

Chapter 5

2019 First Special Session

Subject Public Safety and Judiciary Omnibus Act

Analyst Jeff Diebel
Ben Johnson
Mary Mullen
Nathan Hopkins

Date June 5, 2019

Overview

This is the public safety and judiciary omnibus act.

Article 1: Appropriations

This article contains appropriations for the following: courts, civil legal services, Guardian ad Litem Board, Tax Court, Uniform Laws Commission, Board on Judicial Standards, Board of Public Defense, Human Rights Department, Sentencing Guidelines, Department of Public Safety, Peace Officers Standards and Training Board, Private Detective Board, Department of Corrections, Supreme Court, Department of Human Services, Department of Health, and Public Defense Board.

Section	Description – Article 1: Appropriations
1	<p>Appropriations. Summarizes direct appropriations by fund.</p>
2	<p>Supreme court.</p> <p>Subd. 1. Total appropriation. Appropriates a total of \$56,367,000 in FY20 and \$57,495,000 in FY21 to the supreme court.</p> <p>Subd. 2. Supreme court operations. Appropriates \$41,647,000 in FY20 and \$42,775,000 in FY21 for supreme court operations.</p> <p>(a) Contingent account. Specifies that \$5,000 each year is for a contingent account for which no other reimbursement is provided.</p> <p>(b) Judges' compensation. Judges' compensation is increased by 2.5 percent each year.</p> <p>(c) Cybersecurity program. \$750,000 each year is for a cybersecurity program.</p>

Section Description – Article 1: Appropriations

- Subd. 3. Civil legal services.** Appropriates \$14,720,000 each year to civil legal services to provide legal representation to low-income clients. \$1,017,000 each year is to improve access in family law matters.
- 3 **Court of appeals.**
Appropriates \$12,831,000 in FY20 and \$13,163,000 in FY21 for the court of appeals. Specifies that judges' compensation is increased by 2.5 percent each year.
- 4 **District courts.**
Appropriates \$309,002,000 in FY20 and \$317,202,000 in FY21 for trial courts.
- (a) Judges' compensation.** Judges' compensation is increased by 2.5 percent each year.
- (b) New trial judge.** \$456,000 in FY20 and \$423,000 in FY21 are for one new trial court judge unit in the Seventh Judicial District.
- (c) Mandated psychological services.** \$1,070,000 each year is for mandated court psychological services.
- (d) Treatment courts stability.** \$306,000 each year is for treatment courts stability.
- 5 **Guardian ad Litem Board.**
Appropriates \$21,386,000 in FY20 and \$22,000,000 in FY21 to the GAL Board. Provides that \$4,000,000 each year is for new positions to maintain compliance with federal and state mandates.
- 6 **Tax Court.**
Appropriates \$1,807,000 in FY20 and \$1,808,000 in FY21 to the Tax Court.
- 7 **Uniform Laws Commission.**
Appropriates \$98,000 each year to the Uniform Laws Commission.
- 8 **Board on Judicial Standards.**
Appropriates \$535,000 in FY20 and \$509,000 in FY21 to the Board on Judicial Standards. Provides that \$125,000 each year is for special investigative and hearing costs.
- 9 **Board of Public Defense.**
Appropriates \$96,374,000 in FY20 and \$101,178,000 in FY21 for the Board of Public Defense.

Section	Description – Article 1: Appropriations
	<p>(a) New positions. \$3,000,000 each year is for new attorneys and support staff.</p> <p>(b) Public defense corporations. \$82,000 in FY20 and \$166,000 in FY21 are for public defense corporations.</p>
10	<p>Human Rights. Appropriates \$4,911,000 in FY20 and \$5,131,000 in FY21 for the Department of Human Rights. Provides that \$134,000 in FY20 and \$157,000 in FY21 are for a civic engagement position.</p>
11	<p>Sentencing Guidelines. Appropriates \$679,000 in FY20 and \$687,000 in FY21 to the Sentencing Guidelines Commission. [H.F. 997]</p>
12	<p>Public safety.</p> <p>Subd. 1. Total appropriation. Appropriates \$199,198,000 in FY20, and \$198,864,000 in FY21.</p> <p>Subd. 2. Emergency management. Appropriates \$5,058,000 in FY20 and \$4,718,000 in FY21 to the emergency management division.</p> <p>(a) Hazmat and chemical assessment teams. Appropriates \$850,000 each year from the fire safety account to fund Hazmat and Chemical Assessment Teams. [H.F. 2711]</p> <p>(b) Supplemental nonprofit security grant program. Appropriates \$225,000 each year to a supplemental nonprofit security grant program. [H.F. 1850]</p> <p>(c) Rapidan Township. Appropriates \$340,000 in FY20 for costs incurred from flooding in Rapidan Township.</p> <p>(d) Bomb squad reimbursements. Appropriates \$50,000 each year to local governments for bomb squad services. [H.F. 2711]</p> <p>(e) School safety center. Appropriates \$250,000 each year to hire two additional school safety specialists.</p> <p>(f) Emergency response teams. Appropriates \$675,000 each year to maintain four emergency response teams [H.F. 595]</p> <p>Subd. 3. Criminal apprehension. Appropriates \$61,764,000 in FY20 and \$61,897,000 in FY21 to the BCA.</p> <p>(a) DWI analysis. Transfers funding for DWI lab analysis from the trunk highway fund to the general fund.</p>

Section **Description – Article 1: Appropriations**

(b) FBI cybersecurity compliance. Appropriates \$428,000 each year for staff and technology costs to meet FBI cybersecurity requirements. **[H.F. 2711]**

(c) Automated fingerprint ID system. Appropriates \$1,500,000 each year to replace the current fingerprint ID system.

