

House Research Act Summary

CHAPTER: 86

SESSION: 2013 Regular Session

TOPIC: Public Safety and Judiciary Omnibus bill

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Article 1: Appropriations

Overview

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

Article 2: Guardians and Conservators

Overview

Article 2 increases the frequency of background checks from every five years to two years and expands the reporting requirements for guardians and conservators relating to their civil, criminal, and financial histories. It requires disclosure of the following incidents: being removed from serving as a guardian or conservator; negative action related to a professional license; civil actions against them including fraud, misrepresentation, harassment restraining orders, and orders for protection; bankruptcy; civil judgments; and criminal activity. It also allows increased access to licensing information on proposed and current guardians and conservators to the

Section

courts.

- 1 **Use.** Requires the commissioner to recover costs for background studies under Minnesota Statutes, section 524.5-118, through a \$50 fee for an individual who has not lived outside Minnesota for the past ten years, and \$100 for an individual who has resided outside the state for any period during the ten years preceding the background study.
- 2 **Background study.** Relates to the appointment of a guardian or conservator, by requiring a background study every two years, instead of every five years, and requires criminal history data for a guardian or conservator who has not resided in the state for the previous ten years, instead of five years. This section also adds that the background study must include a search of the database of the agencies listed under section 524.5-118, subdivision 2a, to determine if the proposed guardian or conservator has ever held a professional license related to the responsibilities of a professional fiduciary.
- 3 **Procedure; state licensing agency data.** Provides the procedure related to the court requesting licensing agency data from the commissioner of Human Services, and lists the agencies and boards for which the commissioner must access for data on licenses. The commissioner is required to provide to the court the electronically available data maintained in the listed agencies' databases related to the proposed guardian or conservator.
- 4 **Judicial appointment of guardian.** Amends the statutes relating to the petition requesting the appointment of a guardian by adding that the petition must include whether the proposed guardian or employee exercising powers and duties:
 - has ever applied for or held a professional license from an agency under section 524.5-118, subdivision 2a, and information regarding the license;
 - has ever been found civilly liable for fraud, misrepresentation, misappropriation, theft, or conversion;
 - has ever filed for bankruptcy protection;
 - has any outstanding civil monetary judgments;
 - has ever had an order for protection or restraining order issued against the proposed guardian or conservator; or
 - has been convicted of a crime.
- 5 **Reports; monitoring of guardianship.** Modifies the sections of law regarding monitoring of guardianships. The new language requires the guardian to report to the court in writing within 30 days of the occurrence of any of the events listed under the new paragraph. If the guardian fails to comply, the court may decline to appoint the person as a guardian or remove the person as a guardian.
- 6 **Original petition; conservator.** Amends the statutes relating to the petition requesting the appointment of a conservator by adding that the petition must include whether the proposed conservator, or employee exercising powers and duties:

Section

- has ever applied for or held a professional license from an agency under section 524.5-118, subdivision 2a, and information regarding the license;
- has ever been found civilly liable for fraud, misrepresentation, misappropriation, theft, or conversion;
- has ever filed for bankruptcy protection;
- has any outstanding civil monetary judgments;
- has ever had an order for protection or restraining order issued against the proposed guardian or conservator; or
- has been convicted of a crime.

- 7 Reports; conservator.** Modifies the sections of law regarding monitoring conservators. The new language requires the conservator to report to the court in writing within 30 days of the occurrence of any of the events listed under the new paragraph. If the conservator fails to comply, the court may decline to appoint the person as a conservator or remove the person as a conservator.

Article 3: Criminal Justice**Overview**

Article 3 makes policy reforms related to corrections, public safety, the human rights department, and the courts.

- 1 Contracting with other states and federal government.** Permits the Department of Corrections to keep funds received from housing inmates from other jurisdictions.
- 2 Temporary detention.** Permits the Department of Corrections to keep funds received from housing inmates from other jurisdictions.
- 3 Conditional release; nonviolent drug offenders; treatment.** Authorizes the commissioner of corrections to grant conditional release to nonviolent controlled substance offenders if the offenders serve a minimum portion of their sentences and complete substance abuse treatment while incarcerated.
- 4 Prohibited expenditures.** Prevents the commissioner of public safety from spending funds from the driver and vehicle services account on matters that are not specifically authorized in the statute.
- 5 Grant allocation formula.** Increases, from one to five percent, the percentage of the appropriation that may be used by the Minnesota Youth Intervention Programs Association for providing training and technical assistance to grantees. Expands allowable expenditures to include program and professional development and tracking, analyzing, and reporting outcome data. Exempts the association from the match obligation.
- 6 Court technology fund.** Imposes a court technology fee of \$2 on court filings made under

Section

section 357.021, subdivision 2, clauses (1) to (13). (Examples of these filings include the initial civil filing fees, motion fees, issuance of a subpoena, docketing fees, and others.)

The court technology fee is deposited in a special revenue fund to be appropriated to the Supreme Court for distribution to the state courts and their justice partners for technology purposes. Authorizes the Judicial Council to establish a board consisting of members from the judicial branch, prosecutors, public defenders, and civil legal services to distribute the funds. Provides that applications may be accepted from the judicial branch, county and city attorneys' offices, the Board of Public Defense, civil legal services organizations, corrections agencies, and part-time public defender offices. Directs the Judicial Council to submit two reports to the legislature that provides an accounting and explanation of the distribution of funds.

Sunsets on June 30, 2018.

