

File Number: H.F. 2856
Version: Second engrossment

Date: April 24, 2018

Authors: Johnson, B.

Subject: Public Safety Omnibus Bill

Analyst: Jeff Diebel
Ben Johnson

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd/.

Article 1: Appropriations

Overview

This article contains appropriations for the following: Supreme Court, District Courts, GAL Board, Public Defense Board, Department of Public Safety, Department of Human Services, and Department of Corrections.

Section

- 1 **Appropriations.** Summarizes direct appropriations by fund.
- 2 **Supreme Court.** Total appropriation. Appropriates an additional \$182,000 in FY18 to the supreme court to modify the case management system. [**H.F. 2906**]
- 3 **District courts.** Appropriates an additional \$618,000 in FY19 for ignition interlock implementation. [**H.F. 3726**]
- 4 **Guardian ad litem board.** Appropriates an additional \$3,667,000 in FY19 to the GAL board to hire additional staff. [**H.F. 4399**]
- 5 **Board of Public Defense.** Appropriates an additional \$850,000 in FY19 for the Board of Public Defense. [**H.F. 2944; 2906; 3276**]

Section

- 6 **Public Safety.** Appropriates an additional \$253,000 in FY19. Of this amount, \$39,000 is for the vulnerable adults working group [H.F. 3296]; \$79,000 is for the task force on missing and murdered indigenous women [H.F. 4273]; and \$135,000 is for ignition interlock [H.F. 3276].
- 7 **Department of Corrections.** Appropriates an additional \$1,500,000 in FY19 to the department of corrections. The funds are to hire additional intensive supervised release agents. [H.F. 2856]
- 8 **Department of Human Rights.** Appropriates \$12,000 in FY19 to the Department of Human Services to update a paternity training video. [H.F. 1719]

Article 2: Courts

Overview

This article contains provisions relating to the courts.

- 1 **Actions under section 257.55, subdivision 1, paragraph (a), (b), or (c).** Changes when an action for nonpaternity can be brought in cases where the parents are married from two years after the father had a reason to believe he is not the father to three years. Removes the bar to bringing an action from three years after the child's birth. [H.F. 1719]
- 2 **Actions under other paragraphs of section 257.55, subdivision 1.** Creates a limit to the time in which an action for nonpaternity can be brought after a father starts holding a child out as his own without paternity being established under any other section. [H.F. 1719]
- 3 **Nonexistence of father-child relationship.** Provides what should be in a petition for nonpaternity, what factors the court should consider in determining nonpaternity, requires the proof to declare nonpaternity be proven by clear and convincing evidence, and provides what the court order must contain if the court grants the relief requested. Current law does not provide a specific procedure for declaring nonpaternity. [H.F. 1719]
- 4 **Action to vacate a recognition.** Allows an action to vacate a recognition of paternity to be brought within three years of the time the person believes the father listed on the recognition of parentage is not the father of the child. This section is effective on August 1, 2018, and applies to recognition of parentage signed on or after that date. [H.F. 1719]
- 5 **Appointment of counsel.** Permits the court to appoint counsel at public expense following a child's indicated desire for counsel. Requires the responsible social services agency to notify a child over age ten of the right to counsel no later than the hearing held pursuant to Rule 34 of the Minnesota Rules of Juvenile Protection Procedure, replacing the current requirement that notification take place within 14 days after the filing of a petition. Clarifies that the social service agency must inform the court of the child's decision unless the court has already appointed counsel. Requires the social service agency to provide notice to a child no later than the first court hearing after the child turns ten. [H.F. 3984]
- 6 **Waiver.** Clarifies that a child's waiver of the right to counsel must be made in writing or on the record and after the responsible social service agency informed the child of the right to counsel. Permits a child to revoke a waiver of counsel at any time in any juvenile protection

Section

proceeding including (1) a child in need of protection or services matters; (2) permanency matters, including termination of parental rights; (3) postpermanency reviews; and (4) adoption matters. **[H.F. 3984]**

7 **Fee amounts.** Reduces the filing fee to renew a judgment on a consumer credit transaction from \$285 to \$40 for both plaintiffs and defendants. **[H.F. 3958]**

8 **Reopening.** Provides that in actions to review a divorce decree for issues of mistake, fraud, or other reasons, when the action is to declare the nonexistence of the father and child relationship then the action must be brought within a reasonable time and within three years of the time the person has reason to believe the father is not the father of the child. Current law for all motions under this section is that the action must be brought within one year of the entry of the judgment and decree. **[H.F. 1719]**

9 **When owed; rate.** Removes the ten percent interest rate from the period between commencement of suit and entry of judgment for judgments or awards of \$50,000 or more. Interest is added to civil judgments by looking at three time periods:

- from commencement of the suit or claim until a verdict or award (paragraph (b));
- from verdict or award until entry of judgment by a court (paragraph (a)); and
- from entry of judgment until payment (paragraph (c)).

