

# HOUSE RESEARCH

## Bill Summary

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**Authors:** Smith

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**Analyst:** Joe Cox and Jeffrey Diebel

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## Article 1: Appropriations

### Overview

Article 1 contains appropriations for the following state government entities: supreme court, court of appeals, district courts, board on judicial standards, tax court, public safety, crime victim services center, board of private detective and protective agent services, peace officer standards and training board, board of public defense, corrections, sentencing guidelines commission, human rights, uniform laws commission, and human services.

1. 1 Criminal justice appropriations. Specifies general fund and other fund appropriations for FY 2003 (deficiency), FY 2004 and FY 2005.
2. 2 Supreme court. Specifies FY 2004 and FY 2005 appropriations for the supreme court. Contains the following riders:
  - ▶ specifies an amount for civil legal services for low income clients in family law matters;
  - ▶ reduces base funding for civil legal services; and
  - ▶ permits the supreme court administrator to appropriate funds to court reporters to fund periodic computer software and equipment upgrades.
3. 3 Court of appeals. Specifies FY 2004 and FY 2005 appropriations for the court of appeals.
4. 4 District courts. Specifies FY 2004 and FY 2005 appropriations for the district courts.
5. 5 Tax court. Specifies FY 2004 and FY 2005 appropriations for the tax court.
6. 6 Uniform laws commission. Specifies FY 2004 and FY 2005 appropriations for the uniform laws commission.
7. 7 Board on judicial standards. Specifies FY 2004 and FY 2005 appropriations for the board on judicial standards.
8. 8 Board of public defense. Specifies FY 2004 and FY 2005 appropriations for the board of public defense.
9. 9 Public safety.

Subd. 1. Total appropriation. Provides that the amounts that may be spent for each program are specified in the subdivisions below.

Subd. 2. Emergency management. Contains the following riders:

- ▶ requires chemical assessment equipment assigned to the Duluth area to remain in the Duluth area; and
- ▶ permits nonprofit and faith-based organizations to apply for and receive grants for anti-terrorism efforts.

Subd. 3. Criminal apprehension. Contains the following riders:

- ▶ specifies an amount from the special revenue fund for grants to local officials for the cooperative investigation of cross-jurisdictional criminal activity;
- ▶ specifies an amount from the special revenue fund for laboratory activities;

- ▶ specifies an amount from the trunk highway fund for DWI laboratory analysis; and
- ▶ directs the commissioner to establish a plan for using the base funds appropriated for CrimNet to further completion of the CrimNet program.

Subd. 4. Fire marshal. No riders.

Subd. 5. Alcohol and gambling enforcement. No riders.

Subd. 6. Crime victims services center. No riders.

Subd. 7. Law enforcement and community grants. Contains the following riders:

- ▶ specifies base funding in FY 2006 and FY 2007;
- ▶ specifies an amount for meth lab containment teams;
- ▶ transfers the balance of funds in the juvenile assessment account in the special revenue fund to the general fund; and
- ▶ specifies that up to 2.5 percent of grant funds appropriated in this subdivision may be used to administer the grant programs.

10. 10 Peace officers standards and training board. Specifies FY 2004 and FY 2005 appropriations for the POST board. Contains the following rider:

- ▶ specifies that receipts credited to the peace officer training account in the special revenue account in excess of the amounts appropriated are transferred and credited to the general fund.

11. 11 Private detectives board. Specifies FY 2004 and FY 2005 appropriations for the private detectives board.

12. 12 Human rights. Specifies FY 2004 and FY 2005 appropriations for the department of human rights.

13. 13 Corrections.

Subd. 1. Total appropriation. Specifies FY 2004 and FY 2005 appropriations for the department of corrections and provides that the amounts that may be spent for each program are specified in the subdivisions below. Contains the following rider:

- ▶ directs the commissioner to determine the feasibility of double-bunking inmates at county and regional jails.

Subd. 2. Correctional institutions. Contains the following rider:

- ▶ provides that if the commissioner contracts with other jurisdictions to rent beds in the Rush city prison, the commissioner must charge a per diem that is equal to or greater than the per diem cost of housing Minnesota inmates in the facility, calculated on the assumption that the facility is at or near capacity. Permits the commissioner to use per diem monies, up to \$300,000, to fund pre-design of the construction and bed upgrade at the Faribault facility. The remaining funds may be used to operate the state correctional system. Requires the commissioner to issue a request for information from vendors on renovating the Faribault facility. Requires the commissioner to report to the legislature on the information obtained pursuant to the request for information.

Subd. 3. Juvenile services. No riders.

Subd. 4. Community services. Contains the following riders:

- ▶ specifies an amount for an increase in probation services provided to Mille Lacs county;
- ▶ specifies an amount for an increase in probation services provided to Beltrami county; and
- ▶ specifies an amount for grants to counties to offset the cost of housing short-term offenders, as provided for in article 5.

Subd. 5. Operations support. No riders.

14. 14 Sentencing guidelines. Specifies FY 2004 and FY 2005 appropriations for the sentencing guidelines commission. Contains a rider that directs the commission to report to the legislature on a variety of drug sentencing issues.
15. 15 Department of human services. Specifies FY 2004 appropriations for the department of human services.
16. 16 Deficiency appropriation. Specifies an amount of a FY 2003 deficiency appropriation to cover the costs of a public hearing to be conducted by the board on judicial standards.
17. 17 Sunset of uncodified language. Sunsets uncodified language in article 1 on June 30, 2005.
18. 18 Effective date. July 1, 2003.

