

# HOUSE RESEARCH

## Bill Summary

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## Article 1: Appropriations

### Overview

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

- 1 Summary of Appropriations. Summarizes direct appropriations by fund.
- 2 Public Safety Appropriations. Describes, in general terms, the appropriations contained in this article.
- 3 Supreme Court. Appropriates funds for FY08 and FY09.

Subd. 1. Total appropriation.

Subd. 2. Judicial salaries. Authorizes a judicial salary increase of 3 percent each year.

Subd. 3. Supreme Court operations. Authorizes a \$5,000 contingent fund account.

Subd. 4. Civil legal services. Requires \$877,000 of the appropriation to be used for family law matters.

- 4 Court of Appeals. Appropriates funds for FY08 and FY09 for caseload increases. Authorizes three additional judgeships.
- 5 Trial Courts. Appropriates funds for FY08 and FY09.

- Authorizes seven new judgeships - three judges in the First Judicial District, one judge in the Seventh Judicial District, one judge in the Ninth Judicial District, and two judges in the Tenth Judicial District.
- Appropriates funds for FY08 and FY09 for drug courts, guardian ad litem services, interpreter services, psychological services, and *in forma pauperis* services.

- 6 Tax Court. Appropriates funds for FY08 and FY09.
- 7 Uniform Laws Commission. Appropriates funds for FY08 and FY09.
- 8 Board on Judicial Standards. Appropriates funds for FY08 and FY09. Allocates \$125,000 each year for special investigative and hearing costs for major disciplinary actions.

- 9 Board of Public Defense. Appropriates funds for FY08 and FY09 for 34 new FTE attorneys and 11 new FTE support staff positions to address caseload increases. Of this amount, \$200,000 each year is for transcript costs.
- 10 Department of Public Safety. Appropriates funds for FY08 and FY09.

Subd. 1. Total appropriation.

Subd. 2. Emergency management. Appropriates \$75,000 each year for one position to coordinate state readiness for a pandemic flu event.

Subd. 3. Criminal apprehension.

- Allocates funds for cross-jurisdictional investigations; BCA lab activities; DWI lab analysis (from the trunk highway fund); CriMNet justice information integration; and forensic scientists.
- Directs the criminal and juvenile justice information policy group to study new funding sources and present a report to the legislature.
- Directs the commissioner to convene a working group to study and prepare a report on the appropriateness of additional regional forensic crime labs and crime strike task forces.

Subd. 4. Fire Marshal. Appropriates funds for FY08 and FY09. \$3,330,000 the first year and \$6,300,000 the second year are to fund activities through the Fire Safety Account.

Subd. 5. Alcohol and Gambling Enforcement. Appropriates funds for FY08 and FY09.

Subd. 6. Office of Justice Programs. Allocates funds for: crime victim reparations; emergency assistance grants; gang and drug task force; victim notification system; supervised parenting grants; child advocacy center grants (see section 18); squad car camera upgrades and acquisitions; crime victim support grants; crime victim services; COPS grants; auto theft emergency grants; youth intervention programs; trafficking legal clinics; homeless outreach grants (*see* section 17); defibrillators grants to outstate law enforcement agencies; integrated domestic violence response framework implementation; and children at risk grants.

Subd. 7. 911 Emergency Services/ARMER. Appropriates funds from the 911 special revenue account for public safety answering points, medical resource communication centers, ARMER debt service, Metropolitan Council debt service, ARMER improvements, ARMER interoperability planning, ARMER state backbone operating costs, zone control, advanced project development, and system design.

Subd. 8. ARMER Public Safety. Appropriates funds from the 911 bond proceeds account for completion of the shared public safety radio system's backbone.

- 11 Peace Officers Standards and Training Board. Appropriates funds for FY08 and FY09. Specifies that the appropriation is from the peace officer training account in the special revenue fund. Amounts deposited in the fund in excess of the amount appropriated must be deposited in the general fund.
- Specifies an amount that is available for peace officer training reimbursement grants.
  - Requires the Board to revise and/or develop training courses related to domestic abuse no contact orders.
- 12 Private Detective Board. Appropriates funds for FY08 and FY09.
- 13 Department of Human Rights. Appropriates funds for FY08 and FY09.
- Directs the commissioner to conduct a survey that evaluates parties' experiences with the department and report back to the legislature on the survey findings.
  - Directs the commissioner to convene a working group to study how the state addresses inmate complaints, assaults, and deaths in county jails, workhouses and prisons, and report back to the legislature.
  - Directs the Attorney General to continue to provide conciliation services and conduct settlement conferences for the department.
- 14 Department of Corrections. Appropriates funds for FY08 and FY09.
- Subd. 1. Total appropriation.
- Subd. 2. Correctional institutions. Requires the commissioner to charge a rental per diem at Rush City that is equal to or greater than the department's actual per diem. Authorizes the commissioner to use the per diems collected to fund prison operations. Allocates funds for reentry services in prisons and for the MCORP program.
- Subd. 3. Community services. Allocates funds for:
- intensive supervised release agents to supervise challenge incarceration program graduates and those released under the commissioner's conditional release program;
  - the increased costs of participating in the interstate offender compact;
  - a sex offender legal expert;
  - tracking and managing sex offenders;
  - probation supervision and caseload reduction;

- sex offender treatment;
- sentence-to-service;
- housing short-term offenders in county jails;
- offender reentry services and grants; and
- Arrowhead Regional Corrections' productive day program.

Directs the Commissioner to submit a short-term offender study and report to the legislature.

15 Subd. 4. Operations support. Appropriates funds for FY08 and FY09.  
Sentencing Guidelines. Appropriates funds for FY08 and FY09.

- Directs the commission, in consultation with corrections and the courts, to study the effectiveness of re-entry programs and drug courts funded in this act and report back to the legislature.
- Funds the collateral sanctions committee created in Article 7, § 23.
- Directs the commission to propose changed rankings for controlled substance offenses.

16 Mentoring Grant for Children of Incarcerated Parents. Directs the commissioner of corrections to fund grants to a nonprofit organization that provides one-on-one mentoring relationships to youth whose parent or other significant family member is incarcerated. The goal of the program is to provide the targeted youth with resources and skills that keep them out of the juvenile justice system. This section also establishes criteria that a grant recipient must satisfy to be eligible to receive funding under this program. Directs the grant recipient to submit a program evaluation.