Under current law, the interest rate on judgments or awards of \$50,000 or more is ten percent for all three time periods, except that it is not applied to the state or political subdivisions of the state. The interest rate on judgments under \$50,000 is set by the court administrator based on the secondary market and calculated as a simple interest per year, but is no less than four percent. This section would give all state and nonstate civil judgments the same interest rate for the period from commencement of the suit or claim until the entry of judgment but would exempt cases where an insured person was awarded a judgment against some insurers for a failure to provide payment, which is set by statute at ten percent. Minn. Stat. § 60A.0811. The interest rate on judgments or awards of \$50,000 or more would remain ten percent for the period from entry of judgment until payment. **[H.F. 1281]**

10 **Definition.** Amends the definition of “exonerated” to mean either:

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

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

Section

consistent with innocence” as either exonerated through (1) a pardon based on factual innocence or (2) the vacation or reversal of a judgment of conviction based on evidence of factual innocence. [H.F. 3677]

- 11 **Procedure.** Eliminates a deadline for individuals exonerated before the law went into effect in 2014 which required those individuals to file a petition for compensation based on exonerated by July 1, 2016. Permits a person who did not meet both requirements of subdivision 1, clause (1), item (i) before July 1, 2018 to file a petition for compensation based on exonerated at any time between July 1, 2018 and July 1, 2020. [H.F. 3677]
- 12 **Elements.** Removes references to “in prison” and “imprisonment” and inserts the term “incarceration.” Expands the category of individuals permitted to file a petition for compensation despite serving a term of incarceration for another crime to include those sentenced to additional executed sentences that had been stayed, but were executed as a result of the conviction that is the basis of the petition. [H.F. 3677]
- 13 **Order.** Replaces the term “imprisonment” with “incarceration.” [H.F. 3677]
- 14 **Common law crimes abolished.** Amends the statute abolishing common law crimes to clarify that the common law doctrine known as amelioration does not apply unless a statute specifically states otherwise. The amelioration doctrine arises from common law. Under the doctrine, an act mitigating or otherwise reducing the punishment for an offense applies to all cases that were not final at the time the new law took effect, even if the offense took place earlier. [H.F. 2855]
- 15 **Limitations on recording or broadcasting criminal proceedings.** Requires the consent of any defendant or victim before any person can record or broadcast a criminal matter. Currently, court rules govern audio and video coverage of criminal matters. [H.F. 3436]
- 16 **Reimbursement; monetary damages; attorney fees.** Permits a person to apply for actual damages in addition to statutory damages for each year of incarceration. [H.F. 3677]
- 17 **Limits on damages.** Replaces the term “imprisonment” with “incarceration.” [H.F. 3677]
- 18 **Compensating exonerated persons; appropriations.** Removes the requirement that consideration of an appropriation for the amount of any award to an exonerated person take place during the next legislative session. [H.F. 3677]
- 19 **Short title.** Amends the title of provisions related to compensation based on exonerated from the “Imprisonment and Exoneration Remedies Act” to the “Incarceration and Exoneration Remedies Act.” [H.F. 3677]
- 20 **Application and orders.** Amends the statute concerning the sealing and disclosure of a warrant for wire, electronic, or oral communications to distinguish and exempt location-tracking warrants from the general requirements. Location-tracking warrants have unique restrictions and requirements under statute. [H.F. 2309]
- 21 **Nondisclosure of existence of pen register, trap and trace device, or mobile tracking device.** Amends the statute concerning the sealing of a warrant for a pen register, trap-and-trace device, or mobile tracking device to distinguish and exempt location-tracking warrants from the requirements. [H.F. 2309]

Section

22

Article 3: Public Safety & Corrections

Overview

This article contains provisions relating to public safety and corrections.