## **Article 2: Court Policy**

### Overview

Permits the governor and chief justice to hire outside counsel without the attorney general's authorization. Increases certain court fees. Amends the law that requires bonds from judgment debtors who appeal the judgment. Amends various laws to conserve court resources.

1. 1 Attorney for state officers, boards, or commissions; employ counsel. Permits the governor and chief justice of the supreme court to authorize employment of outside counsel, as an alternative to representation by the attorney general, in matters that the governor or chief justice deem necessary for the proper conduct of the state's legal business. Currently, the attorney general has exclusive authority to authorize retention of outside counsel. The attorney general's power in this regard is mandatory if the governor or chief justice files a certified document with the secretary of state declaring the need for outside counsel.
2. 2 Criminal sentencing transcripts. Grants discretion to the court to order creation of a paper transcript of sentencing proceedings in criminal cases. Currently a paper transcript is required in each case where the defendant is convicted of a felony or gross misdemeanor.
3. 3 Court fee amounts. Increases the civil filing fee for all parties from \$135 to \$250. Increases the fee for issuing a subpoena from \$3 to \$6. Increases the fee for issuing an execution and filing, or other order of the court, from \$10 to \$20. Increases the fee for issuing a transcript of a judgment or for filing and docketing such a transcript from another court from \$7.50 to \$15. Increases the fee for filing trusteeship accounts from \$10 to \$20. Increases the fee for deposit of a will with the court from \$5 to \$10. Increases the fee for recording a notary commission from \$25 to \$50. Establishes a new fee of \$25 for filing a motion or response to a motion in civil, family (excluding child support cases), and guardianship cases.

4. 4 Conciliation court fee. Establishes a flat \$50 filing fee for conciliation court actions.
5. 5 Appellate filing fee. Increases the fee for filing an appeal from \$250 to \$500.
- 6 Human rights department; fee for certificate of compliance. Establishes a \$75 fee for the issuance of a certificate of compliance relating to equal employment opportunity practices. The certificate is needed by private companies in order to bid on certain state contracts.
- 7 Decision by the court.
  - Subd. 1. Written decisions required. Removes the requirement that judicial decisions be filed with the court administrator within 90 days of submission. Allows the chief justice to establish when filing of judgments must be done.
  - Subd. 2. Board of judicial standards review. Makes a technical amendment and a conforming amendment.
- 8 Stay of execution on money judgment. Amends the statute that currently allows up to a six-month stay on the execution of a judgment for money in a civil action. Allows the stay to last throughout all appeals, subject to the following. Puts a maximum of \$25 million on the possible amount of appeal bond that may be required of a defendant by the court; except if a judgment creditor can prove the judgment debtor is dissipating assets outside the ordinary course of business in order to avoid paying the judgment that court may (1) enter necessary orders to protect the judgment creditor, and (2) require an appeal bond equal to the total amount of the judgment.

This section is effective the day following enactment and applies to cases pending on or filed after that date.
- 9 Uniform fine schedule. Requires the uniform fine schedule to be promulgated no later than September 1 of each year. Makes the schedule effective January 1 of each year. The statute currently requires the schedule to be promulgated by January 1 with an August 1 effective date.
6. 10 Presentence investigations. Provides that presentence investigations in felony cases, just as in misdemeanor and gross misdemeanor cases, may be ordered at the discretion of the judge. They are currently mandatory in felony cases.
7. 11 Repealer. Repeals a law that requires judges, county attorneys, and the state court administrator to issue reports regarding interceptions of communications by law enforcement.

## Article 3: Public Defense

### Overview

Denies public defender appellate representation to defendants who file a guilty plea and whose appeal the public defender determines to be non-meritorious. Specifies that a government unit bringing certain appeals is not required to pay the attorney's fees and costs of the defendant if the defendant is represented by private counsel. Specifies standards for public defender financial eligibility and requires the court to undertake a financial eligibility inquiry of the defendant prior to appointing a public defender. Increases the client co-payment for public defender services. Permits recapture of public defender co-payments through the Revenue Recapture Act (RRA). Prohibits courts from appointing the public defender as advisory counsel. Clarifies that public defenders are not obligated to pay a fee for Internet access to the criminal justice data communication network. Establishes a July 1, 2003, effective date for article 3.

1. 1 Debt. Adds the co-payment for the appointment of a district public defender to the definition of "debt" under the Revenue Recapture Act. This change permits the government to use the RRA to recapture the co-payment if the defendant does not voluntarily transfer funds in a timely manner to the court administrator.
- 2 Appeal; responsibility. Pursuant to the current Minnesota Rules of Criminal Procedure, the Minnesota Supreme Court has adopted rules requiring a governmental unit to pay the attorney's fees and costs incurred by the defendant on the unit's appeal in the following cases:
  - ▶ from a pretrial order of the trial court,
  - ▶ from an order granting postconviction relief, and
  - ▶ from a judgment of acquittal by the trial court entered after the jury returns a verdict of guilty under certain provisions of the Minnesota Rules of Criminal Procedure.