17 Homeless outreach grants.

Subd. 1. Grant program. Authorizes the commissioner of public safety to establish a grant program to connect people experiencing homelessness to housing and services.

Subd. 2. Grant recipients. Requires that the grants be made to agencies experienced in homeless outreach services that provide needed staff qualified to work with serious mental illness or chemical dependency and racially and culturally diverse populations.

Subd. 3. Project design. Provides that projects eligible for grants under this section must:

- provide outreach services targeted to people experiencing long-term homelessness;
- provide intervention strategies linking people to housing and services;

- provide a plan to connect people to services, such as supplemental security income, veterans benefits, health care, and other services;
- collaborate with local law enforcement;
- promote community collaboration with local service providers and government entities;
- provide a plan to leverage state resources from service providers, community organizations and local governments; and
- provide a plan to measure and evaluate the effectiveness of the program.

**Subd. 4. Annual report.** Requires grant recipients to report annually to the commissioner on how the grant funds were used. Directs the commissioner of public safety to independently evaluate the effectiveness of the grant recipients in achieving the program goals and report its findings to the legislature by January 15, 2010.

18 Child Advocacy Center grants.

Subd. 1. Purpose. Provides that grants are to be used to stabilize funding and ensure the continued viability of core functions related to child maltreatment investigations, interviews, treatment, and related training.

Subd. 2. Criteria. Requires grant recipients to be accredited members in good standing with the National Children's Alliance or actively seeking that status. Provides that grant awards may be used for the following: child interview programs or facilities, coordination of support services, or related statewide training. Provides that to be eligible for a grant, a center must facilitate the following core services: support and services for alleged child abuse victims, coordination of child abuse investigations, forensic medical exams, court advocacy, and consultation and training of multidisciplinary child protection teams.

19 Demonstration Project for High-risk Adults.

Subd. 1. Definition. Defines "high-risk adult" as a person with a history of some combination of substance abuse, mental illness, chronic unemployment, incarceration, and homelessness.

Subd. 2. Establishment. Directs the Department of Corrections to contract with a nonprofit to conduct the project in the Twin Cities. The contractor must meet the following criteria:

(1) be capable of managing and operating a multidisciplinary model for providing high-risk adults with housing, short-term work, health care, behavioral health care, and community reengagement;

(2) demonstrate an ability to organize and manage an alliance of nonprofit

organizations;

(3) have organizational leadership with relevant experience and skills;

(4) possess relevant experience assisting high-risk adults; and

(5) receive additional grants for the refinement and testing of the project.

Subd. 3. Scope of the Project. The contractor must:

(1) enroll high-risk adults;

(2) use best practices;

(3) maximize the performance of existing services and programs by coordinating access to and the delivery of these services; and

(4) define the conditions under which enrollees are considered to be in good standing.

Subd. 4. Eligibility. Describes the types of individuals eligible for enrollment (must be a high-risk adult).

Subd. 5. Payment. Directs the Commissioner of Corrections to pay \$1600/month for each enrollee who (1) was released from the custody of the Commissioner within the preceding year and (2) is in good standing with the program.

Subd. 6. Report. Directs the nonprofit to prepare an annual report and submit it to various agencies and the legislature. Specifies the minimum requirements of the report.

Subd. 7. Independent evaluation. Directs the commissioner of corrections to hire an independent contractor to evaluate the project and submit a report to the legislature by January 15, 2013.

20 Reentry Grant Addressing Domestic Violence and Intimate Partner Violence. Directs the Commissioner of Corrections to award a grant to an organization with expertise in addressing the intersection between offender reentry and domestic violence. The grant is intended to provide services to reentering offenders and their intimate partners. Requires a program evaluation be submitted to the Commissioner.

21 Employment Services for Ex-Criminal Offenders; Pilot Project. Directs the Commissioner of Corrections to fund a two-year offender re-entry pilot project. The pilot project is intended to provide employment services to ex-criminal offenders living in North Minneapolis. The pilot project must provide participants with a continuum of employment services and tap probation services, faith-based organizations and businesses to provide support and opportunities to participants.

Requires the commissioner to submit a report to the legislature on the results of the pilot

project by January 15, 2010.

## Article 2: General Crime

### Overview

This article amends various criminal provisions, increases criminal penalties, establishes new crimes, repeals an existing crime, and modifies monetary thresholds for some offenses.

1 Domestic Abuse No-Contact Order.

**Para. (c).** Provides a minimum sentence of ten days' imprisonment and participation in counseling for a gross misdemeanor conviction.

**Para. (d).** Creates a five-year felony if a person knowingly violates a no-contact order: (1) within ten years of the first of two or more previous qualified domestic violence-related offenses; or (2) while possessing a dangerous weapon. Provides that if the court stays the imposition or execution of a felony sentence, the court shall impose a minimum of 30 days' imprisonment as a condition of probation. Provides that the court shall also require the defendant to participate in counseling.

2 Qualified Domestic Violence-Related Offense. Adds attempted violations of any listed offense and first- and second-degree murder to the definition of qualified domestic violence-related offense.

3 Sexual Contact. Technical, conforming change.

4 Third-degree Criminal Sexual Conduct.

**Para. (b)** limits the affirmative defense in this paragraph to cases in which the actor is no more than 120 months older than the complainant. In all other cases, mistake of age is not a defense.

Under this paragraph, a person who engages in sexual *penetration* with another is guilty of third-degree criminal sexual conduct if the complainant is between the ages of 13-15 and the actor is more than 24 months older than the complainant. There is an affirmative defense, which must be proven by a preponderance of the evidence, that the actor reasonably believes the complainant to be 16 years of age or older.

**Para. (o)** expands the definition of third-degree criminal sexual conduct to include nonconsensual sexual *penetration* that occurs during or immediately before or after the actor performs massage or other bodywork for hire.

The maximum penalty for third-degree criminal sexual conduct is 15 years' imprisonment and/or a \$30,000 fine. (However, in cases where the complainant is between the age of 13-15 and the actor is not more than 48 months older than the complainant, the maximum penalty is five years' imprisonment.)

5 Fourth-Degree Criminal Sexual Conduct. This paragraph contains the same changes as section 4. However, the underlying crime and penalty are different.