- 1 **Flashing lights on tow truck.** Authorizes tow trucks and towing vehicles to be equipped with flashing blue lights. Limits display of red lights, blue lights, or both to situations where the vehicle is stopped. [H.F. 2857]
- 2 **Blue light.** Authorizes tow trucks and towing vehicles to be equipped with flashing blue lights, if the vehicle is operated by or under a contract with a local unit of government. [H.F. 2857]
- 3 **Suspension of driver's license.** Prohibits the commissioner from re-suspending a person's driver's license based on the failure to appear in court after receiving a citation for driving after suspension. Under current law, failure to appear in court in compliance with the terms of a citation is grounds for a license suspension. [H.F. 3356]
- 4 **Commissioner shall suspend.** Prohibits the suspension of a person's driver's license following a conviction for driving after suspension or driving after revocation. [H.F. 3356]
- 5 **Failure to pay fine.** Forbids suspension of a person's driver's license based solely on the fact that the person failed to pay a traffic ticket, parking fine, or surcharge. [H.F. 3356]
- 6 **Offenses.** Repeats the prohibition on suspending a person's license following a conviction for driving after suspension or revocation. [H.F. 3356]
- 7 **Cancellation for disqualifying and other offenses.** Requires the Commissioner of Public Safety to cancel the school bus driver's endorsement for a person who receives a stay of adjudication for a disqualifying offense. [H.F. 2934]
- 8 **Background check.** Prohibits the Commissioner of Public Safety from issuing or renewing a school bus driver's endorsement to a person who receives a stay of adjudication for a disqualifying offense. [H.F. 2934]
- 9 **Charges to counties.** Removes the requirement that expenses and revenue balance over a two-year period from the formula used to calculate the per diem cost of confinement for juveniles committed to the commissioner or corrections. [H.F. 3554]
- 10 **Administrative and disciplinary segregation report.** Requires the commissioner of corrections to prepare an annual report to the legislature detailing the commissioner's use of segregated housing and providing data on convictions and sentences for inmates who commit assaults while confined. [H.F. 742]
- 11 **Task force on missing and murdered indigenous women.** Creates a task force to address violence against indigenous women and defines the standards and requirements for the task force.

Section

Subd. 1. Creation and duties. Creates a task force effective September 1, 2018 and directs that the task force examine and report on five specific subjects addressing the systemic causes behind violence against indigenous women, appropriate methods for tracking and collecting data, government policies and institutions that impact violence against indigenous women, and appropriate measures to address the violence and assist victims and their families.

Subd. 2. Membership. Identifies multiple categories of individuals to serve on the task force including legislators, representatives from law enforcement, prosecutors, judges, defense attorneys, nongovernment agencies, and indigenous women.

Subd. Officers; meetings. Directs the task force to elect a chair and vice-chair from its members and meet at least quarterly. Further directs the task force to enlist the cooperation of experts and hold open meetings.

Subd. 4. Report. Requires an annual report to the legislature.

Subd. 5. Expiration. States that the task force expires on June 30, 2020. [H.F. 3375]

- 12 **Removal of data from system.** Allows the Bureau of Criminal Apprehension (BCA) to retain records for three years after a person is released from the custody of the commissioner of corrections if the commissioner documents activities meeting the criminal gang identification criteria that took place while the inmate was confined in a state correctional facility. The BCA maintains a computerized criminal gang investigative data system for the purpose of assisting criminal justice agencies in the investigation and prosecution of criminal activity by gang members. An individual's information is placed in the database if that individual is involved in criminal gang activity and meets at least three of the nine criteria established by the Violent Crime Coordinating Council. Under current law, the BCA must destroy data entered into the system within three years of entry unless the individual is convicted, adjudicated delinquent, or has a stayed adjudication during the three year period after data is entered into the system. In that case, records are maintained for an additional three years. [H.F. 3504]
- 13 **Report by court administrator.** Requires court administration to transfer stay of adjudication records for offenses that would require predatory offender registration to the Superintendent of the Bureau of Criminal Apprehension (BCA) so that these stays of adjudication are available to those conducting background checks through the BCA's database. [H.F. 2934]
- 14 **Background checks; additional disclosure.** Requires the Superintendent of the BCA to disclose certain stay of adjudication records to persons conducting statutorily authorized background checks. [H.F. 2934]
- 15 **Disbursement of surcharges by commissioner of management and budget.** Increases the percentage of the surcharge imposed for criminal and traffic offenses which is dispersed to the Peace Officers Standards and Training (POST) Board from 39 percent to 41 percent. Makes a corresponding reduction in the amount credited to the general fund from 60 percent to 58 percent. [H.F. 3959]