- 7** **Scope of application.** Requires businesses to be certified by the Department of Human Rights every four years rather than the current two year cycle.
- 8** **Filing fee; account; appropriation.** Increases the fee for the Department of Human Rights to certify a business under section 7 from \$75 to \$150. This amendment is revenue neutral because the certification process will occur every four years instead of every two years.
- 9** **Compensation; travel expenses; Court of Appeals judges.** Authorizes reimbursement of housing and mileage expenses for Court of Appeals judges whose permanent place of residence is more than 50 miles from chambers in St. Paul. Directs the Judicial Council to set the amount of housing expenses that may be reimbursed in an amount not less than \$1,000 per month. Also provides that mileage will be reimbursed at the current I.R.S. rate (for 2013, 56.5 cents/business mile).

Delays effective date to July 1, 2014. Sunsets June 30, 2019.

Background: There are 19 judges on the Court of Appeals. Eight seats are designated by congressional district and the remaining seats are at-large. A judge elected or appointed to a congressional district seat remains eligible for that seat without regard to a subsequent change of residence. Per statute, judges are paid expenses for travel to and from their place of residence for two years.

- 10** **Presumptive executed sentence for repeat sex offenders.** Creates a presumptive mandatory minimum sentence of three years for certain repeat sex offenders. A person who is convicted for criminal sexual conduct 1-4 or criminal sexual predatory conduct within 15 years of a prior sex offense conviction will receive the three-year sentence unless a longer mandatory minimum sentence applies. A court may stay execution of the sentence only if it finds the offender amenable to inpatient sex offender treatment and imposes local jail time and a requirement of completing inpatient treatment as conditions of the offender's probation.
- 11** **Civil Legal Services.** Strikes a 2011 appropriation rider to Civil Legal Services that requires them to only use state funds for civil matters in state courts.

Section

- 12 Judicial salary increase.** Increases the salary of judges of the Supreme Court, Court of Appeals, and District Court by three percent on July 1, 2013, and by three percent on July 1, 2014. Also increases and funds the pension fund contributions rates by judges by one percent, contingent on the passage of the pension bill.
- 13 Interagency agreement.** Requires the commissioner of corrections to execute an interagency agreement with the commissioner of human services to pay the medical assistance costs attributable to MA eligible inmates admitted to hospitals on an inpatient basis under both state and county jurisdictions.
- 14 Juvenile justice system report.** Directs a group of stakeholders to discuss the following issues and report back to the legislature by February 15, 2014: (1) statewide outcome goals for children in the juvenile justice system; (2) the continuum of services needed by children and their families; (3) identification and response strategies; (4) coordinated delivery of services within multiple systems; (5) suggested changes to law; and (6) implementation and financing plan.
- 15 Repealer.** Repeals the Department of Corrections' out-of-state offender special revenue account. This language is no longer needed because the department will receive payments of housing out-of-state offenders as a direct appropriation pursuant to sections 1 and 2.

Article 4: Data Integration Project**Overview**

Article 4 requires improved collection and reporting of information relevant to eligibility to possess and purchase firearms.

- 1 Fingerprints of inmates, parolees, and probationers from other states.** Directs the commissioner of corrections to transfer fingerprint records of offenders transferred to the custody of the commissioner from another state to the Bureau of Criminal Apprehension (BCA) or National Instant Criminal Background Check System (NICS) by electronic entry within 24 hours of receiving the fingerprints. If the BCA receives data under this section in nonelectronic format, the commissioner must convert that record into electronic format for entry into the searchable database within three business days of receiving the record.
- 2 Transmittal of data to National Instant Criminal Background Check System.** Directs a court to submit a mental health adjudication to NICS within three business days of issuing the ruling if it affects a mentally ill person's right to possess firearms.
- 3 Required fingerprinting.** Compels local law enforcement agencies to submit electronic fingerprint records to state searchable databases within 24 hours of taking the fingerprints.
- 4 Bureau duty.** Directs the BCA to convert paper records of fingerprints, thumbprints, and other identification data into electronic format within three business days of receiving the data.

Section

- 5 Identification data other than DNA.** Directs the BCA to enter alias data for persons listed in the BCA's offender database within three business days of the BCA becoming aware of the new identifying data.
- 6 Information on released prisoner.** Directs sheriffs and the commissioner of corrections to enter specified data about soon-to-be-released offenders into a bureau-managed offender database. This transfer must occur within 24 hours of the offender's release.
- 7 Report by court administrator.** Authorizes the superintendent of the BCA to require the court administrator to provide the BCA with the sentence for each felony, gross misdemeanor, and targeted misdemeanor case within 24 hours of disposition of the case.
- 8 Notice.** Requires courts to provide notice to a person of their mental health civil commitment firearms disqualification.
- 9 Provision of firearms background check information.** Adds a new subdivision to section 624.713 directing the courts to notify NICS whenever the court places a person (adult or juvenile), who is charged with committing a crime of violence, into a pretrial diversion program before disposition. The court must notify NICS of both the person's placement and the ordered expiration date of the program, and when the person completes the program the prosecuting attorney must notify NICS of that fact in a timely manner. Section 624.713 prohibits such a person from possessing firearms until successfully completing the pretrial diversion program.
- 10 Prior civil commitments and felony convictions.** Establishes a July 1, 2014 deadline for courts and criminal justice agencies to enter data on civil commitments from January 1, 1994, to September 28, 2010, and felony convictions from 2008 to 2012, if those records have not already been submitted to the appropriate searchable databases.
- 11 Criminal and juvenile justice information policy group.** Directs the criminal and juvenile justice information policy group to submit a report to the legislature recommending how to improve the search capabilities of BCA managed databases. The group shall also report on the progress of reducing the number of files in suspense. The group shall also consult with the Revisor on other statutory changes needed to implement this bill and the group's legislative recommendations.