

Subject Public Safety Omnibus Bill

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Overview

This is the public safety omnibus bill.

Article 1: Appropriations

This article contains appropriations for the Department of Corrections, Sentencing Guidelines Commission, and Department of Public Safety.

Section Description – Article 1: Appropriations

- 1 Appropriations.**
Summarizes direct appropriations by fund.
- 2 Corrections.**
Appropriates \$205,000 in fiscal year 2020 and \$5,545,000 in fiscal year 2021 to the Department of Corrections. The appropriation includes decreased funding to correctional institutions related to changes in criminal penalties, increased funding for community services, and operations support for a new task force.
- 3 Sentencing Guidelines.**
Appropriates \$8,000 in fiscal year 2020 and \$36,000 in fiscal year 2021 for additional compensation costs.
- 4 Public safety; Bureau of Criminal Apprehension.**
Appropriates \$4,775,000 in fiscal year 2021 for testing and storage of sexual assault kits and expanding laboratory capacity.
- 5 Effective date.**
Makes Article 1 effective the day following final enactment.

Article 2: General Crime

Article 2 makes changes to harassment crimes consistent with a recent supreme court decision, increases penalties for sex trafficking, and amends the crime of computer theft to include the unauthorized copying of stored data.

Section Description – Article 2: General Crime

- 1 Right to terminate; procedure.**
Makes a conforming change consistent with the amendments to harassment crimes. **[H.F. 4137]**
- 2 Definitions.**
Adds a violation of section 609.322 (sex trafficking in the first degree) to the definition of “violent crime” in the section of law that permits increased sentences for certain dangerous and repeat felony offenders. **[H.F. 3070]**
- 3 Certain violations excepted.**
Removes a reference to a misdemeanor violation which is repealed in this bill. **[H.F. 3070]**
- 4 Solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree.**
Increases the maximum sentence of imprisonment for a person who commits sex trafficking in the first degree from 20 years to 25 years. Increases the maximum sentence of imprisonment for a person who commits sex trafficking in the first degree when any of four aggravating factors are present from 25 years to 30 years. **[H.F. 3070]**
- 5 Solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree.**
Increases the maximum sentence of imprisonment for a person who commits sex trafficking in the second degree from 15 years to 20 years. **[H.F. 3070]**
- 6 Patrons of prostitution; penalty.**
Makes a first offense for being a patron of a prostitute a gross misdemeanor regardless of where the offense takes place. Under current law, a first offense is a misdemeanor unless the offense takes place in a public place. Creates a new felony offense for a person who violates this section within ten years of a previous conviction for a prostitution or trafficking offense. **[H.F. 3070]**

Section Description – Article 2: General Crime

- 7 **Community service in lieu of minimum fine.**
Makes a conforming change based on the repeal of section 609.324, subdivision 3. [H.F. 3070]
- 8 **Penalty assessment authorized.**
Makes a conforming change based on the repeal of section 609.324, subdivision 3. [H.F. 3070]
- 9 **Penalty.**
Increases the maximum sentence of imprisonment for solicitation of children to engage in sexual conduct or electronic solicitation of children from three years to five years, and increases the maximum fine from \$5,000 to \$10,000. [H.F. 3070]
- 10 **Harassment crimes.**
Defines “family or household members” and “substantial emotional distress” for the purposes of the subdivision and combines all terms currently defined in the subdivision into a single paragraph. Establishes the mental state of intending to kill, injure, harass, or intimidate another person as an element of the crime of harassment. Establishes a causation element in the crime of harassment requiring that harassing conduct either place another in reasonable fear of substantial bodily harm or cause substantial emotional distress. [H.F. 4137]
- 11 **Aggravated violations.**
Makes a conforming change consistent with the amendments to harassment crimes. [H.F. 4137]
- 12 **Crime defined; obscene call.**
Establishes elements related to the actor’s mental state and the causation of the conduct in the crime of placing repeated phone call. [H.F. 4137]
- 13 **Misdemeanors.**
Establishes elements related to the actor’s mental state and the causation of the conduct in the crime of repeatedly sending mail to another. [H.F. 4137]
- 14 **Data.**
Creates a definition of “data” in the list of definitions as used in computer crime statutes. [H.F. 3869]
- 15 **Acts.**
Establishes a crime if someone intentionally, and without authorization, copies any computer software or data and uses, alters, transfers, retains, or publishes that