Section

- 16 Authority.** Adds clarification that a county attorney has the authority to issue an administrative subpoena to require production of information concerning subscribers of electronic communications services, private computer networks, social media, e-mail domain hosts, Voice over Internet Protocol (VOIP), Internet messaging systems, and remote computing services.
- 17 Limits of sentences.** Declares that a stay of adjudication issued under this section must be reported to the BCA, as set forth in section 14. **[H.F. 2934]**
- 18 Prohibition on disarming local law enforcement officers.** This bill requires law enforcement agencies to issue a firearm to each peace officer employed by the agency. **[H.F. 3611]**
- 19 Certified copy of disqualifying offense convictions sent to public safety and school districts.** Requires a criminal court to notify the Department of Public Safety and relevant school districts if the court grants a stay of adjudication for a disqualifying offense to an offender who has a school bus driver's endorsement. **[H.F. 2934]**
- 20 Working group examining crimes against vulnerable adults.** Establishes a working group to examine crimes against vulnerable adults, and lists members of the working group, including four legislators, and others who are appointed by the commissioner of public safety. Requires the working group to review whether existing laws establishing crimes against vulnerable adults accurately identify crimes and apply appropriate penalties, and to recommend changes to better protect vulnerable adults. Establishes meeting requirements, and provides that members of the working group shall serve without compensation or reimbursement for expenses. Requires the working group to submit a report and draft legislation to the legislative committees with jurisdiction over health and human services policy and criminal justice policy by January 15, 2019. Provides for expiration of the working group. **[H.F. 3296]**
- 21 Retroactive license reinstatement.** Requires the commissioner of public safety to make an individual's driver's license eligible for reinstatement if that license is suspended based on (1) a conviction for driving after suspension or revocation, (2) the failure to pay a fee or fine, or (3) both (1) and (2). Directs the commissioner to send notice by May 1, 2019, to individuals whose licenses are eligible for reinstatement. Requires individuals eligible for reinstatement to pay the reinstatement fee. Clarifies that suspensions, revocations, or cancellations for any other reason remain in effect. This section is effective April 1, 2019. **[H.F. 3356]**
- 22 Repealer.** Repeals section 401.13 which directs the commissioner to charge the Community Corrections Act (CCA) counties the full per diem cost for juveniles confined in a state correctional facility. This change treats CCA counties in the same manner as other counties from which the commissioner of corrections charges 65 percent of the per diem cost of confinement of juveniles. **[H.F. 3354]**

Article 4: General Crime

Overview

Section

This article contains a variety of provisions modifying existing criminal penalties and creating new penalties.

- 1 **Criminal vehicular homicide.** Expands the crime of criminal vehicular homicide to apply in cases where the driver operates a motor vehicle in a reckless manner while in violation of the prohibition on texting while driving and causes the death of another. [H.F. 2932]
- 2 **Great bodily harm.** Expands the crime of criminal vehicular operation to apply in cases where the driver operates a motor vehicle in a reckless manner while in violation of the prohibition on texting while driving and causes great bodily harm to another. [H.F. 2932]
- 3 **Substantial bodily harm.** Expands the crime of criminal vehicular operation to apply in cases where the driver operates a motor vehicle in a reckless manner while in violation of the prohibition on texting while driving and causes substantial bodily harm to another. [H.F. 2932]
- 4 **Bodily harm.** Expands the crime of criminal vehicular operation to apply in cases where the driver operates a motor vehicle in a reckless manner while in violation of the prohibition on texting while driving and causes bodily harm to another. [H.F. 2932]
- 5 **Death of an unborn child.** Expands the crime of criminal vehicular homicide to apply in cases where the driver operates a motor vehicle in a reckless manner while in violation of the prohibition on texting while driving and causes the death of an unborn child. [H.F. 2932]
- 6 **Injury to an unborn child.** Expands the crime of criminal vehicular operation to apply in cases where the driver operates a motor vehicle in a reckless manner while in violation of the prohibition on texting while driving and causes injury to an unborn child. [H.F. 2932]
- 7 **Peace officers.** Increases the penalty for assaulting a peace officer without inflicting demonstrable bodily harm from a gross misdemeanor to a felony punishable by up to two years in prison, a fine of not more than \$4,000, or both. [H.F. 3610]
- 8 **Firefighters and medical personnel.** Amends section 609.2231 which criminalizes assaults on firefighters and emergency medical personnel. The bill makes the following changes to the statute:
 - Expands the class of protected persons to include all medical providers who work in a hospital. The current law applies only to medical providers who work in a hospital emergency room.
 - Creates a gross misdemeanor penalty for a physical assault on a firefighter or a medical provider who works in a hospital where the assault does not cause demonstrable bodily harm. The current law applies only when there is demonstrable bodily harm.
 - Creates a felony offense punishable by up to three years in prison and a fine of \$6,000 for intentionally throwing or transferring bodily fluids or feces onto a firefighter or a medical provider who works in a hospital.
 - Increases the maximum period of imprisonment for assaulting a firefighter or a medical provider who works in a hospital when the assault causes demonstrable

