence minus jail credit.
- 9 **Sentence to more than 180 days.** Requires felons with more than 180 days to serve to be placed in the custody of the commissioner of corrections.
- 10 **Offenders with serious and persistent mental illness.** Authorizes courts to require offenders with a serious and persistent mental illness to successfully complete an appropriate supervised alternative living program having a mental health treatment component as a condition of probation. This provision applies when a court is considering committing such an offender to the custody of the commissioner of corrections who would have a remaining term of imprisonment after adjusting for jail credit of more than one year.
- 11 **Jail credit determination.** Requires probation officers to determine offender jail credit and provide it to the court prior to the sentencing hearing.
- 12 **Double-bunking; county jails.** Authorizes sheriffs to double-bunk inmates, if construction

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of the county jail permits.

- 13 Double-bunking; regional jails.** Authorizes regional jail boards to permit double-bunking of inmates in regional jails, if construction of the jail permits.
- 14 Alternative living programs for certain offenders with mental illness.** Requires the commissioner of corrections to cooperate with nonprofit entities to establish supervised alternative living programs for offenders with serious and persistent mental illness. Each program must accommodate between eight and 13 offenders. Each program must have a residential component and include mental health treatment and counseling, living and employment skills development, and support employment. Program directors are required to report program violations to the offender's correctional agent. An evaluation of the program is due by January 15, 2006, from the commissioners of human services and corrections. This provision is part of the offenders with serious and persistent mental illness initiative (see also sections 6, 10, 15, and 16).
- 15 Licensure for alternative living programs for certain offenders with mental illness.** Requires the commissioner of human services to approve additional Rule 36 licenses in order to accommodate alternative living programs for certain offenders with mental illness if the provider meets applicable licensing standards for additional Rule 36 programs are necessary to meet the demand for alternative living programs for certain offenders with mental illness. This provision is part of the offenders with serious and persistent mental illness initiative (see also sections 6, 10, 14, and 16).
- 16 Financing; offenders with mental illness.** Requires the Minnesota Housing Finance Agency, as allowed, to give applicants for licensure of Rule 36 programs for certain offenders with mental illness special consideration and priority in order to secure home loans for the Rule 36 programs. This provision is part of the offenders with serious and persistent mental illness initiative (see also sections 6, 10, 14, and 16).
- 17 Corrections ombudsman data.** Provides for disposition of the corrections ombudsman's records and data.
- 18 Repealer.** Repeals a law requiring the commissioner to issue a request for proposals for incarcerating felony DWI offenders in a private prison(s). Abolishes the office of the ombudsman for corrections.

Article 6: Probation Overview

This article creates a sanctions conference procedure for handling technical violations of probation in county probation officer counties. Under this procedure, a probation officer who learns of a technical violation of probation can request the offender to meet with the officer, at which time the offender can elect to participate in the sanctions conference or decline participation, in which case the matter is referred to the district court for a hearing on the violation. The sanctions conference process aims to address violations in a more timely manner than the courts can usually address them.

Prior to obtaining the offender's decision to participate in the conference, the probation officer must provide the offender with a form explaining the offender's rights and options. The probation officer also must inform the offender of the sanctions that may be imposed and that the officer will not recommend revocation of probation to the district court, as long as the offender completes any sanctions that are imposed in the sanctions conference. If the offender elects to participate in the sanctions conference, the offender must admit, or agree not to contest, the violation and waive the right to a hearing and the accompanying protections. The sanctions a probation officer may impose are limited, and the court is required to confirm the probation officer's imposition of sanctions.

1 Definitions.

Subd. 1. Definitions. Defines terms used in the act.

Subd. 2. Probation. Probation has the meaning given in section 609.02, subdivision 15.

Subd. 3. Probation violation sanction. Probation violation sanction includes, but is not limited to, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, and community work service, remote electronic alcohol monitoring, random drug testing, and participation in an educational or restorative justice program. A probation violation sanction does not include any type of custodial sanction.

Subd. 4. Sanctions conference. Sanctions conference means a voluntary conference at which the probation officer, offender, and, if appropriate, other interested parties meet to discuss the offender's technical violation of probation.

Subd. 5. Sanctions conference form. Sanctions conference form means a form, developed by the chief executive officer of a local corrections agency with the approval of the district court, that explains the sanctions conference and the offender's option to elect to participate in the sanctions conference or to proceed to a judicial hearing.