This section states that, notwithstanding the relevant Minnesota Rule of Criminal Procedure, the governmental unit is not required to pay attorney's fees and costs in these cases in an appeal from any sentence imposed or stayed by the trial court in a felony case. Current law does not require the governmental unit to pay a defendant's fees and costs in this type of sentencing appeal. If the defendant is represented by the public defender, this provision does not apply. Also, the court may order the governmental unit to pay a specific defendant's costs of appeal.

- 3 Indigent petitioners. Denies public defender appellate representation to defendants who file a guilty plea and whose appeal the public defender determines to be non-meritorious.
- 4 Right to representation by public defender. Denies public defender appellate representation to defendants who file a guilty plea and whose appeal the public defender determines to be non-meritorious.
- 5 Public defender; financial inquiry; co-pay.

Subd. 1. Standards for district public defense eligibility. Specifies two grounds for receiving the assistance of the public defender: (1) the defendant or a dependant of the

defendant receives means-tested governmental benefits, or (2) the defendant does not have enough liquid assets and income to afford private counsel. Directs the court to undertake a financial eligibility inquiry prior to appointing a public defender, when at all possible. Lists the assets and transactions of the defendant that the court should examine in its financial inquiry. The list includes liquid real estate assets, including the defendant's home, the liquidity of other assets, fraudulent asset transfers, and the value of all asset transfers that occur after the date of the alleged offense.

Requires conspicuous notice to persons seeking public defenders that public defender clients are responsible for co-payments. Increases the co-payment from a flat fee of \$28 to: \$200 for felonies; \$100 for gross misdemeanors; and \$50 for misdemeanors. In juvenile matters, the parents must pay \$100 if their child receives a public defender. If the parent of a child subject to a juvenile proceeding receives a public defender, the parent must pay \$200. Permits collection of the co-payment to be made through the Revenue Recapture Act.

- 6 Appointment of public defender. Conforming cross-reference to reflect changes made in sections 3 and 7.
- 7 Representation. Denies public defender appellate representation to defendants who file a guilty plea and whose appeal the public defender determines to be non-meritorious.
- 8 Persons defended. Prohibits courts from appointing the public defender as advisory counsel.
- 9 Access to government data. Clarifies that public defenders are not obligated to pay a fee for Internet access to the criminal justice data communication network.

## **Article 4: Public Safety**

### **Overview**

Establishes a grant program to fund teams to contain, clean-up, and preserve evidence at clandestine methamphetamine laboratory sites. Gives the BCA authority to shift Minnesota to a nationally recognized system or standard for collecting crime data. Establishes certain fees relating to criminal background checks and access to criminal justice data. Establishes certain fees and policies relating to fire safety inspections for hotels and schools. Regulates persons who sell or install potable water piping systems intended to serve both domestic and fire protection needs in one- or two-family dwelling units.

- 1. 1 Meth lab containment teams.
  - Subd. 1. Establishment. Establishes a grant program administered by DPS to help local communities contain, clean-up, and preserve evidence at meth labs.
  - Subd. 2. Awarding grant. Provides that DPS is the fiscal agent for the program. Provides that priority must be given to areas with a high incidence of meth labs.
  - Subd. 3. Grant process; requirements; uses. Provides that cities may apply for grants. Requires a grantee to be a member of a narcotics task force, have a full-time fire and police department, and have two officers with DEA training on meth labs. Also requires the city to submit a plan and establishes other requirements. Provides that awards may be used for any meth lab containment team duties.
  - Subd. 4. Meth lab containment team powers. Provides that a team has the same inter-

jurisdictional authority as its associated narcotics task force. Teams may also be used to investigate crimes involving other harmful substances. Requires teams to coordinate efforts with chemical assessment teams.

Subd. 5. Local match. Requires a 50 percent match from nonstate sources. Of that amount, 50 percent may be from in-kind contributions.

- 2 Division of criminal statistics. Requires the BCA to utilize a nationally recognized system or standard for collecting crime data to the extent possible.
- 3 Local cooperation. Requires local agencies to utilize a nationally recognized system or standard for reporting crime statistics to the BCA.
- 4 Fee for background check; account; appropriation. Requires the BCA to collect a \$7 fee for fingerprint-based background checks that are not for criminal justice purposes.
- 5 Fee for taking fingerprints; account; appropriation. Authorizes the BCA to charge \$10 to take fingerprints for employment or licensing purposes. Waives the charge when the fingerprints are needed to determine whether or not a particular criminal history file is linked to an individual (such as when a name-based criminal history check reveals a "hit" and the person needs to show the record belongs to some other individual with the same name). The money is put in a special revenue account and used for criminal record system purposes.
- 6 Criminal justice data network; connection by authorized agency; standing appropriation. Requires DPS to impose a \$35 monthly fee for Internet or dial-up access to the criminal justice data network. The fee is \$15 for a criminal justice agency accessing the network via the Internet.
- 7 Hotel inspection. Requires hotels to meet the standards of the Minnesota State Fire Code, as opposed to the Uniform Fire Code.
- 8 Hotel inspection fees. Authorizes DPS to charge hotels and resorts certain fees for fire safety inspections. Provides that designated agents may continue to charge inspection fees. There is an exception for certain homesteaded resort properties.
- 9 Hotel inspection fee special revenue account. Provides that fees collected go to a special revenue account and are used for hotel inspection purposes.
- 10 Public school inspections.

Subd. 1. Inspection required. Requires the state fire marshal to develop a plan to inspect public schools every three years. Fees for the inspections are based on a school's square footage.