Section

bodily harm from two years to three, and increases the maximum fine from \$4,000 to \$6,000. [H.F. 1481]

- 9 **Secure treatment facility personnel.** Expands the acts that constitute a felony to include throwing or otherwise transferring any bodily fluid at or onto an employee or other individual who supervises and works directly with patients at a secure treatment facility while the person is engaged in that employment. Under current law, it is a felony to throw or otherwise transfer urine, blood, or semen onto the person.
- 10 **General prostitution crimes; penalties for patrons.** Increases the minimum fine from \$500 to \$750 for the first offense of being the patron of a prostitute. Removes an existing provision that enhances some misdemeanor offenses to a gross misdemeanor. [H.F. 4140]
- 11 **Penalties for patrons; repeat offenders.** Creates a felony offense for a person convicted of being the patron of a prostitute within ten years of a prior conviction. Requires an offender to receive a minimum fine of \$3,000 and mandatory community work service of 100 hours unless the court finds that community work service is not feasible or appropriate under the circumstances of the case. [H.F. 4140]
- 12 **Community service in lieu of minimum fine.** Includes the minimum fine of \$3,000 for repeat offenders in the list of fines that can be converted to community work service if the court finds that the offender is indigent or payment of the fine would create undue hardship for the person or that person's immediate family. [H.F. 4140]
- 13 **Theft.** Increases the penalty for repeated theft offenses. Under current law, theft of property or services with a value of \$500 or less is a misdemeanor. This bill would increase the penalty for that offense to a gross misdemeanor if the offender has two prior theft offenses in the previous five years, and to a felony for a person with 24 prior theft offenses in the previous five years. [H.F. 3505]
- 14 **Public nuisance.** Amends the criminal code's public nuisance crime. Makes it a gross misdemeanor to intentionally interfere with or obstruct traffic on a freeway or a major airport's public roadway. Creates certain exceptions for law enforcement and other officials. Defines freeways and airports. [H.F. 390]
- 15 **Unlawful interference with transit.** Amends the criminal code's interference with transit crime. Increases the penalty for certain violations not involving force or violence from a misdemeanor to a gross misdemeanor. Also adds to the crime's scope a specific reference to restricting passenger access to transit vehicles. [H.F. 390]

Article 5: Sex Offenders

Overview

This article contains a variety of provisions that either modify existing penalties or create new penalties for sex offenses.

Section

- 1 **Limits of sentences.** Requires a sentencing judge to justify in writing a stay of adjudication for felony criminal sexual conduct offenses. Directs that records of stays of adjudication in criminal sexual conduct offenses be available to the public via the internet. [H.F. 2906]
- 2 **Current or recent position of authority.** Broadens the definition of “position of authority” in the criminal sexual conduct statutes. Currently, felony penalties apply to an adult who sexually penetrates or contacts a 16 or 17 year old juvenile when the adult is in a position of authority over the juvenile. This section:
 - Extends the definition so that an adult who was recently (*i.e.*, within the past 120 days) in a position of authority over a 16 or 17 year old is also subject to criminal penalties for having a sexual relationship with the juvenile. [H.F. 3260]
 - Extends the definition of position of authority to cases where an adult “assumed” authority over a victim. Currently, the provision only applies when the adult is “charged” with providing some parental obligation to the juvenile. [H.F. 3260]
 - Extends the coverage of the statute to students who are up to the age of 21 for purposes of the new secondary school position of authority offenses created in sections 9 and 11. [H.F. 3203]
- 3 **Secondary school.** Defines “secondary school” for purposes of the 3rd and 4th degree criminal sexual conduct statutes in chapter 609. [H.F. 3203]
- 4 **Independent contractor.** Defines “independent contractor” for purposes of the 3rd and 4th degree criminal sexual conduct statutes in chapter 609. [H.F. 3203]
- 5 **Crime defined.** Updates a reference to “position of authority” to reflect changes made to the definition of the term in section 2. [H.F. 3260]
- 6 **Criminal sexual conduct in the first degree; penalty.** Provides notice that persons convicted of criminal sexual conduct in the first degree (CSC-1) are subject to extended probation and intensive probation. [H.F. 2944]
- 7 **Crime defined.** Updates a reference to “position of authority” to reflect changes made to the definition of the term in section 2. [H.F. 3260]
- 8 **Criminal sexual conduct in the second degree; penalty.** Provides notice that persons convicted of CSC-2 are subject to extended probation and intensive probation. [H.F. 2944]
- 9 **Crime defined.** Contains three changes to the offense of 3rd degree criminal sexual conduct:
 - Updates a reference to “position of authority” to reflect changes made to the definition of the term in section 2. [H.F. 3260]
 - Establishes a new third degree criminal sexual conduct offense for secondary school employees and independent contractors who sexually penetrate a student enrolled at the perpetrator’s school, the student is between the age of 16 and 21, and the actor is in a position of authority over the student. A violation of this provision is a felony and subjects the offender to incarceration for up to 15 years. Neither mistake of age nor the consent of the student is a defense. [H.F. 3203]

