

# HOUSE RESEARCH

## Bill Summary

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### Section

#### Article 1: Appropriations

##### Overview

This article contains appropriations for the following: Supreme Court, Court of Appeals, District Courts, Tax Court, GAL Board, Uniform Laws Commission, Board on Judicial Standards, Public Defense Board, Sentencing Guidelines, Department of Public Safety, Peace Officers Standards and Training Board, Private Detective Board, and Department of Corrections

**1 Summary of Appropriations.** Summarizes direct appropriations by fund.

**2 Supreme Court.**

**Subd. 1. Total appropriation.** Appropriates a total of \$45,826,000 in FY16 and \$46,426,000 in FY17 to the supreme court.

**Subd. 2. Supreme Court Operations.** Appropriates \$33,060,000 in FY16 and \$33,660,000 in FY17 for supreme court operations.

**Subd. 3. Civil Legal Services.** Appropriates \$12,766,000 in FY16 and FY17 to civil legal services to provide legal representation to low-income clients. \$948,000 each year is to improve access in family law matters.

**3 Court of Appeals.** Appropriates \$11,306,000 in FY16 and \$11,547,000 in FY17 for the court of appeals.

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- 4**      **District courts.** Appropriates \$261,597,000 in FY16 and \$267,129,000 in FY17 for trial courts. Provides that \$50,000 each year is to expand specialty courts. [**H.F. 1180**]
- 5**      **Guardian ad litem board.** Appropriates \$14,063,000 in FY16 and \$14,411,000 in FY17 to the GAL board.
- 6**      **Tax court.** Appropriates \$1,976,000 in FY16 and \$1,753,000 in FY17 to the tax court. Provides that appropriation includes funds for IT services and support. Sets the base appropriation for FY18 and FY19 at \$1,288,000 each year.
- 7**      **Uniform laws commission.** Appropriates \$88,000 in FY16 and \$93,000 in FY17 to the ULC.
- 8**      **Board on Judicial Standards.** Appropriates \$486,000 in FY16 and \$486,000 in FY17 to the Board on Judicial Standards. Provides that \$125,000 each year is for special investigative and hearing costs.
- 9**      **Board of Public Defense.** Appropriates \$76,547,000 in FY16 and \$80,499,000 in FY17 for the Board of Public Defense.
- 10**     **Sentencing Guidelines.** Appropriates \$595,000 in FY16 and \$604,000 in FY17 to the sentencing guidelines commission.
- 11**     **Public Safety.**

**Subd. 1. Total appropriation.** Appropriates \$191,945,000 for FY16, \$181,851,000 for FY17.

**Subd. 2. Emergency management.** Appropriates \$6,810,000 in FY16 and \$3,861,000 in FY17 to the emergency management division.

**(a) Hazmat and chemical assessment teams.** Appropriates \$1,409,000 in FY16 and \$1,309,000 from the Fire Safety Account to fund Hazmat and Chemical Assessment Teams.

**(b) School safety.** Appropriates \$405,000 in FY16 and \$410,000 in FY17 to fund the school safety center and provide for school safety.

**(c) Combatting terrorism recruitment.** Appropriates \$25,000 in FY16 to develop strategies to combat recruitment of state residents by terrorist organizations, and report the proposed strategies to the legislature by February 1, 2016.

**(d) Disaster assistance account.** Appropriates \$2,500,000 in the first year for the disaster assistance contingency account in Minn. Stat. §12.221.

**Subd. 3. Criminal apprehension.** Appropriates \$53,619,000 in FY16 and \$49,339,000 in FY17 to the BCA.

**(a) DWI analysis.** Transfers funding for DWI lab analysis from the trunk highway fund to the general fund.

**(b) BCA investment initiative.** Appropriates \$2,223,000 in FY16 and \$2,795,000 in FY17 for the following: (1) two latent fingerprint examiners; (2) one DNA analyst; (3) forensic lab equipment and instruments; (4) forensic lab supplies; (5) five positions

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to form a digital forensic exam unit; (6) three positions to form a financial crimes unit; and (7) seven positions in the predatory crimes unit.

(c) **Livescan fingerprinting.** Appropriates \$650,000 each year to replace livescan fingerprinting equipment. Sets the base for FY18 and FY19 at \$650,000 each year.

(d) **Report.** Requires a report to the legislature if the vehicle services special revenue account accrues an unallocated balance in excess of 50 percent of the previous fiscal years' expenditures.

**Subd. 4. Fire Marshal.** Appropriates \$15,650,000 in FY16 and \$12,722,000 in FY 17 to fund the state fire marshal and firefighter training grants. Directs funds to be used for increases to the Board of Firefighter Training; Minnesota Task Force 1; and Minnesota Air Rescue Team. [H.F. 800]

**Subd. 5. Alcohol and Gambling Enforcement.** Appropriates \$2,338,000 in FY16 and \$2,373,000 in FY17 to the alcohol and gambling enforcement division. \$500,000 from the alcohol enforcement account is transferred to the general fund.