(d) Drug agents and scientists. Appropriates \$650,000 each year for drug agents and forensic scientists.

(e) Base adjustment. Creates a small base adjustment in FY22 and FY23.

Subd. 4. Fire marshal. Appropriates \$6,622,000 each year to fund the state fire marshal. Of this amount, \$300,000 each year is to inspect nursing homes and boarding care facilities.

Subd. 5. Board of Firefighter Training. Appropriates \$5,015,000 each year to the Board of Firefighter Training. Directs \$4,265,000 each year for firefighter training and education, \$500,000 each year for Minnesota Task Force 1, and \$250,000 each year for the Minnesota Air Rescue Team. **[H.F. 2711]**

Subd. 6. Alcohol and gambling enforcement. Appropriates \$2,754,000 in FY20 and \$2,762,000 in FY21 to the alcohol and gambling enforcement division. \$694,000 from the alcohol enforcement account is transferred to the general fund.

Subd. 7. Office of Justice Programs (OJP). Appropriates \$40,147,000 in FY20 and \$40,082,000 in FY21 to OJP.

(a) Base adjustment. Creates a small base adjustment in FY22 and FY23.

(b) Administration costs. Permits OJP to use up to 2.5 percent of the funds to administer the grant program.

(c) Indigenous Women Task Force. Appropriates \$105,000 the first year and \$45,000 the second year to convene an Indigenous Women Task Force. **[H.F. 70]**

(d) Domestic abuse prevention grants. Appropriates \$200,000 each year to an entity that addresses domestic abuse in current and former military service members. **[H.F. 530]**

(e) Criminal sexual conduct statutory reform working group. Appropriates \$20,000 the first year and \$14,000 the second year to convene a criminal sexual conduct statutory reform working group. **[H.F. 418]**

Subd. 8. Emergency communications networks. Appropriates \$77,838,000 in FY20 and \$77,768,000 in FY21 from the 911 emergency telecommunications service fee account for emergency communications. Funds public safety answering points, medical resource communication centers, ARMER debt service,

Section Description – Article 1: Appropriations

- ARMER state backbone operating costs, and ARMER improvements. Appropriates \$188,000 in FY20 and \$118,000 in FY21 for grants to reimburse PSAPs for 911 operator CPR training. **[H.F. 1520]**
- 13 **Peace Officers Standards and Training Board.**
Appropriates \$400,000 in FY19, \$10,346,000 each year to the POST Board. \$400,000 is a deficiency appropriation to cover operating costs this FY. \$2,949,000 each year is for reimbursements to local governments for peace officer training costs. \$6,000,000 the first year is for peace officer training assistance. **[H.F. 2709]** \$100,000 each year is for de-escalation training. **[H.F. 2711]** \$100,000 each year is for a rules coordinator.
- 14 **Private Detective Board.**
Appropriates \$277,000 each year to the private detective board.
- 15 **Department of Corrections.**
Subd. 1. Total appropriation. Appropriates \$611,119,000 in FY20 year and 624,604,000 in FY21 to the Department of Corrections.
Subd. 2. Correctional institutions. Appropriates \$449,096,000 in FY20 and \$461,867,000 in FY21 to correctional institutions.
(a) Base adjustment. Creates a base funding adjustment.
(b) Facility staff positions. Appropriates funds to hire additional guards. **[H.F. 1315]**
(c) Staffing recruitment and retention. Appropriates \$1,337,000 in FY20 and \$1,338,000 in FY21 for staff recruitment and retention. **[H.F. 2711]**
(d) Offender healthcare. Appropriates funds to maintain full funding of inmate healthcare. **[H.F. 2711]**
(e) Office of Ombudsperson for Corrections. Appropriates \$654,000 in FY20 and \$655,000 in FY21 to re-establish the corrections ombudsperson.
(f) Electronic health records. Appropriates \$130,000 in FY20 and \$663,000 in FY21 for electronic health records.
Subd. 3. Community services. Appropriates \$132,959,000 in FY20 and \$133,738,000 in FY21 for community services. Provides funds for a base adjustment and juvenile justice reform.
Subd. 4. Operations support. Appropriates \$29,064,000 in FY20 and \$28,999,000 in FY21 for the department's operations support group.

Section	Description – Article 1: Appropriations
	<p>(a) Base adjustment. Makes a small base adjustment.</p> <p>(b) Critical technology needs. Appropriates \$366,000 the first year to support critical technology needs.</p>

Article 2: Courts and Public Safety

This article contains a variety of provisions related to the courts and public safety.