**Para. (b)** limits the affirmative defense in this section to cases in which the actor is no more than 120 months older than the complainant. In all other cases, mistake of age is not a defense.

Under this section, a person who engages in sexual *contact* with another is guilty of fourth-degree criminal sexual conduct if the complainant is between the ages of 13-15 and the actor is more than 48 months older than the complainant. There is an affirmative defense, which must be proven by a preponderance of the evidence, that the actor reasonably believes the complainant to be 16 years of age or older.

**Para. (o)** expands the definition of fourth-degree criminal sexual conduct to include nonconsensual sexual *contact* that occurs during or immediately before or after the actor performs massage or other bodywork for hire.

The maximum penalty for fourth-degree criminal sexual conduct is ten years' imprisonment and/or a \$20,000 fine.

- 6 Repeat Sex Offenders; Applicability. Clarifies that changes made to repeat and patterned sex offender laws in 2005 apply only to crimes committed on or after August 1, 2005. Crimes committed before that date are governed by the former patterned offender statute.
- 7 Solicitation of Children to Engage in Sexual Conduct.

**Subd. 2. Prohibited act.** Strikes the penalty language and moves it to new subdivision 4.

**Subd. 2a. Internet or computer solicitation of children.** A person 18 years of age or older is guilty of a felony if the person uses a computer or the Internet to do any of the following with the intent to arouse the sexual desire of any person:

- soliciting a child or someone the person reasonably believes is a child to engage in sexual conduct;
- engaging in communication relating to or describing sexual conduct with a child or someone the person reasonably believes is a child; or
- distributing any material, language, or communication that relates to or describes sexual conduct to a child or someone the person reasonably believes is a child.

**Subd. 2b. Jurisdiction.** Permits prosecution of an offense under subdivision 2a if the transmission that constitutes the offense originated or was received within the state.

**Subd. 3. Defenses.** Denies perpetrators the defense that an undercover operative was involved in the detection or investigation of an offense.

**Subd. 4. Penalty.** Maintains the current three-year felony for a violation of this section.

8 Theft-Sentence. Raises the following monetary thresholds for theft:

Penalty	Current	Proposed
10-year felony	more than \$2,500	more than \$5,000
5-year felony	\$501-\$2,500	\$1,001-\$5,000
5-year felony, repeat thefts	\$251-\$500	\$501-\$1,000
5-year felony, theft under specified circumstances	more than \$500	more than \$1,000
Gross misdemeanor	\$251-\$500	\$501-\$1,000
Misdemeanor	not more than \$250	not more than \$500

- 9 Theft-Enhanced penalty. Adds a new subdivision to the theft law (section 609.52) that enhances the criminal penalty for a theft if the theft creates a reasonably foreseeable risk of bodily harm to another. Under the provision, a misdemeanor or gross misdemeanor theft would become a felony with a three-year statutory maximum sentence. If the theft was a felony, the statutory maximum sentence for the offense would be increased by 50 percent.
- 10 Receiving Stolen Property. Amends the receiving stolen property crime applicable to precious metal dealers to include scrap metal dealers. Increases the monetary threshold dividing the misdemeanor crime from the lowest level felony crime from \$300 to \$500. Also decreases the statutory maximum sentence for the lowest level felony crime from five years to three years.
- 11-15 Burglary. Make changes to the burglary crime. Sections 11-14 add definitions of "government building," "religious establishment," "school building," and "historic place." Section 15 expands the crime of second-degree burglary to include unlawfully entering one of those places and committing or intending to commit the crime of theft or criminal damage to property. The maximum penalty for second-degree burglary is ten years' imprisonment and/or a \$20,000 fine.
- 16 Damage or Theft to Energy Transmission or Telecommunications Equipment. Creates a five-year felony for intentionally and without consent damaging, taking, removing, severing, or breaking any line that transmits or distributes electricity or gas, including any apparatus connected to the line, or any telecommunications machinery, equipment, or fixtures.
- 17 Criminal Damage to Property in the First Degree. Raises the following monetary thresholds for criminal damage to property in the first degree:

Penalty	Current	Proposed
5-year felony, first offense	more than \$500	more than \$1,000
5-year felony, repeat offense	more than \$250	more than \$500

- 18 Criminal Damage to Property in the Third Degree. Raises the following monetary thresholds for criminal damage to property in the third degree:

Penalty	Current	Proposed
gross misdemeanor	\$251-\$500	\$501-\$1,000
gross misdemeanor, bias crime	not more than \$250	not more than \$500

19 Ticket Scalping. Repeals the crime of ticket scalping. Currently, it is a misdemeanor for someone to "scalp" a ticket. The statute identifies the following acts as ticket scalping:

- issuing or selling tickets that do not list the price and seat number;
- charging admission to an event in excess of the price advertised or printed on tickets to the event;
- selling or offering to sell a ticket to an event at a price greater than that charged at the place of admission or printed on the ticket;
- selling a ticket in violation of transfer restrictions placed on the ticket by the issuing party; or
- permitting the sale or exhibition for sale of a ticket to an event at a price greater than that printed thereon on or in the premises which the event is conducted.

### **Article 3: DWI and Driving Related Provisions**

## **Overview**

This article restructures the criminal vehicular operation law making both technical and substantive changes, addresses the admissibility of certain laboratory reports, establishes an ignition interlock device pilot project, and modifies certain driving-related provisions.

1 Exception. Provides that a judge is not required to sentence a person as provided in section 169A.275 if the judge requires the person as a condition of probation to drive only motor vehicles equipped with an ignition interlock device meeting the standards provided in section 5. (Section 169A.275 provides mandatory penalties for nonfelony DWI violations.)

This section expires July 1, 2009.

2 Requirements for Conducting Tests; Liability. Amends the DWI law's provision listing the type of health care professionals who may, at the request of a peace officer, withdraw blood from a DWI offender for the purpose of testing the blood for alcohol, a controlled substance, or a hazardous substance. Adds phlebotomists to this list. A phlebotomist is a person trained to draw blood samples either for testing or donations.

3 Driving Record Disclosure to Law Enforcement. Directs the commissioner of public safety to provide driving records, without charge, to law enforcement agencies.

