

House Research Act Summary

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Analyst: Jeff Diebel
Rebecca Pirius
Ken Backhus

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Section

Article 1: Predatory Offenders

- 1 Healthcare facility; notice of status.** Requires notice of a predatory offender to be provided to residents of facilities designated as “housing with services establishments” by the commissioner of health.
- 2 Intensive supervised release.** Authorizes the commissioner of corrections to conduct unannounced searches of computers, or other electronic devices capable of accessing the internet, used by offenders placed on intensive supervised release. Provides that the commissioner shall prohibit an inmate who is required to register as a predatory offender and is placed on intensive supervised release from accessing social networking websites or instant messaging or chat room programs. Allows an ISR agent to modify the prohibition if it would not jeopardize public safety and is agreed to in advance.
- 3 Definitions.** Amends the definition of “residential facility” for the purposes of this section. The effect is that cities do not need to hold community notification meetings for predatory offenders who are detainees in regional treatment centers.
- 4 Training Materials on the Dangers of Predatory Offenders.** Requires the Department of Corrections to prepare predatory offender training materials for persons who care for children and vulnerable adults.

- 5 Sexual contact.** Amends the definition of sexual contact applicable to criminal sexual conduct in the second and fourth degrees to include intentional touching with seminal fluid or sperm by the actor of the complainant’s body or clothing.
- 6 Electronic solicitation of children.** Expands the crime of computer solicitation of children to include cases where an offender uses an electronic communications system, or a telecommunications, wire, or radio communications system, or other electronic device capable of electronic data storage or transmission. Because of the expanded nature of the offense, the bill proposes renaming the offense “electronic solicitation of children.”

Under the expanded offense, a person 18 years of age or older is guilty of a felony if he uses a computer, the Internet, or an electronic device (e.g., a telephone) to communicate with a child with the intent to arouse or gratify the sexual desire of any person and the person does any of the following:

- “solicits” a child to engage in sexual conduct;
- communicates in a "sexually explicit" manner with a child; or
- distributes "sexually explicit" material to a child.

Article 2: Crime Victims

- 1 Notice of decision not to prosecute.** Under current law, a prosecutor must provide victims of domestic assault and harassment with information on civil protection orders. Adds victims of criminal sexual conduct to the statute.
- 2 Domestic fatality review teams.** Authorizes a judicial district to establish a domestic fatality review team.
- Defines “domestic violence death,” outlines the membership of domestic fatality review teams, specifies a team’s duties and confidentiality requirements, and outlines data access and privacy provisions.
- The purpose of the domestic fatality review team is to review and assess domestic violence deaths in an effort to develop recommendations for policies and protocols for community prevention and intervention initiatives to reduce and eliminate the incidence of domestic violence and resulting fatalities.
- Requires a team to issue an annual report to the legislature that consists of aggregate recommendations without reference to specific cases.
- 3 Arrest.** Expands the timeframe from 12 to 24 hours in which an officer may arrest a person who the officer has probable cause to believe committed domestic abuse. This is an exception (found in current law) to the general requirement that an arrest can only be made for an offense committed in the presence of a peace officer.

Article 3: Courts

- 1 **Policy on disproportionate minority contact.** Sets forth state policy to identify and eliminate racial, ethnic, and gender fairness barriers in the justice system.

- 2 **Establishment.** Eliminates the requirement that the Hennepin County District Court establish and maintain misdemeanor violations bureaus in specified locations within the county. Locations for these bureaus would be determined by a majority of the court judges.

Currently, Hennepin County District Court operates misdemeanor violations bureaus and holds court in downtown Minneapolis, and at regional centers in Brooklyn Center, Minnetonka, and Edina.

- 3 **Judges; referees.** Expands the authority to appoint a referee to act in conciliation court. Currently, the authority is limited to the second and fourth judicial districts, and this section allows it statewide.

- 4 **License Reinstatement Diversion Pilot Program.**
 - Subd. 1. Establishment.** Allows eligible cities to establish a license reinstatement diversion pilot program for persons with a class D drivers' license who have been charged with either driving after a suspension or revocation, but have not yet entered a plea. A person charged with driving after revocation is eligible for diversion only if the revocation was due to (1) a failure to produce proof of insurance; (2) refusal or failure of a test for intoxication; (3) a DWI conviction or adjudication; or (4) three charges of violating any traffic regulations (as provided in chapter 169) within a period of 12 months. A person who holds a commercial driver's license or committed an offense in a commercial motor vehicle is not eligible to participate in the pilot program.