Section	Description – Article 2: Courts and Public Safety
1	<p>Description. Adds a trial court judge unit in the Seventh Judicial District.</p>
2	<p>Rideshare data. Expands current classifications to cover data collected by any government entity administering a rideshare program; adds a nonpublic data classification option; and classifies place of employment, a photograph, and biographical information as either private or nonpublic data. Under current law, only rideshare data collected by the Department of Transportation and the Metropolitan Council are classified as private. [H.F. 631]</p>
3	<p>Transit customer data. Makes current transit customer data classifications applicable to all government entities and adds a nonpublic data classification. [H.F. 631]</p>
4	<p>Reinstatement fee. Re-directs a transfer of license reinstatement fees to the peace officer training reimbursement fund to the general fund. This is needed to implement the transition of the POST Board funding to the general fund. [H.F. 2710]</p>
5	<p>Annual transfer. Transfers \$461,000 each year from the general fund to the community justice reinvestment account. [H.F. 2711]</p>
6	<p>Reduced cigarette ignition propensity account. Expands the uses of funds in this account. [H.F. 2711]</p>

Section	Description – Article 2: Courts and Public Safety
7	<p>Off-sale license.</p> <p>Clarifies that the commissioner of public safety shall approve microdistillery permits. [H.F. 2711]</p>
8	<p>Disbursement of surcharges by commissioner of management and budget.</p> <p>Transitions the funding of the Peace Officer Standards and Training (POST) Board to the general fund from a special revenue account that is funded with criminal surcharges and driver’s license reinstatement fees. [H.F. 2710]</p>
9	<p>Access to closed files.</p> <p>Provides that when a case is filed in district court, either party can access the records of the parties held by the Department of Human Rights if there was a previous closed case that went through the Department of Human Rights administrative process. Current law makes the information the Department of Human Rights has on a case private or nonpublic, except for the names and addresses of the parties, the allegation and statute the case was brought under, and the commissioner’s decision related to probable cause. [H.F. 2004]</p>
10	<p>911 telecommunicator.</p> <p>Creates a definition for “911 telecommunicator” that is consistent with the definition used by the National Emergency Number Association. [H.F. 1520]</p>
11	<p>911 services to be provided.</p> <p>Requires training and policies regarding telephone cardiopulmonary resuscitation (CPR).</p> <p>Subd. 1. Emergency response services. Maintains the current requirement for services through a 911 system.</p> <p>Subd. 2. Telephone cardiopulmonary resuscitation program. Requires public safety answering points to either train individuals taking 911 emergency calls in how to provide instruction for CPR or transfer such calls to another answering point that provides such training. Establishes minimum requirements for the training. Requires answering points to conduct ongoing quality assurance of its telephone CPR program.</p> <p>Subd. 3. Monitoring and enforcing training requirements. Directs the Statewide Emergency Communications Board to adopt and implement protocols to ensure compliance with the requirements in subdivision 2.</p> <p>Subd. 4. Liability exemption. Provides that, if a caller refuses or is otherwise unwilling or unable to provide CPR, the 911 telecommunicator is not required to provide CPR instruction and is immune from civil liability for damages resulting</p>

Section Description – Article 2: Courts and Public Safety

from the fact that instruction was not provided. States that telephone CPR is a public duty. Identifies discretionary acts.

[H.F. 1520]

12 Data classification.

Makes a conforming change, deleting a cross-reference to a provision being repealed.

[H.F. 631]

13 Definitions.

Amends the definition of “exonerated” in response to a Minnesota Supreme Court decision. In *Back v. State*, the court of appeals and supreme court found that section 590.11 includes an unconstitutional violation of the right to equal protection. The supreme court addressed the equal protection violation by severing subdivision 1, clause (1), item (i) from the remainder of the statute. As a result, a person whose conviction was vacated or reversed on grounds consistent with innocence is not currently eligible for compensation as an exonerated person. The amended definition indicates that “exonerated” means either:

- a court vacated or reversed a judgment of conviction on grounds consistent with innocence and either (1) there are no remaining felony charges in effect against the petitioner arising from the same behavioral incident or (2) if there are remaining felony charges arising from the same behavioral incident, the prosecutor dismissed those charges; or
- a court ordered a new trial on grounds consistent with innocence and either (1) the prosecutor dismissed all felony charges against the petitioner that arose from the same behavioral incident or (2) the petitioner was found not guilty of all felony charges that arose from the same behavioral incident.

Further amends the definition to apply only to situations where 60 days have passed since the court reversed or vacated the judgment of conviction and either (1) the prosecutor has not filed new felony charges arising out of the same behavioral incident or (2) any newly filed felony charges were dismissed or resulted in a not guilty verdict at trial.