4 Program Standards. Provides that the program standards developed for the new ignition  
interlock device pilot project in section 5 are also applicable to the current law on ignition  
interlock devices.

5 Ignition Interlock Device Pilot Project.

Subd. 1. Pilot project established; reports. Provides that the commissioner of public  
safety shall conduct a two-year ignition interlock pilot project. Directs the  
commissioner to select one metropolitan county and one rural county to participate in  
the pilot. Sets the dates of the pilot project from July 1, 2007, through June 30, 2009.  
Directs the commissioner to submit two preliminary reports to the Legislature by  
February 1, 2008, and December 1, 2008, and a final report by September 1, 2009.  
The reports must evaluate the project and make recommendations on continuing the  
project.

Subd. 2. Performance standards; certification. Authorizes the commissioner to  
determine the appropriate standards and certification process for ignition interlock  
devices.

Subd. 3. Pilot project components.

Para. (a) provides that the commissioner shall issue a driver's license for individuals  
whose licenses have been revoked for a repeat impaired driving incident if the person  
qualifies under this section and agrees to all the conditions of the project.

Para. (b) requires the commissioner to denote a person's driving record to indicate  
participation in this program.

Para. (c) provides that the commissioner has the authority to determine when a person  
may be issued limited or full driving privileges under this program.

Para. (d) requires a participant to agree to recommended treatment.

Para. (e) authorizes the commissioner to determine guidelines for the pilot and  
requires the participant to sign a written agreement accepting the guidelines and  
agreeing to comply.

Para. (f) creates a misdemeanor penalty for a violation of this section if a person  
drives or operates a motor vehicle other than a vehicle properly equipped with an  
ignition interlock device.

6 Out-of-State Convictions Given Effect. Provides that the commissioner of public safety  
shall give the same effect for driving convictions reported from Canada as those reported in-  
state.

7-11 Criminal Vehicular Operation. Amend the criminal code's criminal vehicular operation law.  
These provisions make the following substantive changes to the law.

**Section 7** broadens the definition of what constitutes criminal vehicular operation. Under  
current law, a person who injures another through the operation of a motor vehicle in a  
negligent manner while any amount of a controlled substance listed in schedule I or II, other  
than marijuana, is present in the person's body is guilty of a crime. This provision adds  
metabolites of schedule I or II controlled substances. This change was made throughout the  
DWI law last year. However, making the change in this section was overlooked.

Also, expands the criminal vehicular operation crime to include situations where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury or death was caused by the defective maintenance.

**Section 11** expands the definition of "motor vehicle" to include attached trailers.

**Sections 7 to 11** also make numerous technical/structural changes to the criminal vehicular operation law. The way the law is currently structured, the criminal vehicular operation crime is contained in six different subdivisions. The only differences between these subdivisions involve the level of harm caused, who the victim is, and the statutory maximum penalty. This leads to a lot of redundant language. The changes made in these sections collapse the substantive criminal vehicular operation crime into a single subdivision (the remaining five subdivisions are repealed in **section 15**), thus, making for a more streamlined section. (**Sections 8 and 9** recodify language currently in statute. **Section 10** contains a technical/conforming change.)

12-13 **Evidence; Testimony; Blood Samples.** Amend a section of Minnesota Statutes, chapter 634 (special rules, evidence; privileges, witnesses), that addresses the admissibility of reports of certain laboratory analyses/examinations and DWI blood samples. The law currently provides that in criminal cases, an accused person may request that the person who performed the laboratory analysis or examination or who prepared the blood sample report actually testify in person at the trial if the request is made at least ten days before the trial.

A recent Minnesota Supreme Court decision (*State v. Caulfield*) held that because this statute does not inform the defendant of the consequences of the failure to make the request for the report's preparer to testify, it imposes an unreasonable burden on the defendant's constitutional right to confront witnesses. However, the Court added "at a minimum, any statute purporting to admit testimonial reports without the testimony of the preparer must provide adequate notice to the defendant of the contents of the report and the likely consequences of his failure to request the testimony of the preparer. Otherwise there is no reasonable basis to conclude that the defendant's failure to request the testimony constituted a knowing, intelligent, and voluntary waiver of his confrontation rights."

**Section 12** requires a prosecutor to submit to an accused person notice of the contents of the report sought to be admitted into evidence and also of the requirements of **section 13**. This must be done at least 20 days before trial.

**Section 13** provides that if the accused does not comply with the requirement to demand the in-person testimony of the preparer of the report, the prosecutor is not required to produce the person at trial, the accused's right to confront the witness is waived, and the report is admitted into evidence.

14 Revisor's Instruction. Provides a Revisor's instruction to change statutory references consistent with the restructuring of the criminal vehicular operation law made in **sections 7 to 11**.

15 Repealer. Repeals five subdivisions of the criminal vehicular operation law no longer necessary in light of the restructuring done in **sections 7 to 11**.

## Article 4: Crime Victims

### Overview

This article makes various changes to crime victim provisions.

- 1 Orders for protection and no contact orders. Provides that a no contact order be accompanied by a photo of the offender, if the photo is available and verified by the court.
- 2 Formulation of Policies. Provides that all gifts, bequests, grants, or other payments accepted by the department of human rights are credited to a special account and the money in the account is appropriated to help finance the activities of the department.
- 3 Right of Victims of Domestic Abuse to Terminate Lease.

Subd. 1. Right to terminate. Provides that a tenant who is the victim of domestic abuse and fears imminent abuse by remaining in the leased premises may terminate a lease agreement by providing written notice to the landlord. Written notice must be delivered by mail, fax, or in person, specify the date the tenancy will terminate, and be accompanied by an order for protection or a no contact order.

Subd. 2. Treatment of information. Prohibits a landlord from disclosing documentation provided under subdivision 1.

Subd. 3. Liability for rent; termination of tenancy. Provides that a tenant is responsible for the rent payment for the full month in which the tenancy terminates and an additional amount equal to one month's rent. Relieves the victim of any contractual obligation, except that a tenant is still responsible for delinquent, unpaid rent, or other sums owed before the lease was terminated. Provides that the tenancy terminates on the date stated in the written notice.

Subd. 4. Multiple tenants. Provides that the lease continues for any remaining tenants, notwithstanding the release of the victim from the lease agreement.