**Subd. 6. Office of Justice Programs.** Appropriates \$36,442,000 in FY16 and \$36,479,000 in FY17 to OJP.

(a) **OJP administration costs.** Permits OJP to use up to 2.5 percent of the funds to administer the grant program.

(b) **Crime victims programs.** Appropriates \$1,500,000 each year to crime victim programs to meet needs in underserved and unserved areas and populations.

(c) **Youth intervention grants.** Appropriates \$1,000,000 each year for youth intervention grants.

(d) **Crime victim services.** Appropriates \$50,000 each year to supplement previous grants. [H.F. 425]

(e) **Child advocacy centers.** Appropriates \$50,000 each year to existing child advocacy centers. [H.F. 503]

(f) **Prosecutor and law enforcement training.** Appropriates \$50,000 each year for prosecutor and law enforcement training. [H.F. 755]

(g) **Crime victim support.** Appropriates \$50,000 each year for a grant to a nonprofit organization that provides support to family and friends of individuals who have died by suicide, overdose, accident, or homicide. [H.F. 1500]

(h) **Sex trafficking investigations.** Appropriates \$250,000 each year for grants to combat sex trafficking. [H.F. 1776]

(i) **Alternatives to juvenile detention.** Appropriates \$50,000 each year for grants to organizations to implement juvenile detention reform.

**Subd. 7. Emergency communications networks.** Appropriates \$77,068,000 in FY16 and \$77,085,000 in FY17 from the 911 emergency telecommunications service fee account for emergency communications.

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Funds public safety answering points, medical resource communication centers, ARMER debt service, ARMER state backbone operating costs, and ARMER improvements.

- 12 Peace Officers Standards and Training Board.** Appropriates \$3,987,000 in FY16 and \$4,004,000 in FY17 to the POST Board. \$2,734,000 each year is for reimbursements to local governments for peace officer training costs. \$100,000 each year is for de-escalation training. **[H.F. 406]**
- 13 Private Detective Board.** Appropriates \$122,000 in FY16 and \$124,000 in FY17 to the private detective board.
- 14 Department of Corrections.**
- Subd. 1. Total appropriation.** Appropriates \$526,638,000 the first year and \$537,845,000 the second year to the department of corrections.
- Subd. 2. Correctional institutions.** Appropriates \$381,152,000 the first year and \$390,892,000 the second year to correctional institutions. \$541,000 in FY16 and \$670,000 in FY17 are for additional FTEs in the fugitive apprehension unit.
- Subd. 3. Community services.** Appropriates \$120,674,000 in FY16 and \$121,688,000 in FY17 for community services. Provides funds for intensive supervised release agents, challenge incarceration, CCA subsidy, county probation officer reimbursements, and caseload reduction grant to Scott County **[H.F. 743]**.
- Subd. 4. Operations support.** Appropriates \$24,812,000 in FY16 and \$25,265,000 in FY17 for the department's operations support group. \$500,000 each year is to support technology needs.
- 15 Transfer.** Transfers \$550,000 each year from the MINNCOR fund to the general fund.
- 16 Tax court.** Amends rider language for the current biennium to allow funds dedicated to law clerks, CLE costs, and Westlaw, to be used for operating expenses. Makes funds in the first year available in the second year. **[H.F. 1703]**
- 17 Board on Judicial Standards.** Amends rider language from 2013 to provide that only unencumbered and unspent balances carry-over. **[H.F. 849]**

## Article 2: Courts

### Overview

This article contains provisions relating to courts.

- 1 Place of hearing.** Allows the initial commitment hearing to be conducted by interactive video conference. Requires compliance with the provisions on the use of interactive video teleconference found in the General Rules of Practice, rule 131, and Minnesota Rules of Civil Commitment, rule 14. **[H.F. 233]**

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- 2**        **Time and place of hearing.** Allows the commitment review hearing to be conducted by interactive video conference. Requires compliance with the provisions on the use of interactive video teleconference found in the General Rules of Practice, rule 131, and Minnesota Rules of Civil Commitment, rule 14. [**H.F. 233**]
- 3**        **Procedure.** Allows the Judicial Appeal Panel to conduct a hearing related to the continued commitment of a person who is committed as a sexually dangerous person or as a sexual psychopathic personality by interactive video conference. Requires compliance with the provisions on the use of interactive video teleconference found in the General Rules of Practice, rule 131, and Minnesota Rules of Civil Commitment, rule 14. [**H.F. 233**]
- 4**        **Written order.** Extends the time for serving a motion for a rehearing from 15 to 30 days and the time to hear the motion from 30 to 60 days. [**H.F. 1703**]
- 5**        **Small claims jurisdiction.** Increases the monetary threshold for small claim division from \$5,000 to \$15,000 for cases not involving valuation, assessment, and taxation of property. [**H.F. 1703**]
- 6**        **Disclosure; court reporter requirements.** Requires disclosure of existence of exclusive agreement with a court reporter or reporting firm in the notice of deposition or legal proceeding. Expands requirements that apply to freelance court reporters to also apply to court reporting firms. Requires court reporters or firms to charge the same rate to all parties for transcript copies. [**H.F. 1865**]
- 7**        **Remedies.** Provides that, upon a violation of the disclosure provision in subdivision 2, paragraph (a) (see § 6), the court may impose sanctions, including civil contempt, costs, and attorneys' fees, rather than require re-conducting the legal proceeding. [**H.F. 1865**]
- 8**        **Interest rates; judgment.** Sets the pre-judgment interest rate at 4 percent rate for all judgments, regardless of the amount. Current law provides a 10 percent rate for certain judgments over \$50,000. Also, provides that this section does not apply in certain breach of insurance policy cases. [**H.F. 1524, as amended**]