Subd. 6. Technical violation. Technical violation means any violation of a court order of probation, except an allegation of a subsequent criminal act which is alleged in a formal complaint, citation, or petition.

2 Initiation of sanctions conference.

Subd. 1. Authority. Grants legislative authority for the sanctions conference and

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provides that a sanctions conference may be used to address an offender's technical violation of probation, unless the district court directs otherwise.

Subd. 2. Notice of violation. Requires a probation agency to notify an offender in writing when it has reason to believe the offender has committed a technical violation of probation. This notice must state the specific nature of the technical violation; indicate that a sanctions conference has been scheduled; and specify the date, time, and location of the conference. The notice also must state that, if the offender fails to appear at the conference, the probation agency may apprehend and detain the offender and ask the court to commence revocation proceedings. Finally, this subdivision specifies that, to the extent feasible, the sanctions conference must take place within seven days of mailing of the notice to the offender.

Subd. 3. Sanctions conference. Deals with the sanctions conference and requires the probation officer to provide the offender with a copy of a sanctions conference form explaining the sanctions conference and the offender's options for proceeding.

After receiving the form, the offender must stipulate, in writing, that the offender has received a copy of the form and that the offender understands the form and the options available to the offender. The offender also must declare, in writing, whether the offender elects to participate in the sanctions conference or to proceed with a judicial hearing.

3 Participation in sanctions conference.

Subd. 1. Election to participate. Provides that, if the offender elects to participate in the sanctions conference, the probation officer must notify the offender (1) of the probation violation sanction that the probation officer is recommending; and (2) that the sanction becomes effective upon confirmation by a judge of the district court.

Subd. 2. Report to district court. Specifies the information the probation officer must provide to the district court if the offender elects to participate in the sanctions conference. This information consists of documentation related to the sanctions conference. This subdivision also specifies that the sanction becomes effective when confirmed by a judge and that the order of the court is proof of such confirmation.

Subd. 3. Response to district court action. Requires the probation agent to notify the offender and the prosecuting authority when the sanction has been approved by the court. This subdivision also provides that, if the court does not confirm the sanction, the probation sanction does not go into effect. Finally, this subdivision also allows a probation officer to ask the court to commence revocation proceedings.

Subd. 4. Appeal. Provides that an offender may appeal the judge's confirmation of the probation violation sanction as provided in Rule 28.05 of the Rules of Criminal Procedure. This appellate review is the same review available to an offender who challenges an order stemming from a proceeding to revoke probation.

4 Election not to participate. Provides that if an offender elects not to participate in the sanctions conference, the probation officer may ask the court to initiate revocation proceedings or refer the matter to the appropriate prosecuting authority to commence revocation proceedings. These sections also allow the probation officer to take action to apprehend and detain the offender, as provided by law.

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- 5 Terms and conditions.** Amends section 609.135, which deals with probation matters, to cross reference probation officers' authority to impose sanctions.
- 6 Sanctions conference procedures.** Requires the chief executive officer of a local corrections agency, with approval of the district court, to develop: (1) procedures for the sanctions conference; and (2) a sanctions conference form.
- The sanctions conference form provides information to the offender about the offender's rights and options. The form also notifies the offender of the types of sanctions that may be imposed as part of the sanctions conference; that the sanctions supplement any existing conditions of release; that participation in the sanctions conference requires completion of all sanctions imposed; and that failure to complete the sanctions could result in additional sanctions or the commencement of revocation proceedings.
- 7 Repealer.** Repeals language from existing law that allows county probation officers to impose limited community work service for a probation violation. Paves the way for probation officers to impose sanctions other than community work service and sets forth a more comprehensive process for imposing the sanctions. This section works in conjunction with section 1.
- 8 Effective date.** August 1, 2003, and applies to technical violations of probation that occur on or after that date.

Article 7: Juvenile Law Policy**Overview**

Makes several changes to juvenile law that are intended to ease the burden juvenile cases impose on judicial and county resources. These changes are effective August 1, 2003, and apply to crimes or delinquent acts committed on or after that date.

- 1 Juveniles; venue.** Provides that juvenile delinquency, traffic and petty offenses remain venued in the county of the offense.
- 2 Juveniles; transfer.** Permits a court to transfer a juvenile delinquency, traffic or petty offense to the county of residence for disposition if the court determines such a transfer to be in the interests of justice.
- 3 Juveniles; notice to appear.** Conforming amendment to reflect change in section 1 allowing juvenile cases to be heard in county of the offense.
- 4 Juveniles; guardian ad litem.** Eliminates mandatory appointment of guardians ad litem in truancy and runaway cases.