Subd. 5. Waiver prohibited. Prohibits a landlord from requiring a tenant to waive any rights provided under this section.

Subd. 6. Definition. Cross-references the domestic abuse definition from chapter 518B.

- 4 Competency of Witnesses. Provides that sexual assault counselors may not be allowed to disclose any opinion or information received from or about a victim without consent of the victim.
- 5 Employer retaliation prohibited. Provides that an employer must allow a victim of a violent crime, as well as the victim's spouse or immediate family members, reasonable time off from work to attend criminal proceedings related to the case. Current law covers heinous crimes only.
- 6 Definition. Defines "violent crime" for purposes of section 5.
- 7 Polygraph Examinations; Criminal Sexual Conduct Complaints.

Subd. 1. Polygraph prohibition. Prohibits law enforcement and prosecutors from requiring a complainant of a criminal sexual conduct offense to submit to a polygraph exam as part of or a condition to proceeding with the investigation, charging, or

prosecution of the crime.

Subd. 2. Law enforcement inquiry. Allows law enforcement or prosecutors to ask a complainant to submit to a polygraph exam only if the complainant has been referred to and had the opportunity to exercise the option of consulting with a sexual assault counselor.

Subd. 3. Informed consent requirement. Requires written, informed consent from a complainant before law enforcement may conduct a polygraph exam.

Subd. 4. Informed consent. Sets forth the requirements of informed consent: (1) the polygraph exam is voluntary and solely at the victim's request; (2) law enforcement and prosecutors may not require a polygraph exam; (3) the results are not admissible in court; and (4) the complainant's refusal to take the polygraph exam may not be used as a basis for not investigating, charging, or prosecuting the case.

Subd. 5. Polygraph refusal. Provides that the complainant's refusal to take the polygraph exam may not be used as a basis for not investigating, charging, or prosecuting the case.

Subd. 6. Definitions. Defines "criminal sexual conduct," "complainant," and "polygraph examination."

- 8 Grants Authorized. Adds the following as a compensable purpose under the emergency assistance grant program: reimbursement of towing and storage fees incurred due to impoundment of a recovered stolen vehicle. (*See* sections 9-12 ; *see also* article 1.)
- 9 Application for Grants. Provides that local prosecutors and victim assistance programs that apply for funds to reimburse impound fees must make a separate application to the commissioner. Authorizes the applicant to spend up to five percent of the grant awarded for administrative costs.
- 10 Awards; Limitations. (a) Prohibits awards to victims that failed to carry the minimum amount of insurance required by law. (b) Limits individual awards to \$300.
- 8-12 Emergency Assistance Grant Program. Replaces an obsolete reference to the "Crime Victim and Witness Advisory Council" with the "commissioner of public safety."
- 12 Report to the Legislature. Directs the commissioner of public safety to submit a report to the legislature by February 1, 2008, regarding the implementation, use, and administration of the emergency assistance grant program.

## **Article 5: Courts and Public Defenders**

### **Overview**

This article makes various changes to provisions relating to courts and public defenders.

- 1 Descriptions. Updates section 2.722 to reflect the seven new judgeships created in article 1. Adds three judges to the First Judicial District, one judge to the Seventh Judicial District, one judge to the Ninth Judicial District, and two judges to the Tenth Judicial District.
- 2 Definitions. Provides that a guardian ad litem acting under court appointment is not an independent contractor for purposes of indemnification for state employees. (The state does not indemnify independent contractors.) By changing this provision, the attorney general may represent guardian ad litem in lawsuits.

- 3 See Sec. 2
- 4 Ranges for Other Judicial Positions. Deletes language that authorizes the Supreme Court to set the salaries of the state court administrator and district court administrators. These salaries would be set pursuant to the Judicial Branch Human Resources Rules and Compensation Plan.
- 5 Termination of Jurisdiction. Eliminates the mandate that a court's jurisdiction cannot extend past the 18th birthday of a habitual truant. By eliminating this requirement, the court's jurisdiction would be consistent with the rule in other child protection cases: If found to be within the best interest of the habitual truant, court jurisdiction over the matter continues until the truant's 19th birthday.
- 6 Other Claims Preserved. Preserves a cause of action against a dissolved corporation for purposes of accessing available liability insurance for injury to a person.
- 7 Coverage. Clarifies that the state court administrator and judicial district administrators are enumerated employees for purposes of coverage under the Minnesota State Retirement System.
- 8 Drug Court Fees. Authorizes drug courts to charge defendants fees for participation. Provides that fees are credited to a special account and appropriated to the courts for drug court purposes.
- 9 Expense Payments. Provides that the Judicial Council sets the policy on reimbursing new judges for travel expenses between a judge's place of residence and permanent chambers.
- 10 Reinstatement of Forfeited Funds. Reinstates language that was repealed in 2006. Provides that any fees not disbursed or any bail not forfeited by court order is deemed abandoned if a person does not file a written demand for a refund within six months of becoming entitled to a refund.
- 11 Abandonment of Bail; Disposition of Forfeited Sums; Fourth Judicial District. Reinstates and updates language that was repealed in 2006.

Subd. 1. Abandonment of deposits and bail. Provides that any bail deposited with the court administrator in the Fourth Judicial District in a nonfelony case and forfeited is deemed abandoned if the person entitled to a refund does not file a written demand with the court for a refund within six months of becoming entitled to the refund. Forfeited funds may be reinstated and refunded for cause.

Subd. 2. Disposition of forfeited sums. Provides that sums, up to \$2,500, collected under subdivision 1 shall be paid to Hennepin County to support the law library. Sums in excess of \$2,500 shall be paid to the municipality or subdivision of government in which the violation occurred.

- 12 Summons and Writ. Deletes the statutorily mandated forms for a summons and writ of recovery of premises and order to vacate. Provides that the state court administrator shall develop the form.
- 13 Guardian ad litem; child support. Eliminate a guardian ad litem's responsibility to advise a court on child support issues.
- 14 See Sec. 13
- 15 Income Cap on Determining Basic Support. Eliminates the state court administrator's duty to adjust the income cap on child support to reflect cost-of-living changes.
- 16 Copy Costs. Provides that the court administrator shall provide a person proceeding in forma pauperis with a copy of the person's court file without charge.
- 17 Fine and Surcharge Collection. Provides that a defendant's obligation to pay restitution



survives for six years from the expiration date of the defendant's stayed sentence or from the imposition or due date of the obligation, whichever is later. Currently, the statute only refers to court-ordered fines, surcharges, court costs and fees.