 - Subd. 2. Eligible cities.** Lists which cities are eligible to establish the pilot program: Duluth, St. Paul, South St. Paul, West St. Paul, and Inver Grove Heights. The commissioner of DPS may permit other cities to participate.

 - Subd. 3. Contract.** Allows an eligible city to contract with a third party to create and administer the diversion program.

 - Subd. 4. Diversion of individual.** Allows the city prosecutor to determine whether to accept an individual for diversion. Requires the prosecutor to consider: (1) whether the individual has a record of driving without a valid license or other criminal record, or has previously participated in a diversion program; (2) the strength of the evidence against the individual and any mitigating factors; and (3) the ability and willingness of the individual to participate and comply with the diversion program requirements.

 - Subd. 5. Diversion driver's license.** Permits the commissioner of public safety to issue a diversion driver's license to participants of the pilot program and to impose applicable restrictions on the license. In order to receive the diversion license, the individual must first pay the applicable reinstatement fee, either \$20 for a suspended license, or \$30 for a revoked license. An individual whose license was revoked for

either a refusal or failure of a test for intoxication or for a DWI conviction must also pay a \$250 fee and a \$430 surcharge during the course of the diversion program.

Subd. 6. Components of program. Provides minimum requirements for the diversion program including: (1) successful attendance and completion of classes at the individual's expense; (2) payment of all required fees; (3) compliance with all traffic laws; and (4) compliance with vehicle insurance requirements. Also provides that a person who is accepted into the pilot program is eligible to apply for a diversion driver's license.

Subd. 7. Termination of participation in diversion program. Provides circumstances in which an individual's participation in the diversion program may terminate. The listed circumstances include: (1) the individual violates a moving traffic regulation or fails to provide vehicle insurance during participation in the program; (2) the individual is not satisfying the conditions of the diversion; or (3) the individual has successfully met all conditions of the diversion program. Requires the commissioner to cancel an individual's diversion license after their participation is terminated. Allows the original charges against the individual to be reinstated if their participation in the program is terminated for reasons other than successful completion of the program. Also requires the commissioner to reinstate the driver's license of an individual who successfully completes all conditions of the diversion program.

Subd. 8. Report. Requires the commissioner of public safety and participating cities to report the results of the program to the legislature by February 1, 2011.

Subd. 9. Sunset. Provides for the pilot program to end on June 30, 2011.

5 Repealer. Repeals a reference in statute to the Bloomington Municipal Court, which no longer exists.

Article 4: Corrections and Sentencing Guidelines

1 - 3 Detention. Amend the law addressing the detention and release of probationers, conditional releasees, and pretrial releasees. Changes these laws to provide that the court services director's authority to issue detention and release orders extends to any peace or probation officer in the state.

4 Surcharges on criminal and traffic offenders. Amends the section for surcharges on criminal and traffic offenders to permit 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.

5 Peace officers and probation officers serving CCA counties. Clarifies that the authority to enforce apprehension and detention orders against persons on conditional or pre-trial release in Community Corrections Act (CCA) counties extends outside the county that issued the order and may be exercised by peace and probation officers throughout the state. This section extends the same authority to the enforcement of orders issued by CCA probation officers for the release of a detained person.

- 6 Correctional officers.** Mandates that correctional officers who are subject to a merger of local correctional facilities are entitled to their accumulated vacation and sick time.
- 7 Juvenile escape from the DOC.** Authorizes peace officers to make a warrantless arrest of juveniles who escape from the custody of the commissioner of corrections.
- 8 Evidence-based probation practices.** Mandates a study and report to the legislature on evidence-based practices in probation.
- 9 Repealer.** Repeals reports required under §§ 260B.199, subd. 2, and 260B.201, subd. 3. These subdivisions require a court to submit a report to the Sentencing Guidelines Commission when it places a juvenile offender in an out-of-state facility. The reports must provide information on how the safety of the child or community can best be met by the placement, or that the out-of-state facility is closer to the child's home. The reports must also provide reasons for not placing the child in an in-state facility, including MCF-Red Wing. Directs the commission to forward a summary of this data to the legislature annually.
- Repeals § 244.195, subd. 5, an unneeded law relating to the detention and release of probationers, conditional releases, and pretrial releases.