Defines “on grounds consistent with innocence” as either exonerated through (1) a pardon based on factual innocence or (2) the vacation or reversal of a judgment of conviction based on evidence of factual innocence. **[H.F. 707]**

14 Procedure.

Eliminates a deadline for individuals exonerated before the law went into effect in 2014 which required those individuals to file a petition for compensation based on exoneration by July 1, 2016. Permits a person who did not meet both requirements of subdivision 1,

Section	Description – Article 2: Courts and Public Safety
	clause (1), item (i) before July 1, 2019, to file a petition for compensation based on exoneration at any time between July 1, 2019, and July 1, 2021. [H.F. 707]
15	Elements. Removes references to “in prison” and “imprisonment” and inserts the term “incarceration.” Expands the category of individuals permitted to file a petition for compensation despite serving a term of incarceration for another crime to include those sentenced to additional executed sentences that had been stayed, but were executed as a result of the conviction that is the basis of the petition. [H.F. 707]
16	Order. Replaces the term “imprisonment” with “incarceration.” Adds individuals who served a sentence on probation to the class of individuals eligible for compensation. [H.F. 707]
17	Definition Replaces the term “stalking” with “harass.” [H.F. 560]
18	Harassment crimes. Makes a conforming change to adopt the terms “harassment” and “harasses.” [H.F. 560]
19	Aggravated violations. Replaces the term “stalks” with “harasses.” [H.F. 560]
20	Stalking. Replaces the term “pattern of stalking conduct” with “stalking” and defines the crime of stalking consistent with the existing crime of “pattern of stalking conduct.” [H.F. 560]
21	Harassment; stalking; firearms. Makes conforming changes to the provision of section 609.749 relating to firearms to reference both the crimes of “harassment” and “stalking.” [H.F. 560]
22	Reimbursement; monetary damages; attorney fees. Replaces the term “imprisonment” with “incarceration.” [H.F. 707]
23	Limits on damages. Replaces the term “imprisonment” with “incarceration.” [H.F. 707]
24	Compensating exonerated persons; appropriations process. Removes the requirement that consideration of an appropriation for the amount of any award to an exonerated person takes place during the next legislative session. [H.F. 707]

Section	Description – Article 2: Courts and Public Safety
25	<p>Short title.</p> <p>Amends the title of provisions related to compensation based on exoneration from the “Imprisonment and Exoneration Remedies Act” to the “Incarceration and Exoneration Remedies Act.” [H.F. 707]</p>
26	<p>Crime of violence.</p> <p>Makes a conforming change in response to replacing the term “stalking” with “harassment.” [H.F. 560]</p>
27	<p>Evidence of conduct.</p> <p>Adds violation of a domestic abuse no contact order under section 629.75 to the definition of “domestic conduct.” In general, rules and case law governing the admissibility of evidence disfavor admitting evidence of a defendant’s prior conduct. Courts have expressed concern that a jury will be inclined to convict a defendant based on prior bad behavior, not on the evidence that the person committed the crime in question. For example, prior convictions are generally limited to use in questioning a defendant’s honesty and evidence of other bad acts, known as <i>Spiegel</i> evidence in Minnesota, can only be admitted for specific reasons identified in Rule 404(b) of the Minnesota Rules of Evidence. Minnesota statutes create an exception to this general rule by permitting admission of evidence that a defendant has committed prior acts that constitute “domestic conduct.” The term “domestic conduct” includes domestic abuse, violations of an order for protection, violations of a harassment restraining order, stalking, and making obscene or harassing phone calls. [H.F. 901]</p>
28	<p>Task force on missing and murdered indigenous women.</p> <p>Creates a task force to address violence against indigenous women and defines the standards and requirements for the task force.</p> <p>Subd. 1. Creation and duties. Creates a task force to examine and report on five specific subjects addressing the systemic causes behind violence against indigenous women, appropriate methods for tracking and collecting data, government policies and institutions that impact violence against indigenous women, and appropriate measures to address the violence and assist victims and their families.</p> <p>Subd. 2. Membership. Identifies individuals to serve on the task force including representatives from law enforcement, prosecutors, judges, defense attorneys, tribal government officials, nongovernment agencies, and indigenous women.</p> <p>Subd. 3. Officers; meetings. Directs the task force to elect a chair and vice-chair from its members and meet at least quarterly. Further directs the task force to enlist the cooperation of experts.</p> <p>Subd. 4. Report. Requires a report to the legislature by December 15, 2020.</p>

Section	Description – Article 2: Courts and Public Safety
	<p>Subd. 5. Expiration. States that the task force expires on December 31, 2020.</p> <p>[H.F. 70]</p>
29	<p>Revisor instruction. Directs the revisor to make conforming changes in statute to reflect the change in section 17. [H.F. 560]</p>
30	<p>Repealer. This is a technical change repealing a duplicative section. The same language appears at Minnesota Statutes, section 13.201 (see section 1, rideshare data). [H.F. 631]</p>

Article 3: Corrections

This article contains a variety of provisions related to corrections.