Section Description – Article 2: General Crime

- software or data. Further makes it a crime to intentionally retain copies of any computer software or data beyond the individual’s authority. **[H.F. 3869]**
- 16 **Sentencing guidelines modification.**
Directs the Minnesota Sentencing Guidelines Commission to review and consider modifying the sex offender grid based on the changes made to the penalties for sex trafficking offenses. **[H.F. 3070]**
- 17 **Repealer.**
Repeals section 609.324, subdivision 3, the misdemeanor offense of being a patron of a prostitute in a place other than a public place. **[H.F. 3070]**

Repeals Minnesota Statutes, section 609.749, subdivisions 1 (Definition) and 1a (No proof of specific intent required). **[H.F. 4137]**

Article 3: Other Policy

This article makes changes to public safety policy.

Section Description – Article 3: Other Policy

- 1 **Peace officer.**
Removes limitations on when a conservation officer qualifies as a “peace officer” under the DWI chapter. **[H.F. 1149]**
- 2 **Feminine hygiene.**
Requires the commissioner of corrections to provide free feminine hygiene products to female inmates. **[H.F. 3772]**
- 3 **American Indian cultural program.**
Re-names the American Indian counseling program as the American Indian cultural program. **[H.F. 3772]**
- 4 **Charges to counties.**
Modifies how the commissioner of corrections determines the per diem cost of confinement for juvenile offenders. **[H.F. 3772]**
- 5 **Unmanned aerial vehicle prohibition.**
Creates the misdemeanor crime of operating a drone in the airspace above a state prison or other property controlled by the commissioner of corrections. A gross misdemeanor penalty would be applied to those who operate a drone in violation of

Section Description – Article 3: Other Policy

- the proposed law while using the drone to record images or to introduce contraband into a prison. [H.F. 3911]
- 6 **Requirements.**
Removes punishment of an offender as an objective of the intensive community supervision program. [H.F. 3772]
- 7 **Submission and storage of sexual assault examination kits.**
(a) Requires each unrestricted sexual assault examination kit to be tested and requires the kit to be retained indefinitely after being tested by the law enforcement agency investigating the case.

(b) Requires restricted sexual assault examination kits to be submitted to the BCA within 60 days and for the BCA to store the kits for at least 30 months. [H.F. 4540 and H.F. 2983]
- 8 **Uniform consent form.**
Directs the BCA to develop and distribute a uniform sexual assault examination kit consent form for victims of sexual violence. [H.F. 4540 and H.F. 2983]
- 9 **Web database requirement.**
Requires the BCA to create a searchable web database where victims may determine the status of their sexual assault examination kits. [H.F. 4540 and H.F. 2983]
- 10 **Eyewitness identification policies required.**
Requires the POST Board to develop, and law enforcement agencies to adopt, policies on eyewitness identification.

Subd. 1. Statewide model policy required. Directs the Board of Peace Officers Standards and Training to develop a model policy by November 1, 2020, that articulates best practices for eyewitness identification. The policy must require that: (1) the person administering a lineup be unaware of the suspect or be unaware of which lineup member is being viewed; (2) the witness be given introductory instructions including the statement that the perpetrator may or may not be in the lineup; (3) the lineup include “fillers” that match the description of the suspect; and (4) the witness give a statement that articulates the level of confidence in the identification.

Subd. 2. Agency policies required. Requires chief law enforcement officers to adopt and implement a policy that is substantially similar to the policy developed under subdivision 1. The policy must be adopted by February 1, 2021.

Section Description – Article 3: Other Policy

Subd. 3. Admissibility of evidence not impacted. States that nothing in this new section of law is intended to preclude the admissibility of relevant evidence or affect the standards governing the admissibility of evidence. [H.F. 627]

11 Acceptance of private funds; appropriation.

Permits the commissioner of public safety to accept donations to carry out the purposes of chapter 299A, requires those funds to be deposited in an account in the special revenue fund, and appropriates that money to the commissioner for the purposes for which it was given. [H.F. 3675]

12 Task force on sentencing for aiding and abetting felony murder.

Establishes a task force to review statutes and data related to charging, convicting, and sentencing individuals who aid and abet the commission of felony murder.

Subd. 1. Definitions. Defines the terms “aiding and abetting” and “felony murder” for the purposes of the task force.

Subd. 2. Establishment. Establishes a task force to collect and analyze data related to sentencing individuals for aiding and abetting felony murder.

Subd. 3. Membership. Identifies the 12 members of the task force.