Section

- Creates a new criminal sexual conduct offense specific to peace officers. Prohibits a peace officer from sexually penetrating a person who is restrained by the peace officer or otherwise does not reasonably feel free to leave the officer's presence. A peace officer would not be entitled to assert victim consent as a defense. Provides an exception for lawful searches. [H.F. 3371]
- 10 **Criminal sexual conduct in the third degree; penalty.** Provides notice that persons convicted of CSC-3 are subject to extended probation and intensive probation. [H.F. 2944]
- 11 **Crime defined.** Contains three changes to the offense of 3rd degree criminal sexual conduct:
- Updates a reference to “position of authority” to reflect changes made to the definition of the term in section 2. [H.F. 3260]
 - Establishes a new third degree criminal sexual conduct offense for secondary school employees and independent contractors who sexually contact a student enrolled at the perpetrator's school, the student is between the age of 16 and 21, and the actor is in a position of authority over the student. A violation of this provision is a felony and subjects the offender to incarceration for up to 15 years. Neither mistake of age nor the consent of the student is a defense. [H.F. 3203]
 - Creates a new criminal sexual conduct offenses specific to peace officers. Prohibits a peace officer from sexually contacting a person who is restrained by the peace officer or otherwise does not reasonably feel free to leave the officer's presence. A peace officer would not be entitled to assert victim consent as a defense. Provides an exception for lawful searches. [H.F. 3371]
- 12 **Criminal sexual conduct in the fourth degree; penalty.** Provides notice that persons convicted of CSC-4 are subject to extended probation and intensive probation. [H.F. 2944]
- 13 **Crime defined.** Eliminates the exclusion to fifth degree criminal sexual conduct—a first-time violation of which is a gross misdemeanor—for intentionally touching the clothing covering the immediate area of the buttocks. [H.F. 2800]
- 14 **Criminal sexual conduct in the fifth degree; felony.** Provides notice that persons convicted of felony CSC-5 are subject to conditional release, extended probation, and intensive probation. [H.F. 2944]
- 15 **Mandatory 25-year conditional release term.** Requires a 25-year conditional release term for all offenders convicted of felony CSC who are committed to the commissioner of corrections. Establishes a process for an offender to request early termination of their conditional release term. [H.F. 2944]
- 16 **Extended probation.** Requires extended probation for all offenders convicted of felony CSC who are NOT sent to prison. Establishes a process for an offender to request early termination of their extended probation term. [H.F. 2944]
- 17 **Terms of conditional release; applicable to all sex offenders.** Technical amendment that reflects the requirement that conditional release applies to all felony sex offenders. [H.F. 2944]