## Article 3: Public Safety

### Overview

This article contains policy provisions related to the Department of Public Safety, firearms, and crime victims.

- 1**        **Legal proceedings; protective order.** Provides that a person or entity may not be compelled to disclose the actual address of a participant in the Safe at Home Address Confidentiality Program in a legal proceeding, unless the court or tribunal determines that there is reason to believe that the matter cannot proceed without disclosure, and there is no other practicable way of obtaining the information or evidence. The court must provide notice to the program participant of the requested disclosure and give the participant an opportunity to present evidence of any potential harm to the participant due to the disclosure. The court must determine whether the interest in disclosure outweighs the harm to the

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program participant's safety. In a criminal proceeding, the court must order disclosure if protecting the address would violate the defendant's constitutional confrontation rights.

The order for disclosure must be limited to ensure that the address is disclosed no wider than that necessary for purposes of the investigation, prosecution, or litigation.

This section maintains the existing permissive authority for a court or tribunal to issue a protective order to prevent disclosure of information that could reasonably lead to the discovery of a participant's location. [H.F. 654, 2<sup>nd</sup> eng., § 1]

- 2 **Discoverability of not public data.** Requires consideration of potential Safe at Home data protections when not public data are considered for release during the discovery phase of a legal proceeding. [H.F. 654, 2<sup>nd</sup> eng., § 2]
- 3 **Definitions; scrap vehicles.** Strikes the definition of "interchange file specification format" (*i.e.*, APS) from the section on scrap vehicle transactions and reporting. Reporting through APS will no longer be required, but written or electronic records will still be required (see § 22 – Repealer). [H.F. 2152, § 1]
- 4 **Additional reporting.** Conforming change. [H.F. 2152, § 2]
- 5 **Youth intervention grant applications.** Lowers the local matching requirement for a youth intervention grant from a two-to-one to a one-to-one match. Increases the grant per agency limit from \$50,000 to \$75,000. [H.F. 273, § 1]
- 6 **Bureau to broadcast criminal information.** Strikes references to outdated broadcast and communication systems and replace with references to updated technology. [H.F. 1077, § 1]
- 7 **Priority of police communications; misdemeanor.** Strikes references to outdated broadcast and communication systems and replace with references to updated technology. [H.F. 1077, § 2]
- 8 **Criminal justice agency defined.** Strikes a cross-reference to a statute that was repealed in 2014. [H.F. 1077, § 3]
- 9 **Criminal justice agency defined.** Strikes a cross-reference to a statute that was repealed in 2014. [H.F. 1077, § 4]
- 10 **Background checks; Indian tribes.** Directs the Superintendent of the Bureau of Criminal Apprehension to process criminal history background check requests submitted by tribal law enforcement agencies located in the state. The Superintendent shall recover the cost of each background check from the requesting tribal agency. [1432, 1<sup>st</sup> eng.]
- 11 **Definitions; scrap metal.** Strikes the definition of "interchange file specification format" (*i.e.*, APS) from the section on scrap metal transactions and reporting. Reporting through APS will no longer be required but written or electronic records will still be required (see § 22 – Repealer). [H.F. 2152, § 3]
- 12 **Retention required.** Conforming change. [H.F. 2152, § 4]
- 13 **Member.** Clarifies a reference to a repealed law. [H.F. 1077, § 5]
- 14 **Possession of firearms at Capitol.** Minnesota Statutes, section 609.66, subdivision 1g, provides that a person who carries a dangerous weapon in any state building within the Capitol Area is guilty of a felony. This law does not apply to persons with a permit to carry a

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pistol who provide prior notice to the commissioner of public safety of their intent to carry their firearms in the Capitol Area. This section adds that the issuance of a permit to carry constitutes notification of the commissioner of public safety and satisfies the notification requirement. [H.F. 372]