18 Screener Collector. Deletes rider language from 2001 regarding screener collectors in the fifth, seventh, and ninth judicial districts. Eliminates an annual report to be provided by the state court administrator regarding these screener collector programs.

19 Report on Court Fees. Deletes rider language from 2003 requiring the state court administrator to annually submit a report that reviews policy changes made in the following areas: (1) criminal and traffic offender surcharges; (2) public defender co-pays; and (3) the use of revenue recapture to collect the public defender co-pay.

20 Public Defender Study and Report Required. Directs the Board of Public Defense and the Hennepin County Board of Commissioners to jointly prepare a report to the legislature on the history of funding for the public defender's office in the Fourth Judicial District. Provides that the report must compare the costs and services of the Fourth Judicial District Public Defender's office with all other districts, detail the amount of funding needed for the state to assume the full cost of the Fourth Judicial District Public Defender's office, and recommend specific legislation. Report is due to the legislature by October 1, 2007.

21 Repealer. Repeals the following sections:

- § 260B.173 - annual report on juvenile delinquency petitions
- § 480.175, subd. 3 - annual report on fees for training, testing, registering, and certifying court interpreters
- § 611.20, subd. 5 - \$40 per hour reimbursement rate for public defender services.

## **Article 6: Corrections**

### **Overview**

This article contains provisions related to the Department of Corrections, state prisons and local jails.

1 Income Credited to the General Fund; Exceptions. Specifies that income received from inmate stores and prison industries must be credited to the correctional industries revolving fund.

2 Public Entities; Purchases from Corrections Industries.

- Strikes the requirement that the commissioner of administration must determine the fair market price for items manufactured by prison industries.
- Strikes the requirement that the commissioners of administration and corrections shall develop performance measures to maximize inmate work program participation.
- Strikes the requirement that a task force be appointed to determine methods to achieve the performance goals of public entity purchasing from MINNCOR.

- Strikes the requirement that public entities must purchase items from prison industries if MINNCOR's performance goals are not met in two consecutive years.

3 Surplus Property. Clarifies that the definition of "surplus property" in the state procurement  
chapter (16C) does not include prison industry products that are for sale to the general  
public.

4 Biennial report to the Legislature; re-entry. Requires the Commissioner of Corrections to  
assess statewide re-entry policies and funding, including post-release treatment, education,  
training, and supervision as part of the Department's biennial report to the legislature.

5 Per Diem Calculation. Requires the Commissioner of Corrections to develop a uniform  
method to calculate the average per diem cost of incarcerating offenders in county and  
regional jails. Requires county and regional jails to submit annual per diem calculations to  
the commissioner. Directs the commissioner to report the local per diems in the  
department's performance report.

6 Establishment of Minnesota Correctional Industries; MINNCOR industries. Clarifies that  
prison industries shall be known as "MINNCOR" and that one of the primary purposes of  
MINNCOR is to provide inmates with educational training. Specifies that MINNCOR's  
industrial and commercial activities are intended to sustain the program and that the net  
profits from MINNCOR shall be used to fund prisoner education, self-sufficiency, and  
training services.

7 Revolving Fund; Use of Fund. Specifies that the purchase of services, materials, and  
commodities used in or held for resale by MINNCOR are not subject to competitive  
bidding. Permits the MINNCOR chief executive officer, or the Commissioner of  
Corrections, to use MINNCOR proceeds deposited in the correctional industries revolving  
fund to fund training, self-sufficiency skills, transition services, and the inmate release fund.

8 Disbursement from Fund. Earmarks that an amount equal to six months of net operating  
cash be restricted for the purposes specified in section 7. This is the amount of monetary  
reserves that MINNCOR will maintain in order to operate without a state appropriation.

9 Revolving Fund; Borrowing. Permits the commissioner to borrow up to six months of net  
operating cash to meet the demands on the prison industries revolving fund.

10 Agreements for Work Force of State or County Jail Inmates. Permits the commissioner to  
enter into interagency agreements to manage or fund programs that use state or county jail  
inmates as a work force if the agreement promotes the productive day initiative. Proceeds  
from the agreements must be deposited in the prison industries revolving fund.

11 Transfer. Permits any licensed mental health professional to recommend transfer of an  
inmate to a mental health unit and not just the "examining" health professional.

12 Commitment. Permits any licensed mental health professional to find that an inmate is in  
need of commitment for long-term care in a hospital. This authority is currently limited to  
the "examining" health professional.

13 Unemployment data; use by DOC. Permits dissemination of unemployment data to the  
Department of Corrections for the purpose of post-confinement employment tracking.

14 Rules and Regulations. Strikes language limiting an inmate's ability to earn good time to  
five days for each 30 day sentence and replaces the provision with a cross-reference to  
Minn. Stat. § 643.29, which enables an inmate to reduce his sentence one day for each two  
"good" days served.

15 Confinement of Inmates from Other Counties. Removes the requirement that Ramsey  
County must receive an amount equal to or in excess of the actual per diem cost per person  
confined when housing inmates from other counties. In other words, Ramsey County may

- 16 house inmates from other counties and be compensated at a rate below the actual per diem.  
Certified Statements; Determinations; Adjustments. Modifies the timeline for counties to  
file certified statements with the commissioner regarding the cost of providing community  
corrections services.
- 17 Intake procedure; approved mental health screening. Instructs sheriffs that a mental health  
assessment is to be conducted as part of the intake screening process for prisoners.
- 18 Regional Jail Withdrawal. Permits counties cooperating in a regional jail through a joint-  
powers agreement to establish the terms of a participating county's withdrawal in the joint-  
powers agreement. Currently, the amended statute requires a majority vote of all  
cooperating counties in favor of permitting a county to withdraw before a county can  
actually withdraw from the agreement.
- 19 Disciplinary confinement; protocol. Instructs the commissioner of corrections to establish a  
protocol so that inmates have an opportunity to be released from disciplinary confinement  
in a timely manner. The commissioner is also to develop a reentry plan, when possible, for  
those inmates in disciplinary confinement who are nearing their release date.
- 20 Repealer. Repeals the requirement that the Department of Administration purchase products  
needed by the state from MINNCOR. Repeals language referring to a report to the  
legislature that was due on December 15, 1999. Repeals the requirement that the  
commissioner submit an annual report on juvenile residential treatment grants.