Section

- 18 Intensive probation.** Establishes an intensive probation program for all felony sex offenders who are not committed to the commissioner of corrections following their convictions. Intensive probation is modeled after intensive supervised release, which applies to certain high risk offenders released from prison. [H.F. 2944]
- 19 Use of minor.** Increases the penalty for using a minor in a sexual performance or pornographic work. [H.F. 2904]
- 20 Operation or ownership of business.** Increases the penalty for a business owner who shows a pornographic work involving a minor. [H.F. 2904]
- 21 Dissemination.** Increases the maximum sentence for dissemination of child pornography for a profit to 15 years. [H.F. 2904]
- 22 Conditional release term.** Increases the conditional release term for offenders convicted of child pornography for profit from five years to ten years. Imposes a 25-year conditional release term on repeat offenders. [H.F. 2904]
- 23 Mandatory minimum sentence.** Provides a mandatory minimum sentence of six months in jail for first time offenders convicted under section 617.246 (use of minors in sexual performance prohibited). Predatory offenders and repeat offenders of either section 617.246 or section 617.247 (distribution and possession of child pornography) receive a mandatory minimum of 12 months of incarceration. [H.F. 2904]
- 24 Dissemination prohibited.** Increases the maximum sentence for dissemination of child pornography to 15 years for a first time offender and 20 years for each subsequent conviction, or if the person is required to register as a predatory offender. [H.F. 2904]
- 25 Possession prohibited.** Increases the maximum sentence for possession of child pornography to seven years for first time offenders and 15 years for each subsequent conviction, or if the person is required to register as a predatory offender. [H.F. 2904]
- 26 Conditional release term.** Increases the conditional release term for offenders convicted of child pornography from five years to ten years. Imposes a 25-year conditional release term on repeat offenders. [H.F. 2904]
- 27 Mandatory minimum sentence.** Provides a mandatory minimum sentence of six months in jail for first time offenders convicted of distribution and possession of child pornography (Minn. Stat. § 617.247). Predatory offenders and repeat offenders of either section 617.246 or section 617.247 receive a mandatory minimum of 12 months of incarceration. [H.F. 2904]
- 28 Sentencing Guidelines Modification.** Directs the Sentencing Guidelines Commission to modify the sex offender grid by increasing the severity level ranking of the offenses of manufacturing, disseminating, and possessing child pornography. [H.F. 2904]
- 29 Repealer.** Repeals the shield to prosecution for certain criminal sexual conduct offenses granted to participants in designated voluntary relationships, commonly referred to as the marital rape exception. [H.F. 3465]

Article 6: Predatory Offenders

Section

Overview

This article contains a variety of provisions modifying the process of predatory offender registration.

- 1 **Filing photograph or image.** Authorizes the use of an offender’s driver’s license photograph to locate a non-compliant predatory offender. [H.F. 3578]
- 2 **Definitions.** Defines “social media” and “watercraft” for purposes of the predatory offender registration statute. [H.F. 3578]
- 3 **Registration required.** Adds offenses to the list of crimes that require predatory offender registration.
 - Adds the state offense of nonconsensual dissemination of private sexual images and the federal offenses of video voyeurism of a minor, transporting minors for illegal sexual activity, and transmitting information about a minor to further criminal sexual conduct. [H.F. 3578]
 - Requires offenders who receive stays of adjudication for criminal sexual conduct offenses to register as predatory offenders. The sentencing court may excuse juvenile offenders from this requirement for good cause. [H.F. 2906]
- 4 **Notice.** Provides the correct name for a court form and directs that local law enforcement with jurisdiction over an offender provide notice of the registration requirements to the offender, if the offender does not have an assigned corrections agent. [H.F. 3578]
- 5 **Contents of registration.** Requires collection of a DNA sample as part of registration. Expands the amount of time an offender has to return verification forms, but the time begins to run from the date the BCA mails the verification form. Authorizes a corrections agent or law enforcement authority to determine if an individual is in compliance with the registration requirements at any time and at any frequency chosen by the agent or authority. Establishes the protocol that existing registrants who do not already have a DNA sample on file will comply with the new DNA requirement. [H.F. 3578]
- 6 **Information required to be provided.** Expands the items that offenders must report to include secondary addresses wherever located, expiration date of license plate tabs, driver license or government identification card number, watercraft ownership, social security number, email addresses, social media accounts, telephone numbers (home, work, school, cell), passport number and country of issuance, and professional licensing information. [H.F. 3578]
- 7 **Notices in writing; signed.** Defines a signature to include ink, electronic means established by the BCA, or biometrics established by the BCA. [H.F. 3578]
- 8 **Travel.** Requires offenders traveling outside of the United States to notify their agent or local law enforcement of their travel dates, locations, flight information, purpose of travel, visa information, and other itinerary information requested by the agent or local law enforcement. The information must be provided 21 days in advance of travel and forwarded to the BCA. Establishes guidelines if offender travel must occur sooner than 21 days or if there is an emergency. The BCA is required to share this information per federal law with

Section

federal agencies who share the travel information with the destination country. These changes are intended to conform to the federal International Megan's Law. [H.F. 3578]