- 15 **Scope.** Strikes a cross-reference to a statute that was repealed in 2014. [H.F. 1077, § 6]
- 16 **Duties of commissioner.** Strikes a cross-reference to a statute that was repealed in 2014. [H.F. 1077, § 7]
- 17 **Domestic abuse program director.** Strikes a cross-reference to a statute that was repealed in 2014. [H.F. 1077, § 8]
- 18 **Gun control; application of federal law.** Clarifies that long guns can be purchased and sold to persons in other states. Under current law, a federally licensed firearms dealer from Minnesota is only expressly authorized to sell and deliver long guns to persons who live in states that are contiguous with Minnesota. Similarly, residents of Minnesota are only expressly authorized to purchase firearms from persons and dealers who reside in states that are contiguous with Minnesota. In both situations, this section removes the contiguous state limitation and expressly allows for the sale and purchase of firearms from any state.
- 19 **Recognition of permits from other states.** Amends the Minnesota Personal Protection Act to require the Commissioner to only place states with laws that are not “similar” to Minnesota’s law on the non-reciprocity list. The Minnesota Personal Protection act requires the commissioner of public safety to annually publish a list of states that have laws governing the issuance of permits to carry weapons that are **not substantially** similar to Minnesota’s laws regarding permits to carry weapons. An individual with a permit from a state that is on this list may not use the license or permit in Minnesota. [H.F. 305]
- 20 **Authority to seize and confiscate firearms.**

**Para. (a).** Provides that this section applies only during a state of emergency proclaimed by the Governor relating to a public disorder or disaster.

**Para. (b).** Provides that a peace officer may disarm an individual only temporarily and only if the officer believes it is immediately necessary. Before releasing the individual, the peace officer must return any seized weapons, ammunition, or accessories unless the officer takes the individual into custody or seizes the items as evidence.

**Para. (c).** Provides that no government unit or person acting under government authority may, with regard to weapons, ammunition, or accessories: (1) prohibit or regulate the otherwise lawful possession, carrying, transportation, transfer, or use; (2) seize, commandeer, or confiscate; (3) suspend or revoke a valid permit; or (4) close or limit the operating hours of businesses that sell or service these items, unless the limitation applies to all forms of commerce.

**Para. (d).** Provides that no provision of law relating to a public disorder or national emergency proclamation shall be construed as authorizing any government official to act in violation of paragraphs (b), (c), or (d).

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**Para. (e).** (1) An individual aggrieved by a violation of this section may seek specified relief in the district court with jurisdiction over the county in which the individual resides or in which the violation occurred.

(2) An individual aggrieved by a violation of a paragraph (c) may additionally apply for the immediate return of the items to the office of the clerk for the county in which the items were seized. Except as provided in paragraph (b), the court must order the immediate return of the items.

(3) In an action or proceeding to enforce this section, the court must award the prevailing plaintiff reasonable court costs and expenses, including attorney fees.

**21** **Statewide accounting of untested rape kits.** Requires the director of the forensic science division of the Bureau of Criminal Apprehension, each executive director of a publicly funded forensic laboratory, and each sheriff and chief of police to prepare a written report, by August 1, 2015, that identifies the number of untested rape kits in the possession of the official's agency or department. Defines "untested rape kit" as a rape kit that has not been submitted to the bureau for DNA analysis or a rape kit in the possession of the bureau that has not undergone DNA analysis.

Requires the superintendent to prepare a report by December 1, 2015, that identifies each untested rape kit disclosed, provides explanation of why each kit was not tested, and provides a plan to resolve any backlog of untested rape kits. [H.F. 1140, 1<sup>st</sup> eng.]

**22** **Repealer.** Repeals the following sections:

- 168A.1501, subs. 5 and 5a – requirement that scrap vehicle operators report all transactions through APS; and authorization for Minneapolis to charge fees for use of APS.
- 325E.21, subs. 1c and 1d – requirement that scrap metal dealers report all transactions through APS; and authorization for Minneapolis to charge fees for use of APS.
- Laws 2014, ch. 190, §§ 10 & 11 – grace period for enforcement of APS and local approval requirement for Minneapolis to set APS fee. (These provisions would no longer be needed due to the above sections being repealed.) [H.F. 2152, § 5]

## **Article 4: Firefighters**

### **Overview**

This article contains a variety of policy initiatives affecting firefighters.

**1** **Payroll deduction for volunteer firefighter relief association dues.** Allows employer payroll deductions for dues to volunteer firefighter relief associations and the Bloomington fire department relief association. In Minnesota, volunteer firefighters typically have pension coverage as part of their compensation package and that pension coverage is provided by the various local volunteer firefighter relief associations located in the state. [H.F. 323, 2<sup>nd</sup> eng., § 1]