Subd. 2. Charter schools. Requires a \$100 fee for charter schools.

Subd. 3. Special account. Specifies that fees collected are deposited in a special revenue account and used for school inspection purposes.

Subd. 4. Local inspections. Provides that schools inspected by local units of government during a certain period in the late 1980s may continue to use those local units to inspect.

Subd. 5. Variances. Provides that variances from the fire code must be approved by the state fire marshal.

- 11 Piping system contractor. Defines "multipurpose potable water piping system contractor" for purposes of licensing laws.
- 12 Piping system. Defines "multipurpose potable water piping system" as a system that is intended to serve both domestic and fire protection needs in a one- or two-family dwelling unit. Provides that a person cannot install such a system unless the person is a licensed plumber and a certified multipurpose potable water piping system installer.



- 13 Piping system installer. Defines "multipurpose potable water piping system installer" for purposes of licensing laws.
- 14 Contractor license. Provides that a person may not sell, design, install, modify or inspect a multipurpose potable water piping system without being licensed as a multipurpose potable water piping system contractor. However, a license is not required for residential installations by the owner-occupant of a one- or two-family dwelling, or for a person licensed as a professional engineer who is competent in fire protection system design.
- 15 Installer certificate. Provides that a person may not install, connect, alter, repair or add to a multipurpose potable water piping system without being certified as a multipurpose potable water piping system installer. This certificate allows a person to work only on one- and two-family residential units. Certification is not required for residential installations by the owner-occupant of a one- or two-family dwelling.
- 16 Journeyman sprinkler fitter certification fee; annual appropriation. Establishes a \$55 fee for journeyman sprinkler fitter certification. The money is put into a special revenue account and used for the program.
- 17 Rules. Expands existing Department of Public Safety rulemaking authority to cover licensing of multipurpose potable water piping system contractors and certification of multipurpose potable water piping system installers.
- 18 Licensing Fee. Requires payment of a multipurpose potable water piping system licensing fee.
- 19 Certification Fee. Requires payment of a multipurpose potable water piping system certification fee.
- 20 DNA testing of felons. Extends the policy of collecting DNA samples from all felons for two more years. Prior to the last fiscal year, DNA samples were only collected from certain categories of felons. In FY 2003, the state began mandating the collection of DNA samples from all felons. Due to budgetary considerations, that policy is set to expire on June 30, 2003. The collection required by this policy does not necessarily mean that the samples will be analyzed - but they will be saved for possible future analysis.
- 21 Repealer. Deletes a section of law relating to fire safety inspections at schools - those policies are modified by other sections in this article.

## **Article 5: Corrections**

### **Overview**

Modifies certain policies related to corrections. Modifies policies related to double bunking inmates. Permits certain short-term offenders to be incarcerated at local correctional facilities and private nonprofit, faith-based institutions. Requires the commissioner of corrections to issue a request for proposals for private prisons. Requires the commissioner of corrections to report on the cost-effectiveness of prison privatization. Repeals a law requiring the commissioner to issue a request for proposals for incarcerating felony DWI offenders in a private prison(s). Permits county and regional jails to house offenders in private prisons and to double-bunk cells in the event that there is insufficient space to house inmates in local public jails. Abolishes the office of the ombudsman for corrections.

1. 1 Biennial report. Requires the commissioner of corrections to submit a performance report biennially, instead of annually.
- 2 Separate cells. Requires correctional institutions to permit multiple occupancy, except in

segregation units and level six institutions, to the greatest extent possible.

3 Inmate food. To the extent possible, requires DOC to serve inmates two meals a day on weekends and holidays.

4 Private nonprofit, faith-based institution program.

Subd. 1. Definitions. Defines remaining term of imprisonment.

Subd. 2. Generally. Permits qualified inmates with 12 to 16 months remaining on their sentences to apply to serve the remainder of their term of imprisonment in a private nonprofit, faith-based institution.

Subd. 3. Eligibility. Any inmate with less than 24 months to serve may apply.

Subd. 4. Commissioner's authority. Authorizes the commissioner to establish participation guidelines and to refuse to allow any inmate to participate without cause. An inmate may not appeal the commissioner's denial.

Subd. 5. Eligible organization. Permits the commissioner to establish guidelines for organizations to qualify for this program. At a minimum, the organization must have a correctional facility licensed by the commissioner. The commissioner's guidelines must be neutral as to religious affiliation.

Subd. 6. Organization's authority. Permits a qualified organization to refuse to admit any inmate without cause. The organization's decision is final and nonreviewable.

Subd. 7. Per diem. Requires the department of corrections to pay a qualified organization that incarcerates inmates a per diem in an amount that is no larger than the per diem cost to the department to incarcerate the inmate. The per diem is non-negotiable. Participating organizations must keep a separate account for public funds received from the department. The fund must be subject to review by the department and the legislature. No portion of the state funding may be used to fund religious programming.

5 Sentence of imprisonment. Requires offenders who receive a felony conviction and have less than 180 days to serve to be placed in a workhouse, work farm, county jail, or other place authorized by law.

6 Remaining term of imprisonment. Defines "remaining term of imprisonment" for inmates whose crimes were committed before August 1, 1993, as the period of time for which an inmate is committed to the custody of the commissioner of corrections minus good time earned and jail credit. For those whose crimes were committed after August 1, 1993, the remaining term of imprisonment is the period of time equal to two-thirds of the inmate's executed sentence minus jail credit.