Article 8: Criminal Justice

Overview

Allows state agencies to accept funds if so directed by a federal court for any restitution or monetary penalty under specified federal criminal statutes. Amends the sex offender registration laws. Establishes penalties for assaulting a community crime prevention group member. Requires law enforcement agencies of cities of the first class to disclose certain investigative case information to designated leaders of crime prevention groups. Permits law enforcement to use firearm silencers. Creates a new felony for attempted manufacture of methamphetamine. Repeals an existing law that partially addresses similar criminal conduct concerning the attempted manufacture of methamphetamine. Adds a new level of offense to the crime of identity theft. Directs the Sentencing Guidelines Commission to amend the sentencing guidelines by adding the use of another's identity in the commission of a crime to the list of aggravating factors a court may consider in sentencing. Amends the civil harassment statute. Makes smoking in a public building and littering petty misdemeanors.

- 1 **Federal criminal penalties.** Allows state agencies to accept funds directed to the agency by a federal court for any restitution or monetary penalty under two federal criminal statutes.
- 2 **Manufacture crimes.** Creates the crime of attempted manufacture of methamphetamine. A person is guilty of the crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine. Defines chemical reagents and precursors.
- 3 **Penalty.** Establishes the penalty for attempted manufacture of methamphetamine as up to 3 years in prison or a \$5,000 fine, or both.
- 4 **Sex offender registration procedure.** Current law requires an offender who is subject to the predatory offender registration law to provide notice to the assigned corrections agent or to the law enforcement authority where the person is registered at least five days before the person starts living at a new primary address. Amends this provision to require an offender who is no longer living or staying at an address to give notice written notice to the agent or law enforcement authority immediately after the person is no longer living or staying at the address.
- 5 **Information required to be provided by registered sex offenders.** Clarifies that an offender must immediately notify law enforcement when the person's primary address no longer applies.

Also strikes a reference to "previously reported information," thereby requiring the offender to report address and vehicle information, even if the offender did not previously report the information.

- 6 **Surcharges on criminal traffic and offenders.** Permanently increases the surcharge to \$60 and imposes a \$3 surcharge on parking violations.
- 7 **Disbursement of criminal surcharges by state treasurer.** Eliminates the criminal justice special projects account and redirects the funds to the general fund, and directs the criminal surcharge increases to the general fund.
- 8 **Assault; community crime prevention group members.** Expands the gross misdemeanor fourth degree assault crime to include an assault that inflicts demonstrable bodily harm on a community crime prevention group member who is engaged in a neighborhood patrol, if the offender knows that the victim is a community crime prevention group member engaged in a neighborhood patrol.

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- 9 Identity theft.** Amends the identity theft statute by adding another level of offense for those who commit identity theft and in the process victimize eight or more parties or cause a combined loss of more than \$35,000. Violation of this provision is a 20-year felony and subjects the person to a fine of up to \$100,000, or both.
- 10 Felony crimes; silencers prohibited.** Under current law, firearm silencers are illegal in Minnesota. There is no exception for law enforcement officers. This section provides a cross-reference to an exception set out in section 11.
- 11 Silencers; authorized for law enforcement purposes.** Permits licensed peace officers to use silencers for tactical emergency response operations. If used, a police chief or sheriff must establish and enforce a written policy regarding silencer use.
- 12 Littering.** Makes littering a petty misdemeanor.
- 13 Unlawful smoking.** Makes smoking in a public building a petty misdemeanor.
- 14 Harassment; hearing.** Provides that a judge does not have to hold a hearing on a civil law harassment petition unless one of the parties requests a hearing. As amended, this section would mirror the language found in the order for protection statute. Removes the requirement that the court hear a petition within 14 days of receipt. Parties must request a hearing within 45 days.
- 15 Harassment; temporary restraining order.** Requires the petitioner to request a hearing for a restraining order in a civil harassment case. Currently a hearing is guaranteed. Eliminates requirement to hear petition within 14 days. Requires five day advance service of notice of hearing to petitioner and respondent. Parties must request a hearing within 45 days.
- 16 Harassment; restraining order.** Amends law to conform to changes made in section 14.
- 17 Notice to community crime prevention group.** Provides that law enforcement agencies of cities of the first class must make reasonable efforts to disclose certain investigative case information to the designated leader of a community crime prevention group that has reported criminal activity to law enforcement. Provides that prosecuting authorities must disclose to the group the final outcome of a criminal proceeding that resulted from an arrest based on a community crime prevention group report. Provides notification procedures.
- 18 Sentencing guidelines; identity theft; aggravating factor.** Directs the Sentencing Guidelines Commission to amend the sentencing guidelines by adding the use of another's identity in the commission of a crime to the list of aggravating factors a court may consider in sentencing.
- 19 Repealer.** Repeals a current law regarding the attempted manufacture of meth that makes possession of certain chemical reagents and precursors a misdemeanor.