Section	Description – Article 3: Corrections
1	<p>Ombudsperson for corrections; data. Classifies data maintained by the ombudsperson for corrections [H.F. 1339]</p>
2	<p>Ombudsperson for corrections. Contains a cross-reference to the re-established Ombudsperson for Corrections under sections 3 to 9. [H.F. 1399]</p>
3 to 9	<p>Office of the Ombudsperson for Corrections. Re-establishes the Ombudsperson for Corrections which the legislature eliminated in 2003. The ombudsperson is tasked with promoting “the highest standards of competence, efficiency, and justice in the administration of corrections.” The ombudsperson is empowered with the authority to investigate decisions, acts, and other matters of the Department of Corrections. The act delineates the specific powers granted to the ombudsperson, including subpoena power, the right to access agency data and information, and the authority to file suit to invoke its powers. Further, the act defines the scope of appropriate investigations and authorizes the ombudsperson to investigate complaints from jails and detention facilities.</p> <p>These sections also provide guidance on ombudsperson qualifications, employee selection, access to data, complaint form and handling, publication of ombudsperson recommendations, and annual reports. [H.F. 1399]</p>

Section	Description – Article 3: Corrections
10	<p>Administrative and disciplinary segregation.</p> <p>Subd. 1. Authorization. Establishes the grounds that the Commissioner of Corrections can rely upon to place an inmate in segregation.</p> <p>Subd. 2. Conditions in segregated housing. Establishes the minimum conditions that the commissioner must offer inmates in segregated housing.</p> <p>Subd. 3. Review of disciplinary segregation status. Establishes mandatory review periods for inmates in segregated housing.</p> <p>Subd. 4. Graduated disciplinary sanctions. Requires the commissioner to design and implement a graduated scale of responses to infractions.</p> <p>Subd. 5. Mental health assessments; transfer to treatment. Requires inmates placed in segregation to be assessed for mental illness. If an inmate is diagnosed with an acute mental illness, the inmate should be placed in an alternative setting.</p> <p>Subd. 6. Mental health care within segregated housing. Requires regular mental health checks of inmates in segregation.</p> <p>Subd. 7. Incentives for return to the general population. Requires the commissioner to design and implement a system of incentives for inmates to return to the general population.</p> <p>Subd. 8. Discharge from segregated housing. Prohibits the commissioner from releasing an inmate directly to the community from segregated housing. Requires a mental health exam before an inmate who served more than 30 days in segregation returns to the general population.</p> <p>Subd. 9. Reporting. Requires the commissioner to prepare an annual report to the legislature detailing the commissioner’s use of segregated housing.</p> <p>[H.F. 493]</p>
11	<p>Same sex escort for inmates being transferred.</p> <p>Establishes an exclusion to the requirement that inmates transferred more than 100 miles receive a custodial escort of the same sex as the transferee when the vehicle used for the transfer is equipped with video and audio recording equipment that actively records the portion of the vehicle where the transferee is held for the duration of the transfer. Requires the recording to be stored for at least 12 months after the date of transfer.</p> <p>[H.F. 1020]</p>

Article 4: Sex Offenders

This article amends provisions related to sex offenders.

Section	Description – Article 4: Sex Offenders
1	<p>Limits of sentences.</p> <p>Requires a sentencing judge to justify in writing a stay of adjudication for felony criminal sexual conduct offenses. [H.F. 341]</p>
2	<p>Current or recent position of authority.</p> <p>Broadens the definition of “position of authority” in the criminal sexual conduct statutes. Currently, felony penalties apply to an adult who sexually penetrates or contacts a 16 or 17 year old juvenile when the adult is in a position of authority over the juvenile. This section:</p> <ul style="list-style-type: none">▪ Extends the definition so that an adult who was recently (i.e., within the past 120 days) in a position of authority over a 16 or 17 year old is also subject to criminal penalties for having a sexual relationship with the juvenile. [H.F. 812/H.F. 480]▪ Extends the definition of position of authority to cases where an adult “assumed” authority over a victim. Currently, the provision only applies when the adult is “charged” with providing some parental obligation to the juvenile. [H.F. 812/H.F. 480]
3	<p>Sexual contact.</p> <p>Updates a reference to “position of authority” to reflect changes made to the definition of the term in section 2. [H.F. 812]</p>
4	<p>Sexual penetration.</p> <p>Updates a reference to “position of authority” to reflect changes made to the definition of the term in section 2. [H.F. 812]</p>
5	<p>Crime defined.</p> <p>Updates a reference to “position of authority” to reflect changes made to the definition of the term in section 2. Clarifies that certain first degree criminal sexual conduct convictions for “sexual contact with a person under 13 years of age” do not require proof of sexual penetration. [H.F. 812/H.F. 480 and HF 1014]</p>
6	<p>Crime defined.</p> <p>Updates a reference to “position of authority” to reflect changes made to the definition of the term in section 2. [H.F. 812/H.F. 480]</p>
7	<p>Crime defined.</p> <p>Contains two changes to the offense of 3rd degree criminal sexual conduct:</p>