Article 5: Public Safety

- 1 Specialized emergency response team.** Defines specialized emergency response team in the emergency management chapter.
- 2 Specialized emergency response team.** Authorizes the director of homeland security to deploy specialized emergency response teams to local incidents.
- 3 Schedule V; restrictions on methamphetamine precursor drugs.**
- Requires a business establishment that sells OTC meth precursor drugs to retain the sale log for three years. The log contains information on the date of sale, the name of the buyer, and the amount of the drug sold. In addition, requires the business to allow inspection of the log by law enforcement at all reasonable times. A knowing violation of this section is a misdemeanor (maximum penalty of 90 days' imprisonment and/or \$1,000 fine).
 - Clarifies that the amount of OTC pseudoephedrine that a person may purchase is calculated by the base amount of pseudoephedrine (and not other ingredients).
- 4 Coordination of controlled substance regulation with federal law and state statute.** Requires the Board of Pharmacy to submit an annual report to the legislature that identifies the changes the board has made in the past year to controlled substance schedules maintained in rules by the board.
- 5 Prohibitions generally; exceptions.** Authorizes GPS or navigation systems to be mounted or located near the bottommost portion of a vehicle's windshield. Currently, the only devices allowed on the windshield are sun visors, rearview mirrors, and electronic toll devices.

- 6 Employment of individual with criminal history.** Limits the admissibility of information regarding the criminal history record of an employee or former employee in civil actions against a private employer based on the conduct of the employee. A criminal history record may not be introduced if:
- (1) the duties of the position did not expose others to a greater degree of risk than that created by the employee interacting with the public outside of the duties of the position or that might be created by being employed in general;
 - (2) before occurrence of the act giving rise to the action, a court order sealed any record of the case or the employee received a pardon; or
 - (3) the record is of an arrest or charge that did not result in a conviction.
- The requirements of this section would not supersede a statutory requirement to conduct a criminal history background investigation or consider criminal history records in hiring for particular types of employment.
- 7 Certain occupational licenses.** Authorizes the Minnesota Racing Commission to issue a license to an applicant otherwise disqualified based on a prior felony conviction for an occupation not involving gaming operations, security, surveillance, or the handling of pari-mutuel or club card revenues. This applies only if the applicant has not been convicted of a felony or crime involving fraud or misrepresentation within the past ten years and has never been convicted of a gambling-related offense. In addition, this provision does not apply to applicants currently required to register as predatory offenders or those who have felony charges pending or had been under correctional supervision within the past five years.
- 8 Aggravating factors.** Authorizes a court to order an aggravated sentence beyond the range specified in the sentencing guidelines grid based on an aggravating factor arising from the same course of conduct. Defines “aggravating factors.”
- 9 Financial crimes advisory board and task force.** Reorganizes the Financial Crimes Oversight Council and changes it to an advisory board. Shifts the duties of the oversight council to the commissioner of public safety with advice from the new advisory board.
- Changes the membership of the Minnesota Financial Task Force to include retail businesses and exclude representatives from the Board of Public Defense and elderly victims.
- Deletes obsolete language resulting from the creation of the oversight council and changes to the task force in 2005.
- Authorizes the task force to receive forfeiture proceeds currently going to the oversight council.
- 10 Unsafe recalled toys; prohibition on sale.** Prohibits commercial retailers from selling any toy designed primarily for use by children under age 12 that has been recalled for safety related reasons by the federal government or the toy’s manufacturer, wholesaler, distributor, or importer. Clarifies that “recalled” does not include corrective actions that involve safety alerts, parts replacement, or consumer repairs. Enforcement would be covered by the “Safe Toys Act” currently in statute.
- 11 Public employment; consideration of criminal records.** Prohibits a public employer

from considering the criminal history of an applicant for employment until the applicant has been selected for a job interview.

Chapter 364 provides generally that a person may not be disqualified from public employment based on their criminal history, unless the applicant's criminal history is directly related to the position of employment sought by the applicant, and the applicant has not shown evidence of rehabilitation and fitness to perform the duties of the job.

