

# House Research Act Summary

**CHAPTER:** 299

**SESSION:** 2008 Regular Session

**TOPIC:** Miscellaneous public safety policy provisions

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## Overview

This bill: establishes a controlled substance law working group; includes various other prison re-entry related provisions; contains several Department of Corrections technical amendments; requires criminal courts to inquire about a defendant's military status and to consider mental health treatment options if the defendant is affiliated with the military; makes several changes to the sex offender civil commitment process; contains reforms to Minnesota's predatory offender registration laws; allows for courts to accept payment of court fees and fines via credit card; deletes rider language from the 2007 Public Safety Omnibus Bill related to the courts and the public defender; amends the e-charging statute and related data practices provisions; and requires studies of joint physical custody and the comprehensive family court process.

### Section

- 1 Civil Commitment of Sexual Offenders.** Creates a cross-reference in the data practices chapter to section 13.
- 2 Internet Access to BCA Records.** Retroactively removes a sunset on the law governing Internet access to Bureau of Criminal Apprehension data.
- 3 MINNCOR Marketing Plan.** Directs the Commissioner of Corrections, in consultation with the Commissioner of Employment and Economic Development, to develop, implement, and maintain a formal marketing plan to attract private businesses and industries to employ inmates through MINNCOR. The plan must be reviewed and updated annually.

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- 4 Fingerprints of Inmates, Parolees, and Probationers from other States.** Updates a statutory reference in the law requiring the Commissioner of Corrections to forward to the Bureau of Criminal Apprehension the finger and thumb prints of an inmate, parolee, or probationer from another state under the Interstate Adult Offender Supervision Compact.
- 5 Annual Report.** Changes the due date for the Advisory Council on Interstate Adult Offender Supervision's annual report from January 15 to March 1. Directs the report to specified members of the Legislature.
- 6 Registration procedure when person lacks primary address.** Requires a predatory offender who is incarcerated, but who lacks a primary address upon their release, to register with the law enforcement agency with jurisdiction over the area the offender plans to stay upon release at least 3 days before they are released.
- 7 Contents of Registration.** Permits the BCA to mail a predatory offender verification form to the local law enforcement authority where a homeless predatory offender most recently reported.
- 8 Registration Required.** Clarifies that a person can be required to register as a predatory offender based on a conviction for a crime against the person after a conviction for a previous predatory offense when the previous predatory offense occurred in another state.
- 9 Restriction.** Cross-reference to section 10.
- 10 Exception.** Permits sex offenders who are being held pending resolution of a civil commitment petition to elect to stay in a DOC facility or a county correctional facility instead of in a Minnesota Sex Offender Program facility. To be eligible to stay in a DOC facility, an offender must currently be housed in such a facility. Establishes procedures for revocation of the person's election to be housed in a DOC facility. Unless revoked before, the person may only stay in a DOC facility until their sentence or conditional release term, whichever is longer, expires. In no case may an offender stay in a DOC facility more than 210 days past their sentence. To stay in a county jail, the committing county must first offer the option to the person.
- 11 Facilities.** Authorizes the commissioner of corrections to charge counties for housing offenders under the authority granted in section 10. Obligates DHS to fund all non-confinement costs.
- 12 Time for Commitment Hearing.** Amends the civil commitment law. Currently, the law authorizes persons being held for potential commitment and treatment facility heads to demand an immediate hearing, which must be held within five days of the date of demand. If this does not occur, the patient must be discharged. This section exempts persons being petitioned as mentally ill and dangerous, sexually dangerous, or as having a sexual psychopathic personality from this law.
- 13 County Attorneys Access to Data.** Authorizes county attorneys, without either a court order or prior notice to the subject, to acquire data held by the Department of Corrections or parole or probation authority for the purposes of determining whether good cause exists to petition for the civil commitment of a sex offender. The county attorney must provide notice of the request to the subject at the time the request is made.
- 14 Financial Responsibility.** Allows for state reimbursement of the cost of holding persons in a DOC facility pending resolution of a civil commitment petition.
- 15 E-charging.** Amends the recently enacted statute allowing for e-charging, which is a BCA service "to provide communication and workflow tools for law enforcement, prosecutors, and the courts to use during the process of charging a person with a crime."

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- Amends “**Subd. 2. Data classification**” which classifies “auditing data” and “workflow and routing data” maintained by the BCA as confidential data on individuals or protected nonpublic data. The new language removes this classification once the investigation becomes inactive. Once inactive, the BCA may disclose the data to the subject of the investigation and the data is reclassified as private data on individuals or nonpublic data.