Section	Description – Article 4: Sex Offenders
8	<ul style="list-style-type: none">▪ Updates a reference to “position of authority” to reflect changes made to the definition of the term in section 2. [H.F. 812/H.F. 480]▪ Creates a new criminal sexual conduct offense specific to peace officers. Prohibits a peace officer from sexually penetrating a person who is restrained by the peace officer or otherwise does not reasonably feel free to leave the officer’s presence. A peace officer would not be entitled to assert victim consent as a defense. Provides an exception for lawful searches. [H.F. 1055] <p>Crime defined. Contains two changes to the offense of 4th degree criminal sexual conduct:</p> <ul style="list-style-type: none">▪ Updates a reference to “position of authority” to reflect changes made to the definition of the term in section 2. [H.F. 812/H.F. 480]▪ Creates a new criminal sexual conduct offense specific to peace officers. Prohibits a peace officer from sexually contacting a person who is restrained by the peace officer or otherwise does not reasonably feel free to leave the officer’s presence. A peace officer would not be entitled to assert victim consent as a defense. [H.F. 1055]
9	<p>Crime defined. Eliminates the exclusion to fifth degree criminal sexual conduct—a first-time violation of which is a gross misdemeanor—for intentionally touching the clothing covering the immediate area of the buttocks. [H.F. 74]</p>
10	<p>Law enforcement reports of sexual assault. Allows a victim of sexual assault to initiate a law enforcement investigation by contacting any law enforcement agency, regardless of where the crime may have occurred. The agency must prepare a summary of the allegation and provide the person with a copy of it. The agency must then begin an investigation or refer the matter along with the summary of the allegation to the agency that has jurisdiction.</p>
11	<p>Surreptitious intrusion; observation device. Creates a new enhanced felony penalty (statutory maximum sentence of up to four years imprisonment and/or \$5,000 fine) for a violation of section 609.746, subdivision 1 (surreptitious intrusion), if the offense involved use of a recording device, the victim was a minor, the offender was more than 36 months older than the victim, the offender knew or had reason to know of the minor’s presence, and the offense was committed with sexual intent. A person convicted under this provision must also register as a predatory offender. (See Article 5 summary.) [H.F. 341]</p>

Section	Description – Article 4: Sex Offenders
12	Use of minor. Increases the statutory maximum penalty for using a minor in a sexual performance or pornographic work if the victim is under the age of 13 or the offender is a repeat offender or is registered as a predatory offender. [H.F. 341]
13	Operation or ownership of business. Increases the statutory maximum penalty for a business owner who shows a pornographic work involving a minor if the victim is under the age of 13 or the offender is a repeat offender or is registered as a predatory offender. [H.F. 341]
14	Dissemination. Increases the statutory maximum penalty for dissemination of child pornography for a profit to 15 years if the victim is under the age of 13 or the offender is a repeat offender or is registered as a predatory offender. [H.F. 341]
15	Conditional release term. Increases the conditional release term for offenders convicted of child pornography for profit from ten years to 15 years for repeat offenders. [H.F. 341]
16	Dissemination prohibited. Increases the statutory maximum sentence for dissemination of child pornography to 15 years for offenses that have a victim under the age of 13. [H.F. 341]
17	Possession prohibited. Increases the statutory maximum sentence for possession of child pornography to ten years for offenses that have a victim under the age of 13. [H.F. 341]
18	Conditional release term. Increases the conditional release term for offenders convicted of child pornography from ten years to 15 years for repeat offenders. [H.F. 341]
19	Definitions. Updates a reference to “position of authority” to reflect changes made in section 2.
20	Investigating sexual assault cases; policies required. Directs each law enforcement agency in the state to adopt a sexual assault investigation policy by October 1, 2019. [H.F. 327]
21	Criminal Sexual Conduct Statutory Reform Working Group; report. Directs the commissioner of public safety to convene a working group to develop recommendations to the legislature for statutory changes to the state’s criminal sexual

Section	Description – Article 4: Sex Offenders
	conduct laws. The working group must make its recommendations by January 15, 2021. [H.F. 418]
22	Sentencing Guidelines modification. Directs the Sentencing Guidelines Commission to comprehensively review the issue and consider modifications of the sex offender grid for the offenses of manufacturing, disseminating, and possessing child pornography. [H.F. 341]

Article 5: Predatory Offenders

This article addresses policies impacting predatory offenders.

Section	Description – Article 5: Predatory Offenders
1	Filing photograph or image. Authorizes the use of an offender’s driver’s license photograph to locate a non-compliant predatory offender. [H.F. 1955]
2	Definitions. Defines “corrections agent” and re-defines “law enforcement authority” for purposes of the predatory offender registration statute. [H.F. 1955]
3	Registration required. Provides that a person who commits a registerable offense in another state must register in Minnesota if the person spends more than 30 days aggregate in Minnesota during a calendar year. Makes a technical change. Requires registration for surreptitious intrusion. [H.F. 1955/H.F.341]
4	Notice. Provides the correct name for a court form and directs that local law enforcement with jurisdiction over an offender to provide notice of the registration requirements to the offender, if the offender does not have an assigned corrections agent. [H.F. 1955]
5	Contents of registration. Provides the following: <ul style="list-style-type: none">▪ requires collection of a DNA sample as part of registration. Establishes the protocol on how existing registrants who do not already have a DNA sample on file will comply with the new DNA requirement;