The prohibition on considering criminal history until an applicant has been selected for an interview does not apply to the DOC or public employers who have a statutory duty to conduct a criminal history background check or consider criminal history in the hiring process.

Based on another existing section of chapter 364, the provisions of this bill also would not apply to a number of specified agencies, including law enforcement agencies and fire protection agencies.

- 12 **State Interoperability Executive Committee.** Designates the Statewide Radio Board as Minnesota's State Interoperability Executive Committee. Under this designation, the Board is required to: (1) develop a statewide plan for local and private public safety communication interoperability that integrates with the MN emergency operation plan; (2) develop guidelines and standards for local and private public safety communications interoperability within MN; (3) promote coordination and cooperation among public safety agencies; (4) advise the commissioner of the Department of Public Safety; (5) develop guidelines and standards for the use of interoperability frequencies on all frequency spectrums assigned to public safety; and (6) develop guidelines and standards that support interoperability with adjoining states and bordering Canadian provinces.
- 13 **Plan Contents.** Amends the requirements of the Statewide Radio Board's project plan to include recommendations on the statewide plan for local and private public safety communications interoperability and guidelines and operational standards for promoting public safety communications interoperability.
- 14 **Joint exercise of police power; employees.** Requires employees of local public safety organizations that merge to be credited with their accumulated sick and vacation time.
- 15 **Misdemeanor.** Amends the trespass law to include crossing into or entering any public or private area lawfully cordoned off by a peace officer. Requires that the authority responsible for cordoning off the area identify itself. Provides an affirmative defense. A violation is a misdemeanor.
- 16 **Rules required.** Amends the language granting the POST Board rulemaking authority over pre-service training and education so that the statute reflects the language and standards found in the Board's rules. Makes other technical changes.
- 17 **Board authority.** Removes an obsolete reference to peace officer training schools and replaces it with a reference to certified schools that offer the professional peace officer education program.
- 18 **Powers and duties.** Removes obsolete language and language that is duplicated in other statutes concerning the POST Board.

- 19 Unauthorized practice.** Expands the crime of unauthorized law enforcement practices to include cases where a peace officer authorizes or knowingly allows a person who is not a peace officer (1) to represent him or herself as a peace officer, or (2) to perform or attempt to perform an act that is reserved for peace officers. A peace officer who violates this provision for the first time is guilty of a misdemeanor, and a gross misdemeanor for subsequent violations.
- 20 Limitations.** Provides that the statute of limitations for criminal sexual conduct involving a child victim expires on the *later* of nine years after the commission of the offense or three years after the crime was reported to law enforcement.
- 21 Financial crimes task force transition.** Addresses the transition of the current Minnesota Financial Crimes Task Force.
- 22 Board of Pharmacy report.** Requires the Board of Pharmacy to provide a report to the legislature that identifies all instances where the controlled substance schedules in rule differ from those in statute.
- 23 Working group—DWI offenders.** Authorizes the House and Senate chairs of Public Safety Policy and Judiciary committees to appoint a working group to review changes to the state’s laws and policies on DWI offenders.
- 24 Policies on hiring practices.** Authorizes the commissioner of administration, MnSCU, the University of Minnesota, and cities to adopt policies that address the goal of improving employment for local residents or former criminal offenders.
- 25 Repealer.** Repeals obsolete language relating to the Statewide Radio Board.

Article 6: BCA Information Service Division Modifications

- 1 - 25** Reflect organizational changes in the Bureau of Criminal Apprehension (BCA). The two information service divisions at the BCA – the CriMNet Program Office and the Criminal Justice Information Systems (CJIS) – were reorganized into one new organization, MN Justice Information Services (MNJIS). The changes reflect the name of the new organization, or in some cases, provide a more general reference to the BCA.
- Replaces CJIS reference with general BCA reference
 - Deletes CJIS references
 - Deletes CriMNet reference
 - Adds reference to section 13.87 for “criminal history data”
 - Adds a reference to “Integrated Search Service” as defined in section 13.873
 - Adds a reference to “criminal justice data communications network” as defined in section 299C.46
 - Amends the duties of the Criminal and Juvenile Justice Information Policy Group to include the responsibility for the integration of statewide criminal justice

information