7 Sentence to more than 180 days. Requires felons with more than 180 days to serve to be placed in the custody of the commissioner of corrections.

8 Placement in private prisons; counties. Authorizes counties to house inmates in private prisons, if there is insufficient space in the county jail.

9 Double-bunking; county jails. Authorizes sheriffs to double-bunk inmates, if construction of the jail permits.

10 Double-bunking; regional jails. Authorizes regional jail boards to permit double-bunking of inmates in regional jails, if construction of the jail permits.

11 Placement in private prisons; regional jails. Authorizes regional jail boards to contract with private prisons to house offenders, if there is insufficient space in the regional jail.

12 Privatization proposals. Requires the commissioner of corrections to issue a request for proposals for vendors to provide correctional facilities for state prisoners committed to the

- 13 custody of the commissioner after July 1, 2006. The request applies to inmates whose  
remaining term of imprisonment is less than 365 days. Lists the type of vendors the  
commissioner may consider and the vendor qualities that the commissioner may consider.  
14 Prison privatization advisory committee. Requires DOC to convene an advisory committee to  
review and make recommendations on prison privatization proposals. Lists committee  
members.  
15 Cost-effectiveness study; prison privatization. Requires the commissioner to report to the  
legislature on the proposals obtained under section 12.  
16 Creation of pretrial diversion study group. Requires the sentencing guidelines commission to  
convene a workgroup to study pretrial diversion.  
17 Repealer. Repeals a law requiring the commissioner to issue a request for proposals for  
incarcerating felony DWI offenders in a private prison(s). Abolishes the office of the  
ombudsman for corrections.  
Expiration. Expires the policy of sending short-term offenders to local jails, as provided for  
in sections 5, 6, and 7, on July 1, 2007.

## Article 6: Probation

### Overview

This article creates a sanctions conference procedure for handling technical violations of probation in county probation officer counties. Under this procedure, a probation officer who learns of a technical violation of probation can request the offender to meet with the officer, at which time the offender can elect to participate in the sanctions conference or decline participation, in which case the matter is referred to the district court for a hearing on the violation. The sanctions conference process aims to address violations in a more timely manner than the courts can usually address them.

Prior to obtaining the offender's decision to participate in the conference, the probation officer must provide the offender with a form explaining the offender's rights and options. The probation officer also must inform the offender of the sanctions that may be imposed and that the officer will not recommend revocation of probation to the district court, as long as the offender completes any sanctions that are imposed in the sanctions conference. If the offender elects to participate in the sanctions conference, the offender must admit, or agree not to contest, the violation and waive the right to a hearing and the accompanying protections. The sanctions a probation officer may impose are limited, and the court is required to confirm the probation officer's imposition of sanctions.

#### 1. 1 **Definitions.**

**Subd. 1. Definitions.** Defines terms used in the act.

**Subd. 2. Probation.** Probation has the meaning given in section 609.02, subdivision 15.

**Subd. 3. Probation violation sanction.** Probation violation sanction includes, but is not limited to, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, and community work service, remote electronic alcohol monitoring, random drug testing, and participation in an educational or restorative justice program.

A probation violation sanction does not include any type of custodial sanction.

**Subd. 4. Sanctions conference.** Sanctions conference means a voluntary conference at which the probation officer, offender, and, if appropriate, other interested parties meet to discuss the offender's technical violation of probation.

**Subd. 5. Sanctions conference form.** Sanctions conference form means a form, developed by the chief executive officer of a local corrections agency with the approval of the district court, that explains the sanctions conference and the offender's option to elect to participate in the sanctions conference or to proceed to a judicial hearing.

**Subd. 6. Technical violation.** Technical violation means any violation of a court order of probation, except an allegation of a subsequent criminal act which is alleged in a formal complaint, citation, or petition.

## 2 **Initiation of sanctions conference.**

**Subd. 1. Authority.** Grants legislative authority for the sanctions conference and provides that a sanctions conference may be used to address an offender's technical violation of probation, unless the district court directs otherwise.

**Subd. 2. Notice of violation.** Requires a probation agency to notify an offender in writing when it has reason to believe the offender has committed a technical violation of probation. This notice must state the specific nature of the technical violation; indicate that a sanctions conference has been scheduled; and specify the date, time, and location of the conference. The notice also must state that, if the offender fails to appear at the conference, the probation agency may apprehend and detain the offender and ask the court to commence revocation proceedings. Finally, this subdivision specifies that, to the extent feasible, the sanctions conference must take place within seven days of mailing of the notice to the offender.

**Subd. 3. Sanctions conference.** Deals with the sanctions conference and requires the probation officer to provide the offender with a copy of a sanctions conference form explaining the sanctions conference and the offender's options for proceeding.

After receiving the form, the offender must stipulate, in writing, that the offender has received a copy of the form and that the offender understands the form and the options available to the offender. The offender also must declare, in writing, whether the offender elects to participate in the sanctions conference or to proceed with a judicial hearing.

## 3 **Participation in sanctions conference.**

**Subd. 1. Election to participate.** Provides that, if the offender elects to participate in the sanctions conference, the probation officer must notify the offender (1) of the probation violation sanction that the probation officer is recommending; and (2) that the sanction becomes effective upon confirmation by a judge of the district court.