- 16 Authority to Incur Debt.** Deletes an obsolete reference to the Public Safety Radio System Planning Committee, replacing it with a Statewide Radio Board in Minnesota Statutes, section 373.47, subdivision 1, relating to counties incurring debt to design, construct or acquire public safety radio system infrastructure or equipment.
- 17 Electronic Payments; Convenience Fees; Records Access.** Authorizes the judicial branch to accept credit cards for fees and payments ordered by the court and to impose convenience fees for these transactions. Provides that records related to these transactions are not accessible by the general public. Under current law (Minnesota Statutes, section 609.103, which is being repealed in section 28), courts are authorized to accept credit cards for payments, however, they are not authorized to impose convenience fees. Executive branch agencies are already specifically authorized in law to accept credit cards and to charge convenience fees.
- 18 Sentencing Criteria; Veterans Mental Health Treatment.** Requires sentencing courts to inquire about a defendant’s military status and history. If a defendant convicted of a crime is a military veteran and has been diagnosed by a qualified psychiatrist, psychologist, or physician with a mental illness, the court may: (1) order a presentence investigation and report to be made to provide the court with federal, state, and local treatment options available to the defendant as a veteran; and (2) consider the available treatment options, along with the recommendations of any diagnosing or treating mental health professionals, when imposing sentence.
- 19 Offenders from Other States.** Updates a statutory reference in the DNA collection law with the correct reference to the Interstate Adult Offender Supervision Compact.
- 20 Registered Offender Jail Procedures.** Requires a sheriff to run the name of a new jail inmate through the state's predatory offender database to determine if the inmate is a registered predatory offender. If the inmate is a registered predatory offender, the sheriff must inform the BCA that the offender is incarcerated. It is a gross misdemeanor if a sheriff intentionally neglects or refuses to notify the BCA that a predatory offender is incarcerated.
- Requires a sheriff to provide an incarcerated predatory offender with a change of information form upon their release from jail for the purpose of ascertaining the offender’s address upon release.
- 21 Secure Confinement.** Replaces an obsolete reference to “solitary confinement” with the current term “secure confinement.”
- 22 Trial Courts.** Strikes the rider in last year’s omnibus public safety funding bill requiring the courts to maintain and establish new drug courts. This language is being stricken to give the courts more flexibility in allocating anticipated budget cuts.
- 23 Board of Public Defense.** Strikes the rider in last year’s omnibus public safety funding bill that requires the Board of Public Defense to hire new attorneys and support staff and directs a specified amount of money for transcript costs. This language is being stricken to give the public defenders more flexibility in allocating anticipated budget cuts.

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- 24 Guidelines for Revocation of Parole and Supervised Release; Department of Corrections Internal Review; Report to Legislature.** Directs the Commissioner of Corrections to undertake an internal review of the department's guidelines for revocation of parole and supervised release and report back to the legislature. The internal review must focus on the type of sanctions imposed, the use of intermediate sanctions and the possibility of capping the number of days a person must serve for a probation revocation.
- 25 Joint Physical Custody; Study Group.** Instructs the state court administrator to convene a study group of 12 members to consider the impact of a presumption of joint physical custody. Sets out the parameters of the evaluation and the composition of the study group. Requires the state court administrator to consult with the chairs of the House and Senate committees with jurisdiction over family law on the composition of the study group. Requires a report to the legislature no later than January 15, 2009.
- 26 Comprehensive Family Court Process; study.** Requires the state court administrator to report on a plan to conduct a multidisciplinary, comprehensive study on family law to the chairs of the budget and policy committees in the house and senate with jurisdiction over family law no later than January 15, 2009.
- 27 Working group on controlled substance laws; report to the legislature.**

**Subd. 1. Establishment; membership; staff.** Requires the speaker of the house and the senate Subcommittee on Committees of the Committee on Rules and Administration to appoint a working group on the state's controlled substance laws by July 1, 2008. Specifies who shall serve on the working group and staff the working group.

**Subd. 2. Subject matter.** Sets forth the following topics that the working group must review, assess, and make specific recommendations about: (1) revising the threshold amounts for controlled substance crimes; (2) establishing a separate sentencing guidelines grid for drug offenses; (3) establishing additional aggravating factors so as to target particularly dangerous drug offenders; (4) revising the criminal history point calculations for repeat drug offenders; (5) maximizing the use of deferred prosecutions under Minnesota Statutes, section 152.18; and (6) increasing the use of the early release program for non-violent drug offenders. Sets forth an additional list of nine areas that the working group may consider.

**Subd. 3. Report to the legislature.** Requires the working group to report back to the appointing chairs by January 15, 2009.

- 28 Repealers.** Repeals:
- the current authority of the courts to accept credit cards (this provision is being superseded by section 17);
  - sections 242.193, subdivision 1, and 242.39 thereby eliminating references to juvenile restitution and treatment grants no longer funded by the Legislature; and
  - a subdivision of the e-charging statute that is no longer needed based on the

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changes made in section 15.