## Article 7: Public Safety

### Overview

This article contains policy related to the Department of Public Safety, law enforcement, and public safety in general.

- 1 **Pawnshop and scrap metal dealer data.** Amends the data practices chapter of  
law (Minnesota Statutes, chapter 13) to provide that data that would reveal the  
identity of persons who are customers of scrap metal dealers are private data on  
individuals.
- 2 **Definition - Crime Against the Person.** Adds the crime of domestic assault by  
strangulation to the definition of "crime against the person" under the predatory  
offender registration law. Under this section, a person must register as a  
predatory offender if: (1) the person is convicted of a crime against a person, and  
(2) the person was previously convicted of or adjudicated delinquent for a  
predatory offense but was not required to register because the law did not apply  
at the time the offense was committed or at the time the person was released  
from imprisonment. This section applies retroactively.
- 3 **Fire safety account, annual transfers, allocation.** Removes obsolete language.
- 4 **Gang and Drug Oversight Council.** Appoints non-voting members of the  
legislature to the Gang Oversight Council.
- 5 **Financial Crimes Oversight Council and Task Force.** Appoints non-voting  
members of the legislature to the Financial Crimes Oversight Council.
- 6 **Financial Crimes Oversight Council; Report.** Expands the duties of the Financial Crimes  
Oversight Council to require an annual report to the Legislature. Minimum requirements for  
the report are specified, which would include:

- (1) description of the council's and task force's goals;
- (2) description of outcomes achieved or not achieved and outcomes they will seek to achieve during the coming year;
- (3) legislative recommendations, including, where necessary, a description of legislation needed to implement the recommendations;
- (4) detailed accounting of how money, grants, and in-kind contributions were spent; and
- (5) detailed accounting of grants awarded.

- 7 **Scrap Metal Dealers; Educational Materials.** Requires the superintendent of the Bureau of Criminal Apprehension to develop educational materials relating to the laws governing scrap metal dealers. The materials must also address the proper use of the criminal alert network. Requires the superintendent to seek the advice of certain identified parties and distribute the educational materials to all scrap metal dealers required to register with the criminal alert network (see **section 21**).
- 8 **CriMNet Task Force.** Modifies the appointment process for the task force of the Criminal and Juvenile Justice Information Group by authorizing the entities that previously recommended members to the policy group for appointment to the task force to appoint members directly to the task force.
- 9 **Review of Funding and Grant Requests.** Clarifies that entities other than counties may apply for state matching CriMNet grants.
- 10 **Cigarette Fire Safety; Definitions.** Defines terms including "agent," "cigarette," "manufacturer," "quality control and quality assurance program," "repeatability," "retail dealer," "sale," "sell," and "wholesale dealer."
- 11 **Test Method and Performance Standard.**

Subd. 1. Requirements. Prohibits the sale of cigarettes unless they have been tested according to the requirements established in sections 11 to 19, a written certification has been filed with the state fire marshal, and the cigarettes have been marked as required by law.

Subd. 2. Permeability Bands. Establishes requirements for permeability bands to be included on any cigarette listed in a certification to the state fire marshal.

Subd. 3. Equivalent Test Methods. Permits a cigarette manufacturer to propose an alternative test method and performance standard, if the cigarette cannot be tested in accordance with the method required in subdivision 1. Any alternative testing method must be approved by the state fire marshal in accordance with the requirements described in sections 11 to 19.

Subd. 4. Civil Penalty. Requires manufacturers to maintain copies of reports on all tests conducted on all cigarettes offered for sale for a period of three years, and to provide copies of the reports to the state fire marshal and attorney general upon written request. A manufacturer who fails to make copies of the reports available

within 60 days of a request is subject to a penalty of up to \$10,000 per day.

Subd. 5. Future ASTM Standards. Permits the state fire marshal to adopt a subsequent standard test method upon a finding that the method does not result in a change in the percentage of full-length cigarette burns as compared to the number of burns in the method established in subdivision 1 and in accordance with the ASTM standards.

Exempts the Fire Marshal from rule-making

Subd. 6. Report to Legislature. Requires the state fire marshal to review the effectiveness of this law, report findings, and if necessary make recommendations to the legislature every three years.

Subd. 7. Inventory Before State Standards. The new testing requirements do not prohibit the sale of an existing inventory of cigarettes on or after the effective date, if the dealer can establish that state tax stamps were affixed before the effective date, and that the inventory was purchased before the effective date in a quantity comparable to that purchased in the same period of the prior year.

Subd. 8. Implementation. Requires the testing procedures to be implemented consistent with the New York "Fire Safety Standards for Cigarettes."

12 Certification and Produce Change. Establishes the content requirements for certification of cigarettes to the state fire marshal. Manufacturers must pay a \$250 fee for each certified cigarette, and must recertify each cigarette every three years. Any certified cigarette that has been altered in a way that may change its compliance with the ignition standard must be not

13 Package Marking. Requires cigarettes certified under the ignition standard be marked to indicate compliance with the standard, as described in sections 11 to 19.

14 Penalties and Remedies.

Subd. 1. Wholesalers. A manufacturer, wholesale dealer, agent or other person or entity who knowingly sells or offers to sell cigarettes other than through retail sale is subject to a civil penalty for violation of the requirements of sections 11 to 19 as follows: 1) First offense: up to \$10,000 for each prohibited sale of cigarettes; 2) Subsequent offenses: up to \$25,000 for each prohibited sale. A penalty may not exceed \$100,000 during any 30-day period.

Subd. 2. Retail. A retail dealer who knowingly sells cigarettes in violation of this law is subject to a \$500 civil penalty for the first offense, and \$2,000 per each sale for subsequent offenses, if the total number sold or offered does not exceed 1,000 cigarettes. If more than 1,000 cigarettes are sold or offered, the retail dealer is subject to a first offense penalty of up to \$1,000, and \$5,000 for each sale that constitutes a subsequent offense. A penalty may not exceed \$25,000 during any 30-day period.