**Subd. 2. Report to district court.** Specifies the information the probation officer must provide to the district court if the offender elects to participate in the sanctions conference. This information consists of documentation related to the sanctions conference. This subdivision also specifies that the sanction becomes effective when confirmed by a judge and that the order of the court is proof of such confirmation.

**Subd. 3. Response to district court action.** Requires the probation agent to notify the

offender when the sanction has been approved by the court. This subdivision also provides that, if the court does not confirm the sanction, the probation sanction does not go into effect. Finally, this subdivision also allows a probation officer to ask the court to commence revocation proceedings.

**Subd. 4. Appeal.** Provides that an offender may appeal the judge's confirmation of the probation violation sanction as provided in Rule 28.05 of the Rules of Criminal Procedure. This appellate review is the same review available to an offender who challenges an order stemming from a proceeding to revoke probation.

4       **Election not to participate.**

Provides that if an offender elects not to participate in the sanctions conference, the probation officer may ask the court to initiate revocation proceedings or refer the matter to the appropriate prosecuting authority to commence revocation proceedings. These sections also allow the probation officer to take action to apprehend and detain the offender, as provided by law.

5       **Terms and conditions.** Amends section 609.135, which deals with probation matters, to cross reference probation officers' authority to impose sanctions.

6       **Sanctions conference procedures.** Requires the chief executive officer of a local corrections agency, with approval of the district court, to develop: (1) procedures for the sanctions conference; and (2) a sanctions conference form.

The sanctions conference form provides information to the offender about the offender's rights and options. The form also notifies the offender of the types of sanctions that may be imposed as part of the sanctions conference; that the sanctions supplement any existing conditions of release; that participation in the sanctions conference requires completion of all sanctions imposed; and that failure to complete the sanctions could result in additional sanctions or the commencement of revocation proceedings.

7       **Repealer.** Repeals language from existing law that allows county probation officers to impose limited community work service for a probation violation. Paves the way for probation officers to impose sanctions other than community work service and sets forth a more comprehensive process for imposing the sanctions. This section works in conjunction with section 1.

8       **Effective date.** August 1, 2003, and applies to technical violations of probation that occur on or after that date.

## **Article 7: Juvenile Law Policy**

### **Overview**

Makes several changes to juvenile law that will ease the burden juvenile cases impose on the courts and counties. These changes are effective August 1, 2003, and apply to crimes or delinquent acts committed on or after that date.

1.     1     Juveniles; venue. Provides that juvenile delinquency, traffic and petty offenses remain venued in the county of the offense.
2.     2     Juveniles; transfer. Permits a court to transfer a juvenile delinquency, traffic or petty offense to the county of residence for disposition if the court determines such a transfer to be in the

- interests of justice.
3. 3 Written findings; options. Eliminates the extended jurisdiction juvenile (EJJ) prosecution option for delinquency petitions filed on or after July 1, 2003.
  1. 4 EJJ availability. Eliminates EJJ as a means of prosecuting juveniles for crimes charged or delinquency petitions filed on or after July 1, 2003. Requires persons who receive an EJJ adjudication for crimes charged or delinquency petitions filed before July 1, 2003, to complete their sentence as extended jurisdiction juveniles.
  - 5 Delinquency petition; EJJ. Clarifies that EJJ is only available for delinquency petitions filed before July 1, 2003.
  - 6 Juveniles; notice to appear. Conforming amendment to reflect change in section 1 allowing juvenile cases to be heard in county of the offense.
  - 7 Termination of juvenile jurisdiction. Amends law to reflect that courts can no longer designate cases EJJ after July 1, 2003.
  - 8 Juveniles; guardian ad litem. Eliminates mandatory appointment of guardians ad litem in truancy and runaway cases.
  - 9 Adult prosecution; EJJ. Amends law to reflect that prosecutors may not seek an EJJ adjudication after July 1, 2003.

## **Article 8: Criminal Justice**

### **Overview**

Creates a new felony for attempted manufacture of methamphetamine. Repeals an existing law that partially addresses similar criminal conduct concerning the manufacture of methamphetamine. Increases the criminal surcharge and details the disbursement of the surcharge. Expands the first degree murder crime that applies when a person causes the death of a minor while committing child abuse. Adds a new level of offense to the crime of identity theft. Directs the Sentencing Guidelines Commission to amend the sentencing guidelines by adding the use of another's identity in the commission of a crime to the list of aggravating factors a court may consider in sentencing. Amends the law of harassment. Makes smoking in a public building and littering petty misdemeanors.

1. 1 **Manufacture Crimes.** Creates the crime of attempted manufacture of methamphetamine. A person is guilty of the crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine. Defines chemical reagents and precursors.
- 2 **Penalty.** Establishes the penalty for attempted manufacture of methamphetamine as up to 15 years in prison or a \$500,000 fine, or both.
- 3 **Surcharges on criminal traffic and offenders.** Increases the criminal surcharge from \$35 to \$40 through fiscal year 2007.
- 4 **Disbursement of criminal surcharges by state treasurer.** Eliminates the criminal justice special projects account in the special revenue fund. Re-directs funds allocated to the account to the general fund. Directs the \$5 increase in the surcharge in section 3 to the general fund.
- 5 **Murder in the first degree.** Expands the first-degree murder crime that applies when a person causes the death of a minor while committing child abuse so that it applies when the perpetrator has previously engaged in child abuse against any child, not just the child whose death the perpetrator causes. Currently, this crime occurs when a perpetrator causes the death of a child while committing child abuse and the person has engaged in a past pattern of child

abuse upon "the child" and the death occurs under circumstances manifesting an extreme indifference to human life. Under the bill, the crime would occur when a perpetrator has engaged in a past pattern of child abuse on "a child," not necessarily the same child, and the death occurs under circumstances manifesting an extreme indifference to human life.