Section	Description – Article 5: Predatory Offenders
	<ul style="list-style-type: none">▪ requires registrants to provide fingerprints to the probation agency or law enforcement authority within one year of the effective date of the legislation; and▪ modifies the Bureau of Criminal Apprehension’s (BCA) duty to investigate non-compliant predatory offenders discharged from commitment as a sexually dangerous person or a sexually psychopathic personality and subject to community notification. [H.F. 1955]
6	<p>Information required to be provided.</p> <p>Expands the items that offenders must report to include expiration date of license plate tabs and telephone numbers (home, work, school, cell). [H.F. 1955]</p>
7	<p>Health care facility; notice of status.</p> <p>Expands the definition of “health care facility” in the predatory offender registration statute to include licensed home care providers. By expanding the definition, the law will require that predatory offender notice be provided to licensed home care providers in the same manner that the other entities listed in the definition of health care facility receive notice. [H.F. 1209]</p>
8	<p>Notices in writing; signed.</p> <p>Defines signature to include both electronic and biometric means established by the BCA. [H.F. 1955]</p>
9	<p>Criminal penalty.</p> <p>Modifies the criminal penalty section of the predatory offender statute. This change is in response to <i>State v. Mikulak</i>, a Minnesota Supreme Court decision which overturned a conviction for failing to register as a predatory offender because the defendant claimed he did not know about the specific registration requirement that he was convicted of violating. [H.F. 1955]</p>
10	<p>Use of data.</p> <p>Ensures that corrections agents share predatory offender data with child protection services as required under section 244.057. (See also section 12.) [H.F. 1955]</p>
11	<p>Law enforcement agency; disclosure information to public.</p> <p>Amends the community notification law to require law enforcement agencies to notify the entities and individuals who were initially provided notification when an offender for whom notification was initially made no longer resides, is employed, or is regularly found in their area of jurisdiction. Notification is to be made according to the current guidelines for each assigned risk level. [S.F. 111]</p>

Section	Description – Article 5: Predatory Offenders
---------	--

- | | |
|----|---|
| 12 | Database of registered predatory offenders.
Ensures that corrections agents share predatory offender data with child protection services as required under section 244.057. [H.F. 1955] |
|----|---|

Article 6: Vehicle Operations

This article addresses DWI and vehicle operations related policy.

Section	Description – Article 6: Vehicle Operations
---------	---

- | | |
|---|---|
| 1 | Acts prohibited.
Directs that a person’s snowmobile and ATV operating privileges must be revoked when a person fails a lawfully administered test to determine if the person was operating under the influence. [H.F. 1263] |
| 2 | Acts prohibited.
Directs that a person’s motorboat operating privileges must be revoked when a person fails a lawfully administered test to determine if the person was operating under the influence. [H.F. 1263] |
| 3 | Degree described.
Expands the list of prior convictions that enhance an offense to first-degree driving while impaired by including convictions for a felony in another state for criminal vehicular homicide and injury committed while under the influence of a substance when the other state’s statute is in conformity with Minnesota law. Under current law, a person who drives while under the influence commits a first-degree offense if the person: <ul style="list-style-type: none">▪ commits the violation within ten years of the first of three or more qualified prior impaired driving incidents;▪ has previously been convicted of a first-degree driving while impaired offense; or▪ has previously been convicted of a felony under Minnesota statutes addressing criminal vehicular homicide and injury committed while under the influence of a substance.
A qualified prior impaired driving incident can take place under Minnesota law or under the law of another state that is in conformity with Minnesota law. [H.F. 1589] |
| 4 | Exception.
Exempts a motor vehicle from forfeiture for driving under the influence if the driver enters the ignition interlock program. [H.F. 628] |

Section Description – Article 6: Vehicle Operations

5 License reinstatement diversion program.

Permits a city or county to establish a license reinstatement diversion program for certain drivers.

Subd. 1. Establishment. Permits a city or county to establish a license reinstatement diversion program for individuals charged with driving after suspension or driving after revocation and defines which offenses are eligible offenses. All driving after suspension offenses are eligible for diversion programs. Driving after revocation offenses are only eligible if a defendant's license was revoked for a violation of (1) failing to provide proof of insurance, (2) failing to carry insurance, (3) test refusal, (4) DWI, or (5) repeat driving offenses. An individual who holds a commercial driver's license, or committed an offense in a commercial motor vehicle, is not eligible for the program. A person cannot obtain a license during the underlying suspension or revocation period.

Subd. 2. Diversion of an individual. Allows prosecutors to determine whether to accept an individual into the program and provides guidance for making that determination. Prosecutors may request a review without a formal city or county diversion program being established. A judge may also submit a request for an individual to apply for entry into a diversion program.

Subd. 3. Diversion driver's license. Permits the Department of Public Safety (DPS) to issue a diversion driver's license to a program participant who pays the applicable reinstatement fee. Allows DPS to place additional restrictions, including participation in the ignition interlock program, on program participants. Describes how payments made by program participants must be distributed. Prohibits an additional revocation of a program participant's license based purely on making payments.

Subd. 4. Program components. Requires diversion program participants to (1) attend educational classes, (2) participate in a payment program, (3) comply with all traffic laws, and (4) maintain motor vehicle insurance. Establishes discounts on the program fee for individuals with citations of \$500 or less.