Subd. 3. False Certification. Establishes a civil penalty of at least \$75,000 for a first offense, and up to \$250,000 for subsequent false certifications.

Subd. 4. Other Violations. Establishes a civil penalty for violation of other provisions: up to \$1,000 for a first offense; and up to \$5,000 for subsequent offenses, per

violation.

Subd. 5. Forfeiture. Subjects non-complaint cigarettes to forfeiture; upon a judgment of forfeiture, the cigarettes must be destroyed. The true holder of the trademark rights on the cigarette is permitted to inspect the cigarette prior to destruction.

Subd. 6. Remedies. Permits the state fire marshal or attorney general to institute a civil action in district court for violation of this section, and permits injunctive relief as well as recovery of costs and damages.

- 15 Implementation. Permits the commissioner of public safety, in consultation with the state fire marshal, to adopt rules necessary to implement this law. This section also permits the commissioner of revenue to inspect cigarettes for proper markings during the regular course of inspections of wholesale dealers, agents, and retail dealers. The commissioner of revenue must notify the state fire marshal upon discovery of non-compliant cigarettes.
- 16 Inspection. Permits the attorney general and the state fire marshal to inspect the records of any person in possession, control, or occupancy of a premises where cigarettes are placed, stored, or offered for sale, as well as the stock of cigarettes in the premises.
- 17 Reduced Cigarette Ignition Propensity Account. Establishes an account to receive the funds recovered as a result of a penalty imposed for violation of the certification requirements. The money must be made available to the state fire marshal for support of fire safety and prevention programs.
- 18 Sale Outside Minnesota. This section does not prohibit a person or entity from manufacturing or selling non-compliant cigarettes if they are stamped for sale in another state or will be packaged for sale outside of the United States.
- 19 Local Regulation. Prohibits local government units from enacting ordinances or local laws that conflict with the requirements of sections 11 to 19.
- 20 Board of Firefighter Training and Education; Duties. Authorizes the board to hire technical or professional services.
- 21 Dealers in Scrap Metal; Records, Reports, and Registration.

Subd. 1. Definitions. Defines the terms "person," "scrap metal," "scrap metal dealer," "dealer," and "law enforcement agency."

Subd. 1a. Purchase or acquisition record required. Expands an existing law, which is limited to purchases of cable and wire used by utility companies, to include purchases of all scrap metal as defined in subdivision 1. Requires that dealers keep records of each purchase, including what was purchased, when and where it was purchased, the name and address of the person who sold or delivered it, the number of the check or electronic transfer used to purchase the scrap metal, the number on the identification used by the person who sold or delivered it, and the license number of the vehicle used to deliver it, if any. Requires that the records and the scrap metal purchased (if the dealer still has it) be available for inspection by law enforcement officers. Prohibits a scrap metal dealer from disclosing a customer's personal information.

Subd. 2. Retention required. Provides that records required to be maintained under subdivision 1a be retained for three years.

Subd. 3. Payment by check or electronic transfer required. Requires that scrap metal

dealers pay for scrap metal only by check or electronic transfer.

Subd. 4. Registration required. Requires scrap metal dealers to register with, and pay an annual fee of \$50 to participate in, the Minnesota Crime Alert Network.

Subd. 5. Training. Requires dealers to review the educational materials described in **section 7** and ensure that all employees do so as well.

Subd. 6. Criminal penalty. Creates a misdemeanor penalty for a scrap metal dealer who intentionally violates a provision of this section.

Subd. 7. Exemption. Exempts aluminum can purchases from the requirements of this section.

Subd. 8. Property held by law enforcement. Authorizes a law enforcement official who has probable cause that property in possession of a scrap metal dealer is stolen or is evidence of a crime to either place a hold on the property (for up to 90 days) so that it is not sold or removed from the premises or to seize the property and remove it from the dealer's possession. If the property is seized, the dealer may request its return in accordance with applicable law.

Subd. 9. Video security cameras required. Requires that dealers install, maintain, and keep in operation during business hours and other times when scrap metal is purchased video surveillance cameras, still digital cameras, or similar devices located so as to show the customer's face and the customer's vehicle.

- 22 Repeal by Pre-emption. Establishes a repeal of the cigarette safety requirements of sections 11 to 19 upon enactment of a federal reduced cigarette ignition propensity standard.
- 23 Collateral Sanctions Committee. Establishes a Collateral Sanctions Committee and directs it to study issues relating to how criminal convictions and adjudications affect an individual's employment and professional licensing opportunities in Minnesota. By January 15, 2008, the committee must report its findings and recommendations to the Legislature.

## **Article 8: Emergency Communications**

### **Overview**

This article contains provisions related to the ARMER radio system and 911 telephone fees.

- 1      Furnished Information; 911. Permits names, addresses, and telephone numbers provided to a 911 system to be used by the operators to notify the public of an emergency.
- 2      Paragraph (b) establishes a definition of "emergency."
- 3      Liability. Exempts participating telecommunications service providers from certain liabilities related to the release of data under section 1 .
- 4      Emergency Telecommunication Service Fee; Account. Increases the 911 service fee over three years from 65 to 95 cents a month.
- 4      Fee Collection Declaration. Requires telecommunications providers to submit a sworn

declaration vouching for the accuracy of their 911 fee collections when the Commissioner of Public Safety questions the accuracy of their 911 fee collections. If a provider fails to file a sworn declaration within 90 days of notice, the commissioner may estimate the provider's required fee submission and seek to collect it via state debt collection procedures.

5 Examination of Fees. Authorizes the commissioner to conduct a fee examination to determine the amount of 911 fees owed by a telecommunications provider, if the Commissioner determines it is necessary.

6 Allocation of Operating Costs. Along with the repealer in **section 7** , provides that the ongoing costs of operating the public safety radio communication system will be allocated by the Commissioner of Public Safety among the users of the system in accordance with the statewide radio plan. Currently, costs in the metropolitan area are allocated in accordance with the regional radio plan previously adopted by the Metropolitan Radio Board, which went out of existence in 2005.

7 Repealer. Repeals the subdivision that authorizes the Commissioner of Public Safety to allocate the ongoing costs of operating the public safety radio communication system among the users of phases 3 to 6 of the system in accordance with the state plan. This authority for the whole system is given to the Commissioner in section 6 .