6 Identity theft. Amends the identity theft statute by adding another level for those who commit identity theft and in the process victimize eight or more parties or cause a combined loss of more than \$35,000. Violation of this provision is a 20-year felony and subjects the person to a fine of up to \$100,000, or both.

7 Weapons crimes: slungshots and sand clubs. Eliminates the prohibition against manufacturing or selling a slungshot or sand club for an illegal purpose. A slungshot is a small, heavy weight attached to a strap or thong. A sand club is apparently a similar sand-filled weapon.

8 Felony crimes; silencers prohibited. Under current law, firearm silencers are illegal in Minnesota. There is no exception for law enforcement officers. This section provides a cross-reference to an exception set out in section 9.

9 Silencers; authorized for law enforcement purposes. Permits licensed peace officers to use silencers for tactical emergency response operations. If used, a police chief or sheriff must establish and enforce a written policy regarding silencer use. Permits federally licensed firearms dealers to possess silencers for sale to law enforcement officers and for demonstration purposes.

10 Littering. Makes littering a petty misdemeanor.

11 Unlawful smoking. Makes smoking in a public building a petty misdemeanor.

12 Harassment; hearing. Provides that a judge does not have to hold a hearing on a civil law harassment petition unless one of the parties requests a hearing. As amended, this section would mirror the language found in the order for protection statute. Removes the requirement that the court hear a petition within 14 days of receipt.

13 Harassment; temporary restraining order. Requires the petitioner to request a hearing for a restraining order in a civil harassment case. Currently a hearing is guaranteed. Eliminates requirement to hear petition within 14 days. Requires 5 day advance service of notice of hearing to petitioner and respondent.

14 Harassment; restraining order. Amends law to conform to changes made in section 12.

15 Sentencing guidelines; identity theft; aggravating factor. Directs the Sentencing Guidelines Commission to amend the sentencing guidelines by adding the use of another's identity in the commission of a crime to the list of aggravating factors a court may consider in sentencing.

16 Repealer. Repeals a current law regarding the manufacture of meth that makes possession of certain chemical reagents and precursors a misdemeanor.

## **Article 9: Driving While Impaired Provisions**

### **Overview**

This article authorizes the use of "staggered sentencing," a new judicial approach, as an option under the mandatory minimum sentencing structure for certain multiple repeat DWI offenders. It modifies the penalties for test refusal and court deadlines in

implied consent hearings. Clarifies legislative intent on prior DWI offenses. It also contains several "miscellaneous" impaired driving-related provisions that stipulate that certain "zero tolerance" alcohol-related violations cannot be used to enhance sanctions and penalties for a subsequent DWI violation; clarify the length of the period of license plate impoundment; lengthen probation periods for persons convicted of criminal vehicular injury; update archaic language; and add a cross reference.

1. 1 Certain violations not to be used for enhancement factor for subsequent incidents.  

Amends the definition of "prior impaired driving-related loss of license" to exclude revocations stemming solely from prior violations of any of the following "zero-tolerance" laws: (1) underage driving after drinking ("youth zero-tolerance," §169A.33); (2) the "no-alcohol" condition of a restricted driver's license ("B-card violation," §171.09); and (3) alcohol purchasing or consumption by youth under age 21 (§340A.503).

Under current law, these "zero-tolerance" violations count equally to a prior DWI violation for enhancing sanctions and penalties for a subsequent DWI violation. This section would cause them to be excluded for enhancement purposes.
2. 2 Control analysis. Updates archaic language regarding analysis of breath-alcohol testing procedures.
3. 3 Clarifying legislative intent. Clarifies that the legislature intended, through its 2000 recodification of DWI laws, to count as aggravating factors all qualified prior impaired driving incidents occurring within the ten years preceding an incident for purposes of criminal and civil sanctions found in chapter 169A, whether the prior incident occurred before, during, or after 1996 or 1998.
4. 4 Cross reference. Adds a cross reference to implied consent law.
5. 5 Second-degree DWI; refusal penalty modified. Provides that a person who commits a DWI test refusal crime with one "aggravating factor" present is guilty of second-degree DWI. Applicable aggravating factors are (1) having a child under age 16 in the car, and (2) having a prior DWI offense in the last 10 years.
6. 6 Third-degree DWI; refusal penalty modified. Provides that a person who refuses to submit to a chemical test when a peace officer has probable cause to believe the person is impaired is guilty of third-degree DWI.
7. 7 Fourth-degree DWI; refusal penalty modified. Removes the test refusal crime from fourth-degree DWI (the lowest level of DWI crime in Minnesota), since test refusal would always be third-degree or higher.
8. 8 Staggered sentencing defined and permitted. Defines "staggered sentencing" as an executed jail sentence that is ordered by the court to be served in three or more segments spaced one year apart, where the offender may bring a motion before the court for forgiveness of any segment after the first segment. Clarifies that staggered sentencing qualifies as a sentencing choice under the mandatory minimum penalty requirement for multiple repeat offenders who are given a non-prison sentence.
9. 9 See section 8.
10. 10 See section 8.
11. 11 Consistency between "custodial arrest" and "conditional release" criteria. Assures that these two provisions of DWI law are consistent with regard to the targeted group of impaired



driving offenders. Under current law, there are some inconsistencies between persons subject to custodial arrest and persons subject to conditional release.