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- 2        **Volunteer firefighter wages.** Allows employers of volunteer firefighters and ambulance drivers or attendants to pay wages at intervals longer than 31 days, provided both the employee and employer agree. Currently, all Minnesota employers must pay employee wages at least once every 31 days. [H.F. 323, 2<sup>nd</sup> eng., § 2]
- 3        **Authorized programs within department.** Requires that any balance remaining in the fire safety account after the first year of the biennium must be appropriated to the commissioner of public safety for the purposes specified in law. [H.F. 800 § 1]
- 4        **Terms; chair; compensation.** Removes the requirement that the Board of Firefighter Training and Education elect the board's chair each year. [H.F. 1570 § 1]
- 5        **Full-time firefighter.** Makes technical changes. [H.F. 1570 § 2]
- 6        **Licensed firefighter.** Makes technical changes. [H.F. 1570 § 3]
- 7        **Volunteer firefighter.** Makes technical changes. [H.F. 1570 § 4]
- 8        **Certain baccalaureate or associate degree holders eligible to take certification examination.** Makes technical changes. [H.F. 1570 § 5]
- 9        **Licensure requirement.** Removes the grandfather clause established for licensure of full time firefighters. [H.F. 1570 § 6]
- 10       **Obtaining a firefighter license.** Requires firefighters to complete an application to secure licensure from the board. A license is valid for a three-year period determined by the board. [H.F. 1570 § 7]
- 11       **License renewal; expiration and reinstatement.** Modifies license renewal and reinstatement requirements and procedures. [H.F. 1570 § 8]
- 12       **Duties of chief firefighting officer.** Modifies duties of chief firefighting officers in regards to ensuring licensure of their firefighters. [H.F. 1570 § 9]
- 13       **Revocation; suspension; denial.** Expands grounds for which the board may revoke, suspend, or deny a license. Requires notice of criminal convictions be provided to the board. [H.F. 1570 § 10]
- 14       **Eligibility for reciprocity examination based on relevant military experience.** Establishes a reciprocity exam based on relevant military experience. Provides that a person is eligible to take the reciprocity examination if he or she has relevant military experience and has been honorably discharged or is currently in active service. [H.F. 1570 § 11]
- 15       **Repealer.** Repeals section 299N.05, subdivision 3, which provides for licensure of firefighters appointed prior to July 1, 2011. [H.F. 1570 § 12]

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### Article 5: Corrections

#### Overview

This article contains policy provisions regulating corrections and probation.

- 1 **Insurance contributions; former employees.** A 2014 law requires the Commissioner of Corrections to continue to make the employer contribution for insurance coverage for any former Department of Corrections employee who was a member of the Minnesota State Retirement System (MSRS) general plan who was assaulted by an inmate at a state correctional institution and was determined to be totally and permanently physically disabled under MSRS laws.  
  
This section extends the law to apply to positions covered by either the MSRS correctional plan or the general state employees retirement plan and to former employees assaulted by either patients at institutions under control of the Commissioner of Human Services or inmates at state prisons. [H.F. 329]
- 2 **Restraint.** Requires that, if wrist restraints are used on a pregnant, incarcerated woman, they must be applied so the woman may protect herself and her fetus in case of a forward fall. [H.F. 1247, § 1]
- 3 **Required annual report.** Requires an annual legislative report by the commissioner of corrections on the use of restraints on pregnant women, women in labor, and postpartum women incarcerated in state and local correctional facilities. No reporting is required on use of handcuffs on the front of the body of a pregnant woman. [H.F. 1247, § 2]
- 4 **Applicability.** Technical correction. [H.F. 1247, § 3]
- 5 **Requirements.** Amends standard of care provided by correctional facilities relating to incarcerated women: (1) requires current pregnancy testing be taken within 14 days of incarceration (applies to women under age 50 who consent); (2) strikes requirement to test for sexually transmitted diseases and replaces with requirement on providing prevailing medical standard of care; and (8) extends notice on laws and policies to be given to women who have given birth in the past six months (applies currently to pregnant women). [H.F. 1247, § 4]
- 6 **Supervised release; electronic surveillance.** Authorizes the Commissioner of Corrections to keep an inmate in custody or under direct probation supervision until the inmate has electronic surveillance activated. Places the burden of ensuring the inmate's home is properly equipped and the inmate's telecommunications system is properly configured on the inmate. Failure to maintain the proper equipment or configuration is grounds for revocation of supervised release. [H.F. 969, § 3]
- 7 **Intensive supervised release; electronic surveillance.** Requires direct supervision of a state prison inmate designated for intensive community supervision until the offender's electronic monitoring is activated in cases where the Commissioner of Corrections imposes electronic monitoring as a condition of the offender's release. Places the burden of ensuring the inmate's home is properly equipped and the inmate's telecommunications system is properly configured on the inmate. Failure to maintain the proper equipment or configuration is grounds for revocation of intensive supervised release. [H.F. 969, §4]