Subd. 4. Officers; meetings. Provides for the election of a chair, vice-chair, and any other necessary members of the task force. Requires the commissioner of corrections to convene the first meeting of the task force by August 1, 2020. Directs the task force to meet at least monthly and provides that the meetings are subject to the open meetings law. Directs the task force to request the cooperation of state agencies, academics, and others.

Subd. 5. Duties. Establishes duties for the task force including collecting and analyzing data related to charges and sentences for individuals convicted of aiding and abetting felony murder, reviewing relevant statutes, receiving input from victims and offenders; analyzing the benefits and unintended consequences of Minnesota’s laws related to charging, convicting, and sentencing individuals for aiding and abetting felony murder; and making recommendations to the legislature.

Subd. 6. Report. Directs the task force to submit a report by January 15, 2021.

Subd. 7. Expiration. Provides that the task force expires the day after it submits the required report. [H.F. 3976]

Section Description – Article 3: Other Policy

13 Repealer.

Repeals an obsolete provision related to juvenile offender reimbursement and a redundant provision related to the Ramsey County Community Corrections Department. **[H.F. 3772]**

Article 4: Controlled Substances

This article contains a variety of revisions to the controlled substance schedules proposed by the Board of Pharmacy and establishes new thresholds for crimes involving the possession of marijuana based on amount of marijuana a person possesses.

Section Description – Article 4: Controlled Substances

1 Schedule I.

Adds substances to Schedule I of the statutory controlled substances schedules. The new drugs include opioid and fentanyl analogs, synthetic cannabinoids, and some benzodiazepines (related to Valium). (Schedule I drugs are those that have a high potential for abuse, no currently accepted medical use, and a lack of accepted safety for use under medical supervision.) **[H.F. 2385]**

2 Schedule II.

Adds the FDA-approved medication dronabinol to Schedule II, which is consistent with current federal drug schedules. Dronabinol is synthetic THC that has been approved for loss of appetite and weight loss in patients with AIDS; and for nausea and vomiting associated with cancer chemotherapy. (Schedule II drugs are those that have a high potential for abuse, currently accepted medical uses, and that abuse may lead to severe psychological or physical dependence.) **[H.F. 2385]**

3 Schedule V.

Adds gabapentin, which is used to treat seizures and pain, to Schedule V. Also adds epidiolex—which contains CBD—to Schedule V. (Schedule V drugs are those that have a lower potential for abuse than drugs on Schedule IV, currently accepted medical uses, and abuse may lead to limited physical or psychological dependence. **[H.F. 2385]**

4 Sale crimes.

Provides that a person who unlawfully sells a total weight of more than 42.5 grams of a mixture containing marijuana or tetrahydrocannabinols is guilty of a fifth degree controlled substances crime. **[H.F. 2013]**

Section Description – Article 4: Controlled Substances

5 Possession and other crimes.

Provides that a person who unlawfully possesses more than 250 grams of the nonresinous form of marijuana is guilty of a fifth degree controlled substances crime. **[H.F. 2013]**

6 Penalty.

Makes a conforming change related to fifth degree controlled substances crimes. **[H.F. 2013]**

7 Nonfelony controlled substance offenses; marijuana.

Subd. 1. Sale crimes. Establishes a new offense for the sale of the nonresinous form of marijuana in amounts of (1) more than ten grams but less than 42.5 grams, and (2) not more than ten grams.

Subd. 2. Possession crimes. Establishes a new offense for the possession of the nonresinous form of marijuana in amounts of (1) more than 100 grams but not more than 250 grams, and (2) more than 42.5 grams but not more than 100 grams.

Subd. 3. Penalty. Establishes gross misdemeanor and misdemeanor penalties for sale and possession of marijuana in violation of subdivisions 1 and 2.

Subd. 4. Possession of marijuana in a motor vehicle. Moves the crime of possession of marijuana in a motor vehicle to this new section. Increases the amount of marijuana that constitutes a misdemeanor violation to five grams.

Subd. 5. Petty misdemeanors. Moves the existing petty misdemeanor offenses of the sale of a small amount of marijuana for no remuneration and possession of a small amount of marijuana to this new section. Eliminates the misdemeanor offense for possession of a small amount of marijuana. **[H.F. 2013]**

8 Repealer.

Repeals the existing crimes of possession of marijuana in a motor vehicle and sale or possession of a small amount of marijuana which are moved to a new section of law in this article. **[H.F. 2013]**



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