12. 12 See section 11. Clarifies that the maximum bail provisions applicable to misdemeanor and gross misdemeanor DWI do not apply in felony cases.
13. 13 See section 2.
14. 14 Hearing; issues; order; appeal. Repeals language that requires implied consent hearings to be held at the earliest practicable date and no later than 60 days after the petition is filed. Also repeals language requiring the court to file its order within 14 days of the hearing.
15. 15 Criteria for shortened license revocation clarified. Clarifies that the shortened period of license revocation for a first-time DWI violator, upon conviction, does not apply if the crime involved either of the following aggravating factors: (1) an alcohol concentration of .20 or more; or (2) child endangerment.
16. 16 Plate impoundment; minimum time period simplified. Clarifies that the minimum period of plate impoundment is one year. Under current law, the minimum is one year "and until the next scheduled renewal date."
17. 17 See section 16.
18. 18 Prohibition against aiding and abetting impaired driving violations. Corrects an oversight that occurred during the 2000 recodification of DWI law, by bringing over to the new chapter this language from the pre-recodification chapter of DWI law (i.e., this language shift completes the 2000 recodification of DWI law).
19. 19 Probation period for criminal vehicular operation. Lengthens the stay of an imposed sentence to incarceration from two years to six years following conviction for the crime of criminal vehicular injury involving: great bodily harm, substantial bodily harm, injury to an unborn child (all felonies), or bodily harm (a gross misdemeanor). Under current law, the maximum stay (and, thus, the maximum period of probation) is six years for gross misdemeanor DWI crimes, but ranges from only 2 to 5 years for these other crimes involving criminal vehicular injury. [Most crimes involving criminal vehicular homicide or injury also involve impaired driving.]
20. 20 Maximum bail for misdemeanor and gross misdemeanor crimes. Clarifies that this provision of current law does not apply to felony DWI crimes.

## **Article 10: Prostitution**

### **Overview**

This article allows for aggregation of violations of solicitation, inducement, and promotion of prostitution offenses that occur within a six-month time frame. The article then provides that the accused may be prosecuted in any county in which one of the offenses was committed for all solicitation, inducement, and promotion of prostitution offenses. This article also requires the collection and study of information on certain types of prostitution and a report. It also requires reports on the use of money collected from penalty assessments imposed against individuals committing certain prostitution crimes.

1. 1 Aggregation of cases. Specifies that acts by the defendant constituting solicitation, inducement, or promotion or prostitution that occur within any six-month time period may be aggregated and charged accordingly. Also states that when the same person in two or more

counties commits two or more offenses, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

2. 2 Other prostitution crimes; patrons, prostitutes, and individuals housing individuals engaged in prostitution; penalties. Adds headnotes to section 609.324 of current law, as well as subdivision headings where they do not currently exist.
3. 3 Penalty assessment authorized. Makes a technical amendment to require penalty assessments to be forwarded to the Commissioner of Public Safety instead of the Commissioner of Corrections, given that the General Crime Victims Advisory Council that provides input under this section of law is located within the Department of Public Safety.
4. 4 **Collection of information and study on certain prostitution cases; report.**

**Subd. 1. Definitions.** Defines the terms "intermediate sanctions," "patron," "promotes the prostitution of an individual," "prostitute," and "prostitution crime."

**Subd. 2. Collection of information.** Requires the following attorneys or their designees and the following law enforcement representatives or their designees to oversee the collection of information on the investigation and prosecution of prostitution crimes committed within the jurisdiction of each individual's office, commencing January 1, 2002, and ending December 31, 2002:

- ▶ the Hennepin County Attorney,
- ▶ the Minneapolis City Attorney,
- ▶ the Ramsey County Attorney,
- ▶ the St. Paul City Attorney,
- ▶ the Hennepin County Sheriff,
- ▶ the chief of police of the Minneapolis Police Department
- ▶ the Ramsey County Sheriff, and
- ▶ the chief of police of the St. Paul Police Department.

Specifies that information must be collected on where prostitution crimes are committed; the number of calls and complaints made to law enforcement about alleged prostitution crimes; the number of arrests made for prostitution crimes; the number of citations, tab charges, and complaints issued for prostitution crimes; the types of charges filed in each case; and the disposition of each case.

**Subd. 3. Preparation of summary and report.** Requires the law enforcement authorities specified in subdivision 2 to provide information to the prosecuting authorities in their jurisdictions. Mandates the prosecuting authorities to provide a summary of the information collected and a report to the legislature.

5. 5 **Reports on penalty assessments for prostitution crimes.**

**Subd. 1. Commissioner of public safety; report.** Requires the Commissioner of Public Safety to report to the legislature on the amount of money appropriated to the Commissioners of Public Safety and Corrections since the beginning of fiscal year 1998. Specifies that the report must contain information on the use of money appropriated during this time period.

**Subd. 2. Supreme court; report.** Requests the Supreme Court to report to the legislature on the use of money collected from penalty assessments since the beginning of fiscal year 1998.