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- 8 Juveniles; electronic surveillance.** Authorizes a court to keep a juvenile in custody or under direct probation supervision until the juvenile has electronic surveillance activated. Places the burden of ensuring the juvenile's home is properly equipped and the juvenile's telecommunications system is properly configured on the juvenile's parent or guardian. [H.F. 969, § 5]
- 9 Community corrections aid calculation.** To determine the community corrections aid amount to be paid to each participating county, the commissioner of corrections must apply a formula provided under Minnesota Statutes 2014, section 401.10, subdivision 1. This section modifies how the base funding amount used in this formula is calculated. Currently, each participating county's base funding amount is the aid amount that the county received under this section for fiscal year 1995 as reported by the commissioner of corrections. This section adds the amount received by a county in caseload or workload reduction, felony caseload reduction, and sex offender supervision grants in fiscal year 2015 to the county's base funding amount.
- This section also makes the same change to how the aggregate base funding amount is calculated. The aggregate base funding amount is equal to the sum of the base funding amounts for all participating counties. If a county that did not participate under this section in fiscal year 1995 chooses to participate in any given year, then the aggregate base funding amount must be increased by the amount of aid that the county would have received had it participated in fiscal year 1995 plus the estimated amount it would have received in caseload or workload reduction, felony caseload reduction, and sex offender supervision grants in fiscal year 2015. [H.F. 2044]
- 10 County probation; electronic surveillance.** Authorizes the court or sheriff to keep an offender in custody or under direct probation supervision until the offender has electronic surveillance activated. Places the burden of ensuring the offender's home is properly equipped and the offender's telecommunications system is properly configured on the offender. Failure to maintain the proper equipment or configuration is grounds for revocation of probation. [H.F. 969, § 6]
- 11 Sherburne county community supervision grant.** Provides that any state funds appropriated in FY 2015 for community supervision in Sherburne County that are unallocated after specified transfers are made shall be transferred to Sherburne County as a caseload and workload reduction grant to fund community supervision of offenders. The appropriated funds will keep Sherburne County probation funded at the same level it currently is as the county transitions to the Community Corrections Act system. [H.F. 535]
- 12 Colton's law; title.** Identifies sections 6, 7, 8, 10, and 13 dealing with electronic surveillance of offenders as Colton's law. [H.F. 969, § 1]
- 13 Electronic surveillance; purpose statement.** Establishes a purpose statement of the use of electronic surveillance of offenders. [H.F. 969, § 2]

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### Article 6: General Criminal Provisions

#### Overview

This article contains provisions relating to crimes and crime victims.

- 1 **Protection of identities.** Expands data protections by prohibiting public access to law enforcement data that would reveal a sex trafficking victim’s identity. [H.F. 1232]
- 2 **Reckless driving.** (a) Amends the crime of reckless driving. Strikes the current definition of reckless driving – “willful or . . .wanton disregard for the safety of persons or property”, and replaces it with driving “while aware of and consciously disregarding a substantial and justifiable risk” of harm to persons or property.  
  
(c) Maintains the misdemeanor penalty for reckless driving, except in cases resulting in great bodily harm or death, the penalty is a gross misdemeanor. [H.F. 1085, as amended]
- 3 **Application.** Amends careless and reckless driving statute. Provides that a person may be prosecuted for conduct that constitutes any other crime. [H.F. 1085, as amended]
- 4 - 8 **Aggravating factor; DWI.** Lower the blood alcohol concentration (BAC) from .20 to .16 for the definition of aggravating factor. Aggravating factors enhance criminal provisions under DWI law, including penalties, assessments, and level of care recommendations. (This would make the BAC threshold for criminal penalties the same as for administrative sanctions.) [H.F. 1255]
- 9 **Judicial hearing; implied consent.** Amends the DWI implied consent law to specifically authorize a petitioner to raise the affirmative defense of necessity. Under common law, necessity is a defense “in emergency situations where the peril is instant, overwhelming, and leaves no alternative but the conduct in question.”  
  
This section is in response to a recent Minnesota Supreme Court ruling (*Axelberg v. Commissioner of Public Safety*) holding that the common law affirmative defense of necessity is not available in DWI implied consent proceedings. [H.F. 291, 1<sup>st</sup> eng.]
- 10 **Registration required.** Amends the predatory registration statute.  
  
Requires offenders convicted of committing felony violations of the new crime created in section 26 (“nonconsensual photographs and videos”) to register as predatory offenders. [H.F. 1433].  
  
Expands registration to all sex trafficking offenses (not just those involving a minor) and to all prostitution offenses involving minors (not just those involving a minor under 13). [H.F. 1232]
- 11 **Definitions.** Adds sex trafficking to the definition of “violent crime” under section 609.1095. A person who commits dangerous or repeat “violent crimes” is subject to increased and mandatory sentences. [H.F. 1232]