Article 9: Driving While Impaired Provisions

Overview

This article authorizes the use of “staggered sentencing,” a new judicial approach, as an option under the mandatory minimum sentencing structure for certain multiple repeat DWI offenders. It modifies the penalties for test refusal and court deadlines in implied consent hearings. It also contains several “miscellaneous” impaired driving-related provisions that stipulate that certain “zero tolerance” alcohol-related violations cannot be used to enhance sanctions and penalties for a subsequent DWI violation; clarify the length of the period of license plate impoundment; preclude vehicle forfeiture for any first-time impaired driving violator; lengthen probation periods for persons convicted of criminal vehicular injury; update archaic language; and add a cross reference. Clarifies legislative intent regarding the 2000 DWI recodification.

1 **Certain violations not to be used for enhancement factor for subsequent incidents.**

Amends the definition of “prior impaired driving-related loss of license” to exclude revocations stemming solely from prior violations of any of the following “zero-tolerance” laws: (1) underage driving after drinking (“youth zero-tolerance,” §169A.33); (2) the “no-alcohol” condition of a restricted driver’s license (“B-card violation,” §171.09); and (3) alcohol purchasing or consumption by youth under age 21 (§340A.503).

Under current law, these “zero-tolerance” violations count equally to a prior DWI violation for enhancing sanctions and penalties for a subsequent DWI violation. This section would cause them to be excluded for enhancement purposes.

2 **Control analysis.** Updates archaic language regarding analysis of breath-alcohol testing procedures.

3 **Cross-reference.** Adds a cross-reference to implied consent law.

4 **Second-degree DWI; refusal penalty modified.** Provides that a person who commits a DWI test refusal crime with one “aggravating factor” present is guilty of second-degree DWI. Applicable aggravating factors are (1) having a child under age 16 in the car, and (2) having a prior DWI offense in the last ten years.

5 **Third-degree DWI; refusal penalty modified.** Provides that a person who refuses to submit to a chemical test when a peace officer has probable cause to believe the person is impaired is guilty of third-degree DWI.

6 **Fourth-degree DWI; refusal penalty modified.** Removes the test refusal crime from fourth-degree DWI (the lowest level of DWI crime in Minnesota), since test refusal would always be third-degree or higher.

7 **Staggered sentencing defined and permitted.** Defines “staggered sentencing” as an executed jail sentence that is ordered by the court to be served in three or more segments spaced one year apart, where the offender may bring a motion before the court for forgiveness of any segment after the first segment. Clarifies that staggered sentencing qualifies as a sentencing choice under the mandatory minimum penalty requirement for multiple repeat offenders who are given a non-prison sentence.

8 **See section 7.**

9 **See section 7.**

10 **Consistency between “custodial arrest” and “conditional release” criteria.** Assures that these two provisions of DWI law are consistent with regard to the targeted group of impaired

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driving offenders. Under current law, there are some inconsistencies between persons subject to custodial arrest and persons subject to conditional release.

11 See section 10. Clarifies that the maximum bail provisions applicable to misdemeanor and gross misdemeanor DWI do not apply in felony cases.

12 See section 2.

13 Hearing; issues; order; appeal. Repeals language that requires implied consent hearings to be held at the earliest practicable date and no later than 60 days after the petition is filed. Also repeals language requiring the court to file its order within 14 days of the hearing.

14 Criteria for shortened license revocation clarified. Clarifies that the shortened period of license revocation for a first-time DWI violator, upon conviction, does not apply if the crime involved either of the following aggravating factors: (1) an alcohol concentration of .20 or more; or (2) child endangerment.

15 Plate impoundment; minimum time period simplified. Clarifies that the minimum period of plate impoundment is one year. Under current law, the minimum is one year “and until the next scheduled renewal date.”