- 9 **Criminal penalty.** Removes the word “knowingly” from the criminal penalty section of the predatory offender statute. This change is in response to *State v. Mikulak*, a recent Minnesota Supreme Court decision which overturned a conviction for failing to register as a predatory offender because the defendant claimed he did not know about the specific registration requirement that he was convicted of violating. [H.F. 3578]
- 10 **Registration period.** Establishes that failure to comply with section 8 (notice of travel) will subject an offender to an extended registration period (5 years). Also provides that if an individual is not in compliance with his registration requirement at the end of his registration period, the offender is required to register for an additional two years. [H.F. 3578]
- 11 **Use of data.** Ensures that corrections agents share predatory offender data with child protection services as required under section 244.057. (See also section 13.) [H.F. 3578]
- 12 **Availability of information on offenders who are out of compliance with registration law.** Authorizes the BCA to disclose to the public that an offender—who is over 16 years old and out of compliance for 30 days or more—is out of compliance because the offender did not return a verification form or absconded. [H.F. 3578]
- 13 **Database of registered predatory offenders.** Ensures that corrections agents share predatory offender data with child protection services as required under section 244.057. [H.F. 3578]

Article 7: DWI

This article contains provisions allowing the use of an out-of-state conviction for criminal vehicular homicide or injury to be used to enhance a DWI charge in Minnesota and expanding the required use of ignition interlock.

- 1 **Degree described.** Expands the list of prior convictions that enhance an offense to first-degree driving while impaired by including convictions for a felony in another state for criminal vehicular homicide and injury committed while under the influence of a substance when the other state's statute is in conformity with Minnesota law. Under current law, a person who drives while under the influence commits a first-degree offense if the person:
 - commits the violation within ten years of the first of three or more qualified prior impaired driving incidents;
 - has previously been convicted of a first-degree driving while impaired offense; or
 - has previously been convicted of a felony under Minnesota statutes addressing criminal vehicular homicide and injury committed while under the influence of a substance.

A qualified prior impaired driving incident can take place under Minnesota law or under the law of another state that is in conformity with Minnesota law. [H.F. 2856]

Section

- 2 Reinstatement of driving privileges; multiple incidents.** Requires certain DWI offenders to either (1) participate in the ignition interlock program or (2) not own or lease a vehicle and have no DWI or driver's license violations before the person's driver's license may be reinstated.

For a person who uses ignition interlock, that person must comply with the program for one year if the individual's license was revoked for (1) a second qualified prior impaired driving incident in ten years or (2) a third qualified prior impaired driving incident in the person's lifetime. The provision requires two years of ignition interlock for a person whose license was revoked for either of those reasons and the person either (1) had an alcohol concentration of twice the legal limit or (2) refused to submit a required breath, blood, or urine sample. Under current law, offenders with fewer than three DWIs may either: (1) go on ignition interlock to be able to drive during their revocation period; or (2) not drive and "wait out" the revocation period. At the end of the revocation period, the offender can seek reinstatement of full driving privileges regardless of which option was chosen.

Requires the commissioner of public safety to follow the full rulemaking process in establishing performance standards and a process for certifying chemical monitoring devices. Under current law, those standards and procedures are exempt from rulemaking requirements. [H.F. 3726]

- 3 Driving after a DWI-related suspension, revocation, or cancellation; misdemeanor.** Creates a misdemeanor offense for driving after a driver's license has been suspended, revoked, or cancelled for a DWI-related offense and prohibits the Judicial Council from including this offense on the Statewide Payables List. The new offense does not replace the crime of driving with a license cancelled because the person's operation of a motor vehicle would be inimical to public safety. [H.F. 3726]
- 4 Conditions of issuance.** Allows limited licenses for DWI offenders with drug-related offenses. Limits limited licenses under the ignition interlock program to only DWI offenders with alcohol-related offenses. [H.F. 3726]
- 5 Other waiting periods.** Reinstates pre-2011 hard revocation periods that apply before a DWI offender with a drug-related offense can receive a limited license. [H.F. 3726]
- 6 Definitions.** Limits participation in the ignition interlock program to DWI offenders with alcohol-related offenses. [H.F. 3726]
- 7 Performance standards; certification; manufacturer and provider requirements.** Requires contracts between ignition interlock manufacturers and program participants to include a provision requiring the manufacturers to pay any towing or repair costs caused by device failure or malfunction, or by damage caused during device installation, servicing, or monitoring.