Subd. 5. Termination of participation; reinstatement of driver's license. Terminates participation in a program for individuals who violate the terms of the program. Termination for a violation results in cancellation of the diversion driver's license and permits prosecutors to reinstate the original charge of driving after suspension or revocation. If an individual successfully completes the program, the participant's driver's license must be reinstated and the original charge must be dismissed.

Subd. 6. Fees held on termination of participant. Fees paid by an individual who leaves the program before completion must be retained for 12 months and, if the individual returns to the program, must be applied to the later participation. After 12 months, the fees are forfeited.

Section	Description – Article 6: Vehicle Operations
---------	---

Subd. 7. Biennial report. Requires a biennial report from the third-party administrator. Permits any city or county to request an audit of the administrator at the expense of the city or county.

Effective date. Makes the new law effective July 1, 2019, and permits a city or county participating in the pilot program to continue to accept individuals until June 30, 2019, and to disperse fees under current law until that time. [H.F. 898]

6	Sunset; transition.
---	----------------------------

Establishes that the diversion pilot program ends when the permanent program becomes effective. Permits individuals enrolled in the pilot program to transfer to the permanent program. [H.F. 898]

Article 7: Firefighters

This article addresses policies related to firefighters.

Section	Description – Article 7: Firefighters
---------	---------------------------------------

1	Fire department.
---	-------------------------

Amends the definition of “fire department” to exclude industrial fire brigades that do not have a fire department identification number issued by the state fire marshal. Currently, all industrial fire brigades are excluded from the definition. [H.F. 2395]

2	Firefighter.
---	---------------------

Replaces the word “career” with “full-time” in the definition of “firefighter.” [H.F. 2395]

3	Membership.
---	--------------------

Makes a conforming change. [H.F. 2395]

4	Terms; chair; compensation.
---	------------------------------------

Extends the term of board members from one year to two years. [H.F. 2395]

5	Powers and duties.
---	---------------------------

Adds maintaining a list of qualified instructors to the required duties of the Board of Firefighter Training and Education. Permits the board to accept funding from the fire safety account and reimburse fire departments for training, set guidelines regarding how allocated reimbursement funds must be distributed, and set standards governing the use of reimbursement funds. [H.F. 2395]

Section	Description – Article 7: Firefighters
6	<p>Fire department.</p> <p>Amends the definition of “fire department” consistent with the change in section 1 of the act. [H.F. 2395]</p>
7	<p>Full-time firefighter.</p> <p>Amends the definition of “full-time firefighter” to provide a statutory reference for the definition of “fire company.” [H.F. 2395]</p>
8	<p>Licensed firefighter.</p> <p>Amends the definition of “licensed firefighter” to specifically include a state employee. [H.F. 2395]</p>
9	<p>NFPA 1001 standard.</p> <p>Creates a new definition “NFPA 1001 standard” by referencing standards created by the National Fire Protection Association. [H.F. 2395]</p>
10	<p>Firefighter examination.</p> <p>Replaces the existing requirements for firefighter certification with the requirement that applicants demonstrate competency that meets the NFPA1001 standard or a national standard. Makes additional conforming changes. [H.F. 2395]</p>
11	<p>Licensure requirement.</p> <p>Establishes two additional requirements for a firefighter to be eligible for permanent employment: (1) the firefighter must successfully complete a firefighter examination; and (2) the chief firefighting officer or a designee must provide employment verification. [H.F. 2395]</p>
12	<p>Optional licensing.</p> <p>Provides that a volunteer firefighter may receive a license if that person is affiliated with a department under the same terms as a full-time firefighter. [H.F. 2395]</p>
13	<p>Obtaining a fire license.</p> <p>Requires that a firefighter be affiliated with a fire department to obtain a license and states that the firefighter must also meet the requirements of section 299N.04, 299N.05, or 299N.06. [H.F. 2395]</p>
14	<p>License renewal; expiration and reinstatement.</p> <p>Requires that a firefighter’s license must be renewed if the application is completed and the firefighter or chief attest that the firefighter met the required hours of training; provide proof of training upon request; verify that the person is actively serving on a department; and attests that the person has not been convicted of a felony, arson-related</p>

Section **Description – Article 7: Firefighters**

charge, or another offense arising from the same set of circumstances. States that the renewal fee is \$75 and lasts for three years. **[H.F. 2395]**

15 **Duties of chief firefighting officer.**

Requires chief firefighting officers to verify whether individuals applying, reinstating, or renewing a license are affiliated with a Minnesota fire department. **[H.F. 2395]**

16 **Fees; appropriation.**

Provides that fees collected under section 299N.05 must be credited to an account used to pay costs incurred under sections 299N.04, 299N.05, and 299N.06. **[H.F. 2395]**

17 **Eligibility for reciprocity and examination based on relevant military experience.**

Creates a new right to apply for licensure for an applicant who becomes an active member of a fire department, has the appropriate certified accreditation by the International Fire Service Accreditation Congress or Pro Board, and has met the requirements in section 299N.04, contained in section 7 of the act. Makes conforming changes to the existing provision relating to military experience. **[H.F. 2395]**



**MN HOUSE
RESEARCH**

Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.

www.house.mn/hrd | 651-296-6753 | 600 State Office Building | St. Paul, MN 55155