16 See section 15.

17 Prohibition against aiding and abetting impaired driving violations. Corrects an oversight that occurred during the 2000 recodification of DWI law, by bringing over to the new chapter this language from the pre-recodification chapter of DWI law (i.e., this language shift completes the 2000 recodification of DWI law).

18 Probation period for criminal vehicular operation. Lengthens the stay of an imposed sentence to incarceration from two years to six years following conviction for the crime of criminal vehicular injury involving: great bodily harm, substantial bodily harm, injury to an unborn child (all felonies), or bodily harm (a gross misdemeanor). Under current law, the maximum stay (and, thus, the maximum period of probation) is six years for gross misdemeanor DWI crimes, but ranges from only 2 to 5 years for these other crimes involving criminal vehicular injury. [Most crimes involving criminal vehicular homicide or injury also involve impaired driving.]

19 Maximum bail for misdemeanor and gross misdemeanor crimes. Clarifies that this provision of current law does not apply to felony DWI crimes.

20 Clarifying legislative intent. Clarifies that the legislature intended, through its 2000 recodification of DWI laws, to count as aggravating factors all qualified prior impaired driving incidents occurring within the ten years preceding an incident for purposes of criminal and civil sanctions found in chapter 169A, whether the prior incident occurred before, during, or after 1996 or 1998.

Article 10: Prostitution

Overview

This article allows for aggregation of violations of solicitation, inducement, and promotion of prostitution offenses that occur within a six-month time frame. The article then provides that the accused may be prosecuted in any county in which one of the offenses was committed for all solicitation, inducement, and promotion of prostitution offenses. This article also requires the collection and study of information on certain types of prostitution and a report. It also requires reports on the use of money collected from penalty assessments imposed against individuals committing certain prostitution crimes.

- 1 **Aggregation of cases.** Specifies that acts by the defendant constituting solicitation, inducement, or promotion of prostitution that occur within any six-month time period may be aggregated and charged accordingly. Also states that when the same person in two or more counties commits two or more offenses, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.
- 2 **Penalty assessment authorized.** Makes a technical amendment to require penalty assessments to be forwarded to the Commissioner of Public Safety instead of the Commissioner of Corrections, given that the General Crime Victims Advisory Council that provides input under this section of law is located within the Department of Public Safety.
- 3 **Collection of information and study on certain prostitution cases; report.**

Subd. 1. Definitions. Defines the terms “intermediate sanctions,” “patron,” “promotes the prostitution of an individual,” “prostitute,” and “prostitution crime.”

Subd. 2. Collection of information. Requires the following attorneys or their designees and the following law enforcement representatives or their designees to oversee the collection of information on the investigation and prosecution of prostitution crimes committed within the jurisdiction of each individual’s office, commencing January 1, 2002, and ending December 31, 2002:

- ▶ the Hennepin County Attorney,
- ▶ the Minneapolis City Attorney,
- ▶ the Ramsey County Attorney,
- ▶ the St. Paul City Attorney,
- ▶ the Hennepin County Sheriff,
- ▶ the chief of police of the Minneapolis Police Department,
- ▶ the Ramsey County Sheriff, and
- ▶ the chief of police of the St. Paul Police Department.

Specifies that information must be collected on where prostitution crimes are committed; the number of calls and complaints made to law enforcement about alleged prostitution crimes; the number of arrests made for prostitution crimes; the number of citations, tab charges, and complaints issued for prostitution crimes; the types of charges filed in each case; and the disposition of each case.

Subd. 3. Preparation of summary and report. Requires the law enforcement

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authorities specified in subdivision 2 to provide information to the prosecuting authorities in their jurisdictions. Mandates the prosecuting authorities to provide a summary of the information collected and a report to the legislature.

4 Reports on penalty assessments for prostitution crimes.

Subd. 1. Commissioner of public safety; report. Requires the commissioner of public safety to report to the legislature on the amount of money appropriated to the commissioners of public safety and corrections since the beginning of fiscal year 1998. Specifies that the report must contain information on the use of money appropriated during this time period.

Subd. 2. Supreme court; report. Requests the Supreme Court to report to the legislature on the use of money collected from penalty assessments since the beginning of fiscal year 1998.

5 Revisor's instruction; headnotes. Requires the revisor to change headnotes relating to prostitution to make them more descriptive of their respective sections.