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- 12**      **Definitions; CVO.** Defines “qualified prior driving offense” as a prior conviction for:
- (1) first, second, or third-degree DWI;
  - (2) fourth-degree DWI involving damage to property;
  - (3) careless/reckless driving involving harm to or death of another, or damage to property;
  - (4), (5), & (6) Criminal vehicular homicide or injury involving impairment.
- See sections 13 and 14. [**H.F. 71, as amended**]
- 13 - 14**    **Criminal vehicle homicide.** Create a 15-year felony for a person convicted of criminal vehicular homicide involving impairment, occurring within ten years of a prior “qualified driving offense.” (The current penalty is a ten-year felony.) [**H.F. 71, as amended**]
- 15**      **Secure treatment facility personnel.** Expands the fourth-degree assault protections to employees supervising and working directly with mentally ill and dangerous patients at the Minnesota Security Hospital. Currently, this subdivision covers only employees working in the sex offender programs at Moose Lake and the Minnesota Security Hospital (ch. 253D).
- This section expands the definition of “secure treatment facility” to include the entire Minnesota Security Hospital. In addition, paragraph (c) amends the crime to include assaults by persons committed as mentally ill and dangerous (§ 253B.18) and patients admitted from jail or prison who are ordered confined for a competency examination (§ 253B.10, cl. (1)).
- The penalty for fourth-degree assault under this subdivision is a two-year felony. [**H.F. 783**]
- 16**      **Hiring minor to engage in prostitution.** Creates a five-year felony for hiring or agreeing to hire an individual the actor reasonably believes to be under the age of 18 to engage in prostitution. [**H.F. 1232**]
- 17**      **No defense; undercover operative.** Provides that the use of an undercover operative is not a defense to a charge under section 609.324 (patrons/prostitution). [**H.F. 1232**]
- 18**      **Affirmative defense.**
- Updates a cross-reference to reflect re-structuring of section 609.324 (prostitution) in the 2011 session.
  - Amends the burden to establish an affirmative defense to a prostitution charge by a trafficking victim. Requires defendant to prove that the acts were the result of being a trafficking victim. Currently, the defendant must prove the acts were committed under compulsion by another through threat of bodily harm. [**H.F. 1232**]
- 19**      **Fifth degree criminal sexual conduct.** Extends the offense of fifth-degree criminal sexual conduct to cover cases where the criminal sexual contact is made through the offender’s seminal fluid. [**H. F. 889, as amended**]
- 20**      **Records pertaining to victim identity confidential.** Expands data protections by prohibiting public access to charging documents that would reveal a sex trafficking victim’s identity. (Current law protects sexual assault victims.) [**H.F. 1232**]
- 21**      **Definitions; forfeiture.** Adds the crime of financial exploitation of a vulnerable adult to the list of felony-level, designated offenses in the forfeiture laws. (A felony-level crime under

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Minnesota Statutes, section 609.2335, involves more than \$1,000 in stolen property.) **[H.F. 104]**

**22 Real or personal property arson resulting in bodily harm.**

**Subd. 1. Penalty; felony.** Creates a new offense for intentionally setting fire to property which proximately causes bodily harm to any person, including a public safety officer. Provides graduated penalties based on the resulting harm:

- ▶ Great bodily harm – 20-year felony
- ▶ Substantial bodily harm – 10-year felony
- ▶ Demonstrable bodily harm – 5-year felony

**Subd. 2. Definitions.** Provides that “personal property” does not include items where fire is involved in the normal intended use of the property (e.g., candle wick, campfire logs).

Defines “public safety officer” under § 299A.41, subd. 4, which includes peace officers (local, state, reserve, DOT), correctional officers, volunteer and full-time firefighters, arson investigators, EMS personnel, hazardous material responders, good Samaritans, ambulance drivers, and certified first responders. **[H.F. 801, as amended]**

**23 Excluded fires.** Provides that a violation under section 22 does not occur if the person sets the fire with a permit or permission from the fire department. **[H.F. 801, as amended]**

**24 Wildfire; penalty.** Strikes the current 10-year felony for intentionally setting a wildfire that causes bodily harm to another. Cross-references the graduated penalties created in section 22. **[H.F. 801, as amended]**

**25 Adulteration by bodily fluid.**

**Subd. Definition.** Defines “adulteration” and “bodily fluid” for purposes of this section. “Bodily fluid” means human blood, seminal fluid, vaginal fluid, urine, or feces.

**Subd. 2. Crime.** Creates the new crime of adulteration by bodily fluid.

**Para. (a).** Establishes a misdemeanor penalty for adding saliva to a substance that is intended for human consumption and another person ingests the substance.

**Para. (b).** Establishes a misdemeanor penalty for adulterating a substance that is intended for human consumption.

**Para. (c).** Establishes a gross misdemeanor penalty where an offender violates paragraph (b) and a person ingests the adulterated substance. **[H.F. 889, as amended]**

**26 Nonconsensual photographs and videos.**

**Para. (a).** Establishes criminal liability for a person who knowingly takes a photograph, records a digital image, makes a video record, or transmits live video of another person, without that person’s consent, in a restroom, locker room, or changing room.

**Para. (b).** Establishes criminal liability for a person who knowingly disseminates, or permits to be disseminated, an image or recording made in violation of paragraph (a) or

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subdivision 1. (Subdivision 1 prohibits a variety of other acts of surreptitious recording in places where the victims would have a reasonable expectation of privacy.)

**Para. (c).** Establishes a gross misdemeanor penalty for violations of Paragraph (a) that do not involve aggravating factors.

**Para. (d).** Establishes a three-year felony for violations of Paragraph (a) when the victim is a minor under the age of 18.

**Para. (e).** Establishes a three-year felony for violations of Paragraph (a) when the perpetrator is a registered predatory offender.

**Para. (f).** Establishes a three-year felony for violations of Paragraph (b) that do not involve aggravating factors.

**Para. (g).** Establishes a five-year felony for violations of Paragraph (b) when the victim is a minor under the age of 18.

**Para. (h).** Establishes a five-year felony for violations of Paragraph (b) when the perpetrator is a registered predatory offender.

**Para. (i).** Creates exceptions to the prohibitions contained in Paragraphs (a) and (b) for: (1) law enforcement officers; and (2) commercial establishments that post signs warning visitors that they are subject to surveillance.

### [H.F. 1433]

- 27** **Criminal defamation.** Amends the criminal act of defamation to punish only statements made that were knowingly false. It also strikes a current defense that allows a defendant to argue the act was justified because the defamatory matter was true and was communicated based on good motives and for justifiable ends. [H.F. 537]
- 28 - 29** **Polygraph prohibition.** Prohibit law enforcement or prosecutors from requiring a sex trafficking victim to submit to a polygraph as a condition of charging the case. (Current law protects sexual assault victims.) [H.F. 1232]
- 30** **Restriction on ownership; adult business establishment.** Adds sex trafficking to the list of offenses that disqualify a person from operating an adult business establishment until three years after discharge of the sentence. [H.F. 1232]
- 31** **Limitations.** Increases the criminal limitations period for filing sex trafficking charges. The current limitations period is three years from commission of the offense. This section provides that the limitations period for sex trafficking would be the same as for criminal sexual conduct:
- If physical evidence is collected and preserved that is capable of DNA testing, there is no limitations period.
- Otherwise,
- If the victim was under age 18 at the time of the offense, limitations period is nine years after the offense or three years after reporting offense to law enforcement, whichever is later.

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- If the victim was 18 or older at the time of the offense, limitations period is nine years after the commission of the offense. [H.F. 1232]

**32 Jacquelyn Devney and Thomas Considine Roadway Safety Act.** Identified as sections 2 and 3 (Reckless driving; enhanced penalties). [H.F. 1085, as amended]

**33 Revisor instruction.** Directs Revisor to update cross-references consistent with changes in sections 13 and 14 (CVH; enhanced penalties). [H.F. 71, as amended]

## Article 7: Disaster Assistance

### Overview

This article contains policy language affecting the distribution of disaster assistance.

- 1 Disaster assistance contingency account.** Authorizes the use of money from the disaster assistance account to provide matching funds received from the Federal Highway Administration emergency relief program and the United States Department of Agriculture emergency watershed protection program. [H.F. 849, § 16]
- 2 Cost-share for federal assistance.** Authorizes state grants to utility cooperatives to compensate utility cooperatives for their non-federally reimbursed share of disaster response costs. [H.F. 484]
- 3 Applicant.** Authorizes state government agencies to apply for disaster assistance matching grants from the disaster assistance contingency account. [H.F. 849, § 17]
- 4 County.** Adds a definition of “county” to the public disaster assistance chapter (12B). [H.F. 849, § 18]
- 5 Payment required; eligibility criteria.** Replaces a reference to “local” government with a reference to “county” government clarifying that the criteria for disaster assistance includes a declaration of a disaster or emergency by the state or county government. [H.F. 849, § 19]
- 6 Application process.** Establishes timelines for counties to request that the governor declare a state disaster and specifies what a county’s request for declaration of a state disaster must include. [H.F. 849, § 20]



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**Article 8: Controlled Substances**

**Overview**

This article amends the state's controlled substance schedules. Many of the proposed changes will align Minnesota's controlled substance schedules II through V with federal schedules II through V. The U.S. Drug Enforcement Administration has amended the federal schedules, but the state has not made corresponding changes to the state's controlled substance schedules. Of the federal changes, the addition of tramadol to Schedule IV and the movement of hydrocodone-containing products (e.g., Vicodin) from Schedule III to Schedule II are the two most noteworthy.

Healthcare practitioners will not be impacted by the federal rescheduling of prescription drugs such as Vicodin because the practitioners will continue to be authorized to prescribe and dispense the drugs. The changes will, however, strengthen the tools available to law enforcement agencies and prosecutors in holding persons who are found in possession of, selling or abusing these drugs without a valid prescription accountable.

This article also adds certain synthetic cannabinoid, stimulant, and hallucinogenic drugs to Minnesota's controlled substance schedule I. Most offenses involving schedule I drugs are felonies. An important exception is the penalties for the sale and possession of synthetic cannabinoids. Although some synthetic cannabinoid sale offenses are felonies, others are gross misdemeanors and the possession of synthetic cannabinoids is a misdemeanor. **[H